

Policing and Crime Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office, are published separately as Bill 134 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

The Home Secretary, Theresa May, has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Policing and Crime Bill are compatible with the Convention rights.

Policing and Crime Bill

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Make provision for collaboration between the emergency services; to make provision about the handling of police complaints and other matters relating to police conduct and to make further provision about the Independent Police Complaints Commission; to make provision for super-complaints about policing; to make provision for the investigation of concerns about policing raised by whistle-blowers; to make provision about police discipline; to make provision about police inspection; to make provision about the powers of police civilian staff and police volunteers; to remove the powers of the police to appoint traffic wardens; to enable provision to be made to alter police ranks; to make provision about the Police Federation; to make provision in connection with the replacement of the Association of Chief Police Officers with the National Police Chiefs' Council; to make provision about the system for bail after arrest but before charge; to make provision to enable greater use of modern technology at police stations; to make other amendments to the Police and Criminal Evidence Act 1984; to amend the powers of the police under the Mental Health Act 1983; to extend the powers of the police in relation to maritime enforcement; to make provision about deputy police and crime commissioners; to make provision to enable changes to the names of police areas; to make provision about the regulation of firearms; to make provision about the licensing of alcohol; to make provision about the implementation and enforcement of financial sanctions; to amend the Police Act 1996 to make further provision about police collaboration; to make provision about the powers of the National Crime Agency; to make provision for requiring arrested persons to provide details of nationality; to make provision for requiring defendants in criminal proceedings to provide details of nationality and other information; to make provision to combat the sexual exploitation of children; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

EMERGENCY SERVICES COLLABORATION

CHAPTER 1

COLLABORATION AGREEMENTS

- | | | |
|----------|---|----|
| 1 | Collaboration agreements | 5 |
| | (1) A collaboration agreement may be made by— | |
| | (a) one or more persons within a paragraph of subsection (2), and | |
| | (b) one or more persons within another paragraph of that subsection. | |
| | (2) Those persons are— | |
| | (a) an ambulance trust in England, | 10 |
| | (b) a fire and rescue body in England, and | |
| | (c) a police body in England. | |
| | (3) A collaboration agreement is an agreement in writing that sets out how the parties to the agreement will work together in discharging their functions. | |
| | (4) Subsection (1) does not prevent a person other than a person listed in subsection (2) from being a party to a collaboration agreement. | 15 |
| | (5) This section is subject to section 3 (collaboration agreements: specific restrictions). | |
| | (6) Section 4 makes further provision about collaboration agreements. | |
| 2 | Duties in relation to collaboration agreements | 20 |
| | (1) A relevant emergency service in England (“the relevant service”) must keep under consideration whether entering into a collaboration agreement with one or more other relevant emergency services in England could be in the interests of the efficiency or effectiveness of that service and those other services. | |
| | (2) If the relevant service considers that entering into a collaboration agreement with one or more other relevant emergency services in England could be in the interests of the efficiency or effectiveness of that service and those other services (“the proposed collaboration”), the relevant service must notify those other services of the proposed collaboration. | 25 |
| | (3) The relevant service and the other services (“the proposed parties”) must consider whether the proposed collaboration would be in the interests of the efficiency or effectiveness of the proposed parties. | 30 |
| | (4) Subsection (5) applies if— | |
| | (a) a proposed party is of the view that the proposed collaboration would be in the interests of its efficiency or effectiveness (if it were to give | 35 |

- effect to the proposed collaboration, or to give effect to it so far as it relates to that party), and
- (b) at least one other proposed party is of the view that the proposed collaboration would be in the interests of its efficiency and effectiveness (if it were to give effect to the proposed collaboration, or to give effect to it so far as it relates to that party). 5
- (5) Each proposed party which is of that view must give effect to the proposed collaboration, or give effect to it so far as it relates to that party, by entering into a collaboration agreement (if the party has power to do so).
- (6) In the application of this section to a local policing body, references to the efficiency or effectiveness of that body include the efficiency or effectiveness of the police force it is responsible for maintaining. 10
- (7) This section is subject to section 3 (collaboration agreements: specific restrictions).
- 3 Collaboration agreements: specific restrictions 15**
- (1) Section 2 does not require a relevant emergency service in England to enter into a collaboration agreement if the service is of the view that the proposed collaboration would have an adverse effect on its efficiency or effectiveness.
- (2) Section 2 does not require an ambulance trust in England to enter into a collaboration agreement that would in the view of that trust have an adverse effect on— 20
- (a) its ability to exercise any of its functions other than its functions of providing an emergency ambulance service, or
- (b) the health service in England (within the meaning of the National Health Service Act 2006). 25
- (3) Section 2 applies to an ambulance trust in England only so far as it provides an emergency ambulance service.
- (4) Subsection (5) applies where an ambulance trust in England is considering whether a proposed collaboration would be in the interests of the efficiency or effectiveness of the trust for the purposes of section 2. 30
- (5) The ambulance trust must have particular regard to any effect that entering into a collaboration agreement pursuant to the proposed collaboration would have on—
- (a) its ability to exercise any of its functions other than its functions of providing an emergency ambulance service, and 35
- (b) the health service in England (within the meaning of the National Health Service Act 2006).
- (6) The London Fire Commissioner must consult the Mayor of London before entering into a collaboration agreement (unless the Mayor is a party to the agreement). 40
- (7) A combined authority that exercises the functions of a fire and rescue authority by virtue of section 105 or 105A of the Local Democracy, Economic Development and Construction Act 2009 may only enter into a collaboration agreement where the functions of the authority to which the agreement relates are functions of a fire and rescue authority that the combined authority is entitled to exercise. 45

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- (8) An elected mayor who exercises the functions of a fire and rescue authority by virtue of section 107D of the Local Democracy, Economic Development and Construction Act 2009 may only enter into a collaboration agreement where the functions of the mayor to which the agreement relates are functions of a fire and rescue authority that the mayor is entitled to exercise. 5
- (9) An elected mayor who exercises the functions of a police and crime commissioner by virtue of section 107F of the Local Democracy, Economic Development and Construction Act 2009 may only enter into a collaboration agreement where the functions of the mayor to which the agreement relates are functions of a police and crime commissioner that the mayor is entitled to exercise. 10
- (10) A chief officer of police of a police force may not enter into a collaboration agreement unless the local policing body responsible for maintaining that police force also enters into the agreement.
- (11) A local policing body must consult the chief officer of police of the police force which the body is responsible for maintaining before entering into a collaboration agreement (unless that chief officer is a party to the agreement). 15
- 4 Collaboration agreements: supplementary**
- (1) A collaboration agreement may, in particular, make provision about the use, for the purposes of the agreement, of a power of a party to the agreement to— 20
- (a) make arrangements for the exercise of the party’s functions by another person, or
- (b) exercise functions jointly with another person.
- (2) A collaboration agreement may include provision for payments to be made by the parties to the agreement for the purposes of facilitating that agreement. 25
- (3) A party to a collaboration agreement may do anything that is necessary or expedient for the purposes of facilitating the agreement.
- (4) Subsection (3) is subject to any restriction imposed on a party by, or by virtue of, an enactment or rule of law.
- (5) A collaboration agreement may not include provision for the delegation of a function where that function may not otherwise be delegated. 30
- (6) The delegation of a function pursuant to a collaboration agreement does not affect the responsibility of any party to the agreement for the exercise of its functions.
- (7) A collaboration agreement must make provision for a party to withdraw from the agreement where in the view of that party the agreement is no longer in the interests of its efficiency or effectiveness. 35
- (8) A collaboration agreement may be varied by a subsequent collaboration agreement.
- 5 Collaboration agreements: definitions** 40
- (1) This section has effect for the purposes of this Chapter.
- (2) “Collaboration agreement” has the meaning given by section 1(3).

- (3) “Relevant emergency service in England” means –
- (a) an ambulance trust in England,
 - (b) a fire and rescue body in England, or
 - (c) a police body in England.
- (4) “Ambulance trust in England” means – 5
- (a) an NHS trust all or most of whose hospitals, establishments and facilities are in England and which provides ambulance services, or
 - (b) an NHS foundation trust which provides such services.
- (5) “Fire and rescue body in England” means – 10
- (a) a fire and rescue authority in England,
 - (b) a combined authority that exercises the functions of a fire and rescue authority by virtue of section 105 or 105A of the Local Democracy, Economic Development and Construction Act 2009, or
 - (c) an elected mayor who exercises the functions of a fire and rescue authority by virtue of section 107D of that Act. 15
- (6) “Fire and rescue authority in England” has the same meaning as in the Fire and Rescue Services Act 2004.
- (7) “Police body in England” means –
- (a) a police and crime commissioner for a police area in England,
 - (b) a chief constable of a police force for a police area in England (see Schedule 1 to the Police Act 1996), 20
 - (c) the Mayor’s Office for Policing and Crime,
 - (d) the Commissioner of Police of the Metropolis,
 - (e) the Common Council of the City of London in its capacity as police authority for the City of London police area, 25
 - (f) the Commissioner of Police for the City of London, or
 - (g) an elected mayor who exercises the functions of a police and crime commissioner by virtue of section 107F of the Local Democracy, Economic Development and Construction Act 2009.
- (8) “Chief officer” means – 30
- (a) a chief constable of a police force for a police area in England (see Schedule 1 to the Police Act 1996),
 - (b) the Commissioner of Police of the Metropolis, or
 - (c) the Commissioner of Police for the City of London.
- (9) “Local policing body” means – 35
- (a) a police and crime commissioner for a police area in England,
 - (b) the Mayor’s Office for Policing and Crime,
 - (c) the Common Council of the City of London in its capacity as police authority for the City of London police area, or
 - (d) an elected mayor who exercises the functions of a police and crime commissioner by virtue of section 107F of the Local Democracy, Economic Development and Construction Act 2009. 40
- (10) “The City of London police area” means the City of London as defined for the purposes of the Acts relating to the City of London police force.

CHAPTER 2

POLICE AND CRIME COMMISSIONERS: FIRE AND RESCUE FUNCTIONS

6 Provision for police and crime commissioner to be fire and rescue authority

Schedule 1 makes provision for a person who is the police and crime commissioner for an area to be the fire and rescue authority for that area. 5

7 Involvement of police and crime commissioner in fire and rescue authority

(1) The Local Government Act 1972 is amended in accordance with subsections (2) to (4).

(2) In section 102 (appointment of committees) after subsection (5) insert –

“(6) Subsection (7) applies in relation to – 10

(a) a committee or sub-committee appointed by a local authority in England wholly or partly for the purposes of discharging functions of a fire and rescue authority,

(b) a joint committee appointed by two or more local authorities in England wholly or partly for the purpose of discharging such functions, or 15

(c) a sub-committee appointed by any such committee or joint committee wholly or partly for the purpose of discharging such functions.

(7) A relevant police and crime commissioner may only be appointed to a committee or sub-committee to which this subsection applies in response to a request made by the commissioner to the appointing authority or authorities or, in the case of a sub-committee, to the appointing committee. 20

(8) If a request under subsection (7) is made to an appointing authority or authorities or an appointing committee, they must – 25

(a) consider the request,

(b) give reasons for their decision to agree to or refuse the request, and

(c) publish those reasons in such manner as they think appropriate. 30

(9) A relevant police and crime commissioner may attend, speak at and vote at a meeting of a committee to which the commissioner is appointed in accordance with this section only if and to the extent that the business of the meeting relates to the functions of a fire and rescue authority. 35

(10) Subsection (11) defines “relevant police and crime commissioner” for the purposes of this section in relation to –

(a) a committee or sub-committee appointed by a local authority,

(b) a joint committee appointed by two or more local authorities, or

(c) a sub-committee appointed by a committee of a local authority or a joint committee of two or more local authorities. 40

(11) For those purposes “relevant police and crime commissioner” means a police and crime commissioner –

-
- (a) whose area is the same as, or contains all of, the area of that local authority or (as the case may be) one or more of those local authorities, or
- (b) all or part of whose area falls within the area of that local authority or (as the case may be) one or more of those local authorities.” 5
- (3) In Part 1 of Schedule 12 (meetings and proceedings of principal councils) after paragraph 6 insert –
- “6ZA(1) A relevant police and crime commissioner may attend, speak at and vote at a meeting of a principal council in England which is a fire and rescue authority. 10
- (2) Sub-paragraph (1) applies –
- (a) only if and to the extent that the business of the meeting relates to the functions of the principal council as a fire and rescue authority, and 15
- (b) only if the council have consented to the participation of the relevant police and crime commissioner in such meetings in response to a request by the commissioner to do so.
- (3) If a request under sub-paragraph (2)(b) is made to a principal council, the council must – 20
- (a) consider the request,
- (b) give reasons for their decision to agree to or refuse the request, and
- (c) publish those reasons in such manner as they think appropriate. 25
- (4) If the principal council agree to the request, the relevant police and crime commissioner is to be treated as a member of the council for the purposes of the following provisions of this Schedule in the case of a meeting which relates to the functions of the council as a fire and rescue authority – 30
- (a) paragraph 3(2);
- (b) paragraph 4(1A);
- (c) paragraph 5(3);
- (d) paragraph 6;
- (e) paragraph 39; 35
- (f) paragraph 40;
- (g) paragraph 41(3);
- (h) paragraph 43.
- (5) In this paragraph “relevant police and crime commissioner”, in relation to a principal council, means a police and crime commissioner – 40
- (a) whose area is the same as, or contains all of, the area of the principal council, or
- (b) all or part of whose area falls within the area of the principal council.” 45
- (4) In Part 1A of Schedule 12 (joint authorities etc) in paragraph 6B (application of Part 1) after “this Schedule” insert “other than paragraph 6ZA”.

- (5) The Local Government Act 1985 is amended in accordance with subsections (6) and (7).
- (6) In section 26 (metropolitan county fire and rescue authorities) –
- (a) in subsection (3) for “Each” substitute “Subject to subsection (5), each”, and 5
 - (b) after subsection (4) insert –
 - “(5) A metropolitan county fire and rescue authority may appoint a relevant police and crime commissioner to be a member of the authority.
 - (6) An appointment under subsection (5) may only be made in response to a request by the relevant police and crime commissioner. 10
 - (7) If a request under subsection (6) is made to a metropolitan county fire and rescue authority, the authority must –
 - (a) consider the request, 15
 - (b) give reasons for their decision to agree to or refuse the request, and
 - (c) publish those reasons in such manner as they think appropriate.
 - (8) In this section “relevant police and crime commissioner”, in relation to a metropolitan county fire and rescue authority, means a police and crime commissioner –
 - (a) whose area is the same as, or contains all of, the area of the authority, or
 - (b) all or part of whose area falls within the area of the authority.” 25
- (7) In section 34 (chairman, vice-chairman and clerk of metropolitan county fire and rescue authority) in subsection (7) for the “and” at the end of paragraph (b) substitute –
- “(ba) if the chairman is a police and crime commissioner and the authority and the commissioner have agreed that the commissioner should cease to be a member of the authority, the date agreed by the authority and the commissioner as the date on which the commissioner’s membership should cease, and” 30
- (8) In section 13 of the Local Government and Housing Act 1989 (voting rights of members of certain committees) after subsection (5) insert – 35
- “(5ZA) Nothing in this section shall prevent the appointment of a police and crime commissioner as a voting member of –
 - (a) any committee or sub-committee appointed by a local authority in England wholly or partly for the purposes of discharging functions of a fire and rescue authority, 40
 - (b) any joint committee appointed by two or more local authorities in England wholly or partly for the purpose of discharging such functions, or
 - (c) any sub-committee appointed by any such committee or joint committee wholly or partly for the purpose of discharging such functions. 45

- (5ZB) In subsection (5ZA) “local authority” does not include –
- (a) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies,
 - (b) a joint authority which is a metropolitan county fire and rescue authority, or
 - (c) the London Fire Commissioner.” 5
- (9) In Schedule A1 to the Local Government Act 2000 (executive arrangements in England: further provisions) after paragraph 4 insert –
- “Attendance of police and crime commissioner at meetings* 10
- 4A (1) A relevant police and crime commissioner may attend, speak at and vote at –
- (a) a meeting of an executive of a local authority which is a fire and rescue authority, or
 - (b) a meeting of a committee of such an executive. 15
- (2) Sub-paragraph (1) applies –
- (a) only if and to the extent that the business of the meeting relates to the functions of the authority as a fire and rescue authority, and
 - (b) only if the executive has consented to the participation of the relevant police and crime commissioner in such meetings in response to a request by the commissioner to do so. 20
- (3) If a request under sub-paragraph (2)(b) is made to an executive of a local authority, the executive must –
- (a) consider the request, 25
 - (b) give reasons for its decisions to agree to or refuse the request, and
 - (c) publish those reasons in such manner as it thinks appropriate.
- (4) In this paragraph “relevant police and crime commissioner” means a 30
- (a) whose area is the same as, or contains all of, the area of the local authority, or
 - (b) all or part of whose area falls within the area of the local authority.” 35
- (10) Section 3 of the Fire and Rescue Services Act 2004 (creation of combined fire and rescue authority: supplementary) is amended in accordance with subsections (11) and (12).
- (11) In subsection (3)(a) for “or by the Secretary of State” substitute “, by the Secretary of State or by the combined authority”. 40
- (12) After subsection (5) insert –
- “(6) The following provisions apply if a scheme under section 2 provides for members of a combined authority to be appointed by the authority.

-
- (7) The scheme must provide that a relevant police and crime commissioner may only be appointed as a member of the authority in response to a request by the commissioner.
- (8) The scheme must provide that if, such a request is made to the authority, the authority must— 5
- (a) consider the request,
 - (b) give reasons for its decision to agree to or refuse the request, and
 - (c) publish those reasons in such manner as it thinks appropriate.
- (9) In this section “relevant police and crime commissioner”, in relation to a combined authority, means a police and crime commissioner— 10
- (a) whose area is the same as, or contains all of, the area of the authority, or
 - (b) all or part of whose area falls within the area of the authority.”
- (13) The Localism Act 2011 is amended in accordance with subsections (14) and (15). 15
- (14) In section 27 (duty to promote and maintain high standards of conduct) after subsection (4) insert—
- “(4A) In this Chapter “co-opted member” includes a police and crime commissioner who— 20
- (a) is entitled to participate in meetings of a county or district council by virtue of paragraph 6ZA of Part 1 of Schedule 12 to the Local Government Act 1972, or
 - (b) is entitled to participate in meetings of an executive of a county or district council by virtue of paragraph 4A of Schedule A1 to the Local Government Act 2000.” 25
- (15) In section 28 (codes of conduct) after subsection (11) insert—
- “(11A) Subsections (11B) to (11D) apply if a police and crime commissioner is a member or co-opted member of a relevant authority in the commissioner’s capacity as such. 30
- (11B) Arrangements put in place under subsection (6)(b) by the relevant authority must include provision for an allegation against the commissioner to be referred to the police and crime panel for the commissioner’s police area.
- (11C) If, in response to an allegation referred to it by virtue of subsection (11B), the police and crime panel makes a report or recommendation to the police and crime commissioner under section 28(6) of the Police Reform and Social Responsibility Act 2011, the panel may also make a report or recommendation on the allegation to the relevant authority. 35
- (11D) The relevant authority must take any such report or recommendation into account in determining— 40
- (a) whether the police and crime commissioner has failed to comply with the authority’s code of conduct,
 - (b) whether to take action in relation to the commissioner, and
 - (c) what action to take.” 45

CHAPTER 3

LONDON FIRE COMMISSIONER

8 The London Fire Commissioner

- (1) The London Fire and Emergency Planning Authority is abolished.
- (2) The functions of the London Fire and Emergency Planning Authority are (subject to this Act) transferred to the London Fire Commissioner. 5
- (3) Schedule 2 –
 - (a) amends the Greater London Authority Act 1999 in consequence of the abolition of the London Fire and Emergency Planning Authority,
 - (b) amends that Act so as to make provision about the London Fire Commissioner, and 10
 - (c) makes consequential amendments to other Acts.

9 Transfer of property, rights and liabilities to the London Fire Commissioner

- (1) The Secretary of State may make one or more schemes for the transfer of property, rights and liabilities of the London Fire and Emergency Planning Authority to the London Fire Commissioner. 15
- (2) The things that may be transferred under a transfer scheme include –
 - (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme; 20
 - (c) criminal liabilities.
- (3) A transfer scheme may make consequential, supplementary, incidental or transitional provision and may in particular –
 - (a) create rights, or impose liabilities, in relation to property transferred;
 - (b) make provision about the continuing effect of things done by the transferor in respect of anything transferred; 25
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor, in respect of anything transferred;
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee; 30
 - (e) if the TUPE regulations do not apply in relation to the transfer, make provision which is the same or similar.
- (4) A transfer scheme may provide – 35
 - (a) for the scheme to be modified by agreement after it comes into effect;
 - (b) for any such modifications to have effect from the date when the original scheme came into effect.
- (5) In this section –
 - (a) references to the transfer of property include the grant of a lease; 40
 - (b) references to rights and liabilities include rights and liabilities under a contract of employment;

- (c) “TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).

PART 2

POLICE COMPLAINTS, DISCIPLINE AND INSPECTION

CHAPTER 1

5

POLICE COMPLAINTS

10 Local policing bodies: functions in relation to complaints

In Part 2 of the Police Reform Act 2002 (complaints and misconduct), after section 13 insert—

- “13A Local policing bodies: functions in relation to complaints** 10
- (1) The local policing body that maintains a police force may give notice to the chief officer of the police force that it (rather than the chief officer) is to exercise the functions conferred on the chief officer by the provisions specified in subsection (2) or subsections (2) and (3).
- (2) The provisions specified in this subsection are — 15
- (a) paragraph 2(6) to (6D) of Schedule 3, and
- (b) paragraph 2(9) and (10) of Schedule 3 in so far as relating to a determination made for the purposes of paragraph 2(6) to (6C) of that Schedule.
- (3) The provisions specified in this subsection are — 20
- (a) section 20, and
- (b) section 21 in so far as that section relates to complaints.
- (4) In relation to any complaint in respect of which the chief officer is the appropriate authority that is made on or after the day on which a notice under subsection (1) is given — 25
- (a) the functions of the chief officer to which the notice relates become functions of the local policing body,
- (b) references to the chief officer, including in the chief officer’s capacity as an appropriate authority, in the provisions specified in subsection (2) or (as the case may be) subsections (2) and (3) are to be read as references to the local policing body, and 30
- (c) for the purpose of paragraph 6(1) of Schedule 3, the complaint is to be treated as having been recorded by the chief officer.
- (5) Where the notice under subsection (1) relates to the functions conferred on the chief officer by the provisions specified in subsections (2) and (3), subsection (4)(b) does not apply to the references to an appropriate authority in sections 20(2)(a) and (3A)(a) and 21(7)(a) and (8A)(a). 35
- (6) The Secretary of State may by regulations make provision in connection with the giving of notices under subsection (1) and their withdrawal.
- (7) Regulations under subsection (6) may (amongst other things) make provision about — 40

- (a) the steps that a local policing body must take before giving a notice;
- (b) the circumstances in which a notice may be withdrawn.”

11 Definition of police complaint

- (1) Section 12 of the Police Reform Act 2002 (complaints, matters and persons to which Part 2 of the Act applies) is amended as follows. 5
- (2) For subsection (1) substitute –
 - “(1) In this Part references to a complaint are references (subject to the following provisions of this section) to any expression of dissatisfaction with a police force which is expressed (whether in writing or otherwise) by or on behalf of a member of the public. 10
 - (1A) But an expression of dissatisfaction is a complaint for the purposes of this Part –
 - (a) where it relates to conduct of a person serving with the police, only if the person in question is a person falling within subsection (1B); 15
 - (b) in any other case, only if the person in question has been adversely affected by the matter about which dissatisfaction is expressed.
 - (1B) In relation to an expression of dissatisfaction that relates to conduct of a person serving with the police, a person falls within this subsection if the person is –
 - (a) a person who claims to be the person in relation to whom the conduct took place;
 - (b) a person not falling within paragraph (a) who claims to have been adversely affected by the conduct; or 25
 - (c) a person who claims to have witnessed the conduct.”
- (3) In subsection (3) –
 - (a) for “subsection (1)(b)” substitute “subsection (1B)(b)”; 30
 - (b) for “made by or on behalf of a person who” substitute “where the person in question”.
- (4) After subsection (4) insert –
 - “(4A) In this section, “the person in question” means the person expressing dissatisfaction or the person on whose behalf dissatisfaction is being expressed.” 35
- (5) In subsection (6), for the words before paragraph (a) substitute “For the purposes of this Part a person may authorise another person to make a complaint on his behalf only if –”.
- (6) Schedule 3 makes amendments of the Police Reform Act 2002 in consequence of the amendments of section 12 of that Act made by this section. 40

12 Duty to keep complainant and other interested persons informed

- (1) Part 2 of the Police Reform Act 2002 (complaints and misconduct) is amended as follows.

- (2) In section 20 (duty to keep the complainant informed), after subsection (3) insert –
- “(3A) In any case in which a complaint is being handled –
- (a) in accordance with paragraph 6(2A) of Schedule 3 otherwise than by the appropriate authority making arrangements for the complaint to be investigated by the authority on its own behalf, or 5
- (b) otherwise than in accordance with Schedule 3 (as to which see paragraph 2(6C) of that Schedule),
- it shall be the duty of the appropriate authority to provide the complainant with all such information as will keep him properly informed, while the complaint is being handled and subsequently, of all the matters mentioned in subsection (4).” 10
- (3) In section 20, for subsection (4) substitute –
- “(4) The matters of which the complainant must be kept properly informed are – 15
- (a) the progress of the handling of the complaint;
- (b) the outcome of the handling of the complaint;
- (c) any right to apply for a review conferred on the complainant by paragraph 6A or 25 of Schedule 3 (as the case may be); 20
- (d) such other matters as may be specified in regulations made by the Secretary of State.”
- (4) In section 20, after subsection (8) insert –
- “(8A) In any case in which there is an investigation of a complaint, the Commission or the appropriate authority may comply with its duty under subsection (2) or (3) (as the case may be) so far as relating to the findings of a report of the investigation submitted under paragraph 22 of Schedule 3 by sending the complainant a copy of the report. 25
- (8B) Subsection (8A) applies notwithstanding any obligation of secrecy imposed by any rule of law or otherwise but is subject to – 30
- (a) regulations made under subsection (5), and
- (b) in its application to the Commission, paragraph 19ZD of Schedule 3.”
- (5) In section 20(9), after “under this Part” insert “, or who is otherwise involved in the handling of a complaint under this Part,”. 35
- (6) In section 21 (duty to provide information for other persons), after subsection (8) insert –
- “(8A) In any case in which –
- (a) the complaint is being handled in accordance with paragraph 6(2A) of Schedule 3 otherwise than by the appropriate authority making arrangements for the complaint to be investigated by the authority on its own behalf, or 40
- (b) the recordable conduct matter or DSI matter is being handled in a manner determined by the appropriate authority in accordance with paragraph 10(4D), 11(3E), 14(2) or 14D(2) of Schedule 3 otherwise than by the appropriate authority making 45

- arrangements for the matter to be investigated by the authority on its own behalf,
it shall be the duty of the appropriate authority to provide the interested person with all such information as will keep him properly informed, while the complaint, recordable conduct matter or DSI matter is being handled and subsequently, of all the matters mentioned in subsection (9).” 5
- (7) In section 21, for subsection (9) substitute –
“(9) The matters of which the interested person must be kept properly informed are – 10
(a) the progress of the handling of the complaint, recordable conduct matter or DSI matter;
(b) the outcome of the handling of the complaint, recordable conduct matter or DSI matter;
(c) such other matters as may be specified in regulations made by the Secretary of State.” 15
- (8) In section 21, after subsection (11) insert –
“(11A) In any case in which there is an investigation of a complaint or recordable conduct matter, the Commission or the appropriate authority may comply with its duty under subsection (6) or (7) (as the case may be) so far as relating to the findings of a report of the investigation submitted under paragraph 22 of Schedule 3 by sending an interested person a copy of the report. 20
(11B) Subsection (11A) applies notwithstanding any obligation of secrecy imposed by any rule of law or otherwise but is subject to – 25
(a) regulations made under subsection (10), and
(b) in its application to the Commission, paragraph 19ZD of Schedule 3.”
- (9) In Schedule 3 –
(a) in paragraph 23 (action by the Commission in response to an investigation report under paragraph 22), omit sub-paragraphs (9) to (12); 30
(b) in paragraph 24 (action by the appropriate authority in response to an investigation report under paragraph 22), omit sub-paragraphs (7) to (10). 35
- (10) In consequence of the repeals made by subsection (9), omit the following –
(a) in the Criminal Justice and Immigration Act 2008, in Schedule 23, omit paragraph 14(7) and (8);
(b) in the Anti-social Behaviour, Crime and Policing Act 2014, in Part 3 of Schedule 11, omit paragraph 95(6). 40

13 Complaints, conduct matters and DSI matters: procedure

Schedule 4 amends Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc).

14 Initiation of investigations by IPCC

- (1) Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc) is amended as follows.
- (2) In paragraph 2 (initial handling and recording of complaints) –
- (a) before sub-paragraph (1) insert – 5
- “(A1) Where a complaint is made to the Commission, the Commission may direct the appropriate authority to record the complaint and it shall be the duty of the authority to comply with the direction.”;
- (b) in sub-paragraph (1), after “Commission” insert “and it does not give a direction under sub-paragraph (A1) in relation to the complaint”; 10
- (c) before sub-paragraph (5) insert –
- “(4A) Where the Commission gives a direction under sub-paragraph (A1) it must give a notification of the giving of the direction – 15
- (a) to the complainant, and
- (b) except in a case where it appears to the Commission that to do so might prejudice a possible future investigation, to the person complained against (if any).” 20
- (3) In paragraph 4 (reference of complaints to the Commission) –
- (a) in sub-paragraph (1), in the words before paragraph (a), after “Commission” insert “, other than a complaint to which sub-paragraph (6C) applies,”;
- (b) in sub-paragraph (2), in the words before paragraph (a), after “make a reference” insert “and sub-paragraph (6C) does not apply”; 25
- (c) in sub-paragraph (3), in the words before paragraph (a), after “to be made” insert “and sub-paragraph (6C) does not apply”;
- (d) after sub-paragraph (4) insert –
- “(4A) If a complaint to which sub-paragraph (4) applies is not referred to the Commission within the period referred to in that sub-paragraph, the Commission may treat the complaint as having been so referred (and when it does so the obligation to refer the complaint to the Commission ceases to apply).”;
- (e) in sub-paragraph (5), in the words before paragraph (a), for “(7)” substitute “(7A)”;
- (f) after sub-paragraph (6A) (as inserted by Schedule 4) insert – 35
- “(6B) If the Commission treats a complaint as having been referred to it by virtue of sub-paragraph (4A), the Commission shall give a notification of the reference – 40
- (a) to the appropriate authority,
- (b) to the complainant, and
- (c) except in a case where it appears to the Commission that to do so might prejudice a possible future investigation of the complaint, to the person complained against (if any). 45

- (6C) A complaint that an appropriate authority is directed to record under paragraph 2(A1) is to be treated for the purposes of paragraphs 5, 6, 6A, 15 and 25 as having been referred to the Commission by the appropriate authority under this paragraph. 5
- (6D) A complaint that the Commission treats as having been referred to it by virtue of sub-paragraph (4A) is also to be treated for the purposes of paragraphs 5, 6, 6A, 15 and 25 as having been referred to the Commission by the appropriate authority under this paragraph.”; 10
- (g) for sub-paragraph (7) substitute –
- “(7) The Commission may direct an appropriate authority to refer to it again a complaint that has already been referred, or been treated as referred, to the Commission under this paragraph (and in the absence of a direction there is no requirement to refer such a complaint again). 15
- (7A) A complaint that has already been referred, or been treated as referred, to the Commission under this paragraph may only be referred to the Commission again in exercise of a power conferred by this paragraph if the Commission consents.” 20
- (4) In paragraph 11 (recording etc of conduct matters in other cases) –
- (a) in sub-paragraph (1), for “This paragraph applies” substitute “Sub-paragraphs (2) to (4) apply”;
- (b) in sub-paragraph (5)(a), omit “recordable”;
- (c) in sub-paragraph (5)(b), at the end insert “(whether under paragraph 10 or this paragraph)”;
- (d) after sub-paragraph (5) insert – 25
- “(6) Where –
- (a) the Commission gives a direction in relation to a conduct matter under sub-paragraph (5), and 30
- (b) the Commission does not consider that to do so might prejudice a possible future investigation of that matter,
- the Commission must give a notification of the giving of the direction to the person to whose conduct that matter relates.” 35
- (5) In paragraph 13 (reference of conduct matters to the Commission) –
- (a) in sub-paragraph (1), at the beginning insert “Subject to sub-paragraph (6B),”;
- (b) in sub-paragraph (2), in the words before paragraph (a), after “to make a reference” insert “and sub-paragraph (6B) does not apply”;
- (c) after sub-paragraph (4) insert – 40
- “(4A) If a matter to which sub-paragraph (4) applies is not referred to the Commission within the period referred to in that sub-paragraph, the Commission may treat the matter as having been so referred (and when it does so the obligation to refer the matter to the Commission ceases to apply).” 45

- (d) after sub-paragraph (6) insert –
- “(6A) If the Commission treats a matter as having been referred to it by virtue of sub-paragraph (4A), the Commission shall give a notification of the reference –
 - (a) to the appropriate authority, and 5
 - (b) except in a case where it appears to the Commission that to do so might prejudice a possible future investigation of the matter, to the person to whose conduct the matter relates.
 - (6B) A recordable conduct matter that an appropriate authority is directed to record under paragraph 11(5) is to be treated for the purposes of paragraphs 14 and 15 as having been referred to the Commission by the appropriate authority under this paragraph. 10
 - (6C) A recordable conduct matter that the Commission treats as having been referred to it by virtue of sub-paragraph (4A) is also to be treated for the purposes of paragraphs 14 and 15 as having been referred to the Commission by the appropriate authority under this paragraph.”; 15
 - (e) in sub-paragraph (5), for “(7)” substitute “(8)”; 20
 - (f) for sub-paragraph (7) substitute –
 - “(7) The Commission may direct an appropriate authority to refer to it again a matter that has already been referred, or been treated as referred, to the Commission under this paragraph (and in the absence of a direction there is no requirement to refer such a matter again). 25
 - (8) A matter that has already been referred, or been treated as referred, to the Commission under this paragraph may only be referred to the Commission again in exercise of a power conferred by this paragraph if the Commission consents.” 30
 - (6) In paragraph 14C (reference of DSI matters to the Commission) –
 - (a) in sub-paragraph (1), at the end insert “, other than a DSI matter to which sub-paragraph (2B) applies”;
 - (b) after sub-paragraph (2) insert –
 - “(2A) If a DSI matter is not referred to the Commission within the period referred to in sub-paragraph (2), the Commission may treat the matter as having been so referred (and when it does so the obligation to refer the DSI matter to the Commission ceases to apply). 35
 - (2B) A DSI matter that an appropriate authority is directed to record under paragraph 14A(2) is to be treated for the purposes of paragraphs 14D and 15 as having been referred to the Commission by the appropriate authority under this paragraph. 40
 - (2C) A DSI matter that the Commission treats as having been referred to it by virtue of sub-paragraph (2A) is also to be treated for the purposes of paragraphs 14D and 15 as having 45

been referred to the Commission by the appropriate authority under this paragraph.”;

- (c) for sub-paragraph (3) substitute –

“(3) The Commission may direct an appropriate authority to refer to it again a matter that has already been referred, or been treated as referred, to it under this paragraph (and in the absence of a direction there is no requirement to refer such a matter again).”

5

15 IPCC power to require re-investigation

- (1) In Part 2 of the Police Reform Act 2002 (complaints and misconduct), after section 13A (as inserted by section 10) insert –

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“13B Power of the Commission to require re-investigation

- (1) This section applies where –

(a) a report on an investigation of a complaint, recordable conduct matter or DSI matter carried out under the direction of the Commission has been submitted to it under paragraph 22(3) or 24A of Schedule 3, or

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(b) a report on an investigation of a complaint, recordable conduct matter or DSI matter carried out by a person designated by the Commission has been submitted to it under paragraph 22(5) or 24A of Schedule 3.

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- (2) The Commission may at any time determine that the complaint, recordable conduct matter or DSI matter is to be re-investigated if it is satisfied that there are compelling reasons for doing so.

- (3) Where the Commission makes a determination under subsection (2), it must determine that the re-investigation is to take the form of an investigation by the Commission unless subsection (4) applies.

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- (4) This subsection applies where the Commission determines that it would be more appropriate for the re-investigation to take the form of an investigation by the appropriate authority under the direction of the Commission, in which case the Commission must determine that the re-investigation is to take that form.

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- (5) Where the Commission determines that a re-investigation is to take the form of an investigation by the appropriate authority under the direction of the Commission, the Commission must keep under review whether subsection (4) continues to apply in relation to the re-investigation.

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- (6) If, on such a review, the Commission determines that subsection (4) no longer applies in relation to a re-investigation, the Commission must make a further determination under this section (to replace the earlier one) that the re-investigation is instead to take the form of an investigation by the Commission.

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- (7) Sub-paragraphs (6) and (7) of paragraph 15 of Schedule 3 shall apply in relation to a further determination under subsection (6) as they apply in the case of a further determination under sub-paragraph (5A) of that paragraph.

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-
- (8) The other provisions of Schedule 3 shall apply in relation to any re-investigation in pursuance of a determination under this section as they apply in relation to any investigation in pursuance of a determination under paragraph 15.
- (9) The Commission shall give notification of any determination under this section – 5
- (a) to the appropriate authority,
 - (b) to the complainant (if any),
 - (c) to every person entitled to be kept properly informed in relation to the complaint, recordable conduct matter or DSI matter (as the case may be) under section 21, and 10
 - (d) except in a case where it appears to the Commission that to do so might prejudice the re-investigation, to the person to whose conduct the re-investigation will relate.
- (10) In relation to a matter that was formerly a DSI matter but was recorded as a conduct matter in pursuance of paragraph 21A(5) of Schedule 3, the reference in subsection (9) to the appropriate authority is a reference to the appropriate authority in relation to the person whose conduct was in question. 15
- (11) The reference to a report in subsection (1) includes a report on a re-investigation by virtue of this section or paragraph 25 of Schedule 3.” 20
- (2) Part 3 of Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc: investigations and subsequent proceedings) is amended as follows.
- (3) In paragraph 23 (action by the Commission in response to an investigation report under paragraph 22), after sub-paragraph (1) insert – 25
- “(1A) But if, following the submission of such a report, the Commission determines under section 13B that the complaint or recordable conduct matter is to be re-investigated the provisions of this paragraph other than sub-paragraph (2)(a) do not apply, or cease to apply, in relation to that report.” 30
- (4) In paragraph 24A (final reports on investigations: DSI matters), after sub-paragraph (5) (as inserted by Schedule 4) insert –
- “(6) But sub-paragraphs (4) and (5) and paragraphs 24B and 24C do not apply, or cease to apply, in relation to a report submitted under sub-paragraph (2) if, following the submission of the report, the Commission determines under section 13B that the DSI matter is to be re-investigated.” 35
- (5) In paragraph 27 (duties with respect to disciplinary proceedings etc), after sub-paragraph (1) insert – 40
- “(1A) But where this paragraph would otherwise apply by virtue of sub-paragraph (1)(c), it does not apply, or ceases to apply, in relation to the investigation if the Commission determines under section 13B that the DSI matter is to be re-investigated.”
- (6) In paragraph 28B (response to recommendation by the Commission under 45

paragraph 28A), at the end insert –

“(12) This paragraph does not apply, or ceases to apply, in relation to a recommendation made by virtue of paragraph 28A(1) if the Commission determines under section 13B that the complaint, recordable conduct matter or DSI matter that the Commission received a report on is to be re-investigated.” 5

16 Oversight functions of local policing bodies

(1) In section 1 of the Police Reform and Social Responsibility Act 2011 (police and crime commissioners), in subsection (8) (duty to hold chief constable to account), after paragraph (c) insert – 10

“(ca) the exercise of the chief constable’s functions under Part 2 of the Police Reform Act 2002 in relation to the handling of complaints;”.

(2) In section 3 of that Act (Mayor’s Office for Policing and Crime), in subsection (8) (duty to hold Commissioner of Police of the Metropolis to account), after paragraph (c) insert – 15

“(ca) the exercise of the Commissioner’s functions under Part 2 of the Police Reform Act 2002 in relation to the handling of complaints;”.

(3) In section 6ZA of the Police Act 1996 (power to confer particular functions on the Common Council), in subsection (2), after paragraph (a) insert – 20

“(aa) to hold the Commissioner of Police for the City of London to account for the exercise of the Commissioner’s functions under Part 2 of the Police Reform Act 2002 in relation to the handling of complaints;”.

17 Delegation of functions by local policing bodies

(1) In section 23 of the Police Reform Act 2002 (Part 2 regulations), in subsection (2), after paragraph (p) insert –

“(pa) for local policing bodies to have power to delegate the exercise or performance of powers and duties conferred or imposed on them by or under this Part (including powers and duties that are acquired by virtue of giving a notice under section 13A);”.

(2) In section 18 of the Police Reform and Social Responsibility Act 2011 (delegation of functions by police and crime commissioners), in subsection (3), after paragraph (a) insert – 35

“(aa) arrange, under subsection (1)(b) or (2), for the deputy police and crime commissioner or any other person to exercise a function that the police and crime commissioner has under or by virtue of Part 2 of the Police Reform Act 2002 (see instead section 23(2)(pa) of that Act and regulations made under that provision);”.

(3) In section 19 of the Police Reform and Social Responsibility Act 2011 (delegation of functions by Mayor’s Office for Policing and Crime), in subsection (3), after paragraph (a) insert –

“(aa) arrange, under subsection (1)(b) or (2), for the Deputy Mayor for Policing and Crime or any other person to exercise a function 45

that the Mayor’s Office for Policing and Crime has under or by virtue of Part 2 of the Police Reform Act 2002 (see instead section 23(2)(pa) of that Act and regulations made under that provision);”.

CHAPTER 2

5

POLICE SUPER-COMPLAINTS

18 Power to make super-complaints

After Part 2 of the Police Reform Act 2002 (complaints and misconduct) insert –

“PART 2A

10

SUPER-COMPLAINTS

29A Power to make super-complaints

- (1) A designated body may make a complaint to Her Majesty’s Chief Inspector of Constabulary that a feature, or combination of features, of policing in England and Wales by one or more than one police force is, or appears to be, significantly harming the interests of the public. 15
- (2) See section 29B for the meaning of “designated body”.
- (3) In this section-
 - “England and Wales” includes the adjacent United Kingdom waters within the meaning of section 30 of the Police Act 1996, 20
 - “police force” means any of the following –
 - (a) the metropolitan police force,
 - (b) a police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London), 25
 - (c) the National Crime Agency,
 - (d) the City of London police force,
 - (e) the Ministry of Defence Police,
 - (f) the Civil Nuclear Constabulary,
 - (g) the British Transport Police.” 30

19 Bodies who may make super-complaints

In Part 2A of the Police Reform Act 2002, after section 29A (for which see section 18 above), insert –

“29B Bodies who may make super-complaints

- (1) In this Part “designated body” means a body designated in regulations made by the Secretary of State. 35
- (2) The Secretary of State –
 - (a) may make or revoke such a designation if the Secretary of State considers it appropriate to do so, and

- (b) must make or revoke such a designation if asked to do so by an authorised person.
- (3) The Secretary of State must, in deciding whether to act under subsection (2)(a), apply criteria specified or described in regulations made by the Secretary of State. 5
- (4) The authorised person must, in deciding whether to ask the Secretary of State to act under subsection (2)(b), apply criteria specified or described in regulations made by the Secretary of State.
- (5) The Secretary of State must, before making regulations under subsection (3) or (4), consult such persons as the Secretary of State considers appropriate. 10
- (6) In this section “authorised person” means any person specified or described in regulations made by the Secretary of State.”

20 Regulations about super-complaints

- (1) In Part 2A of the Police Reform Act 2002, after section 29B (for which see section 19 above), insert – 15

“29C Regulations about super-complaints

- (1) The Secretary of State may by regulations make provision about complaints under section 29A.
- (2) Such provision may, in particular, include provision about – 20
 - (a) the procedure for dealing with a matter before a complaint is made under section 29A (including who is to deal with the matter),
 - (b) the procedure for dealing with a complaint under section 29A (including who is to deal with the matter), 25
 - (c) whether, or the extent to which, a matter is to be dealt with under this Part or Part 2.
- (3) Regulations under this section may –
 - (a) confer (or enable the conferring of) functions on Her Majesty’s Chief Inspector of Constabulary, the Independent Police Complaints Commission, the College of Policing or any other person, 30
 - (b) apply (with or without modifications), in relation to any matter to be dealt with by the Independent Police Complaints Commission under this Part, any provision made by or under Part 2.” 35
- (2) After section 10(3) of that Act (general functions of the Commission) insert –
 - “(3A) The Commission also has any functions conferred on it by regulations under section 29C of this Act (regulations about super-complaints).”

CHAPTER 3

WHISTLE-BLOWING: POWER OF IPCC TO INVESTIGATE

21 Investigations by the IPCC: whistle-blowing

- (1) After Part 2A of the Police Reform Act 2002 (for which see sections 18 to 20 above) insert –

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“PART 2B

INVESTIGATION OF CONCERNS RAISED BY WHISTLE-BLOWERS

29E Power to investigate concerns raised by whistle-blowers

- (1) For the purposes of this Part, a person is a “whistle-blower” if –
- (a) the person raises a concern that is about a police force or a person serving with the police, 10
 - (b) the person raising the concern was under the direction and control of a chief officer of police at any time when the matters giving rise to the concern occurred, and
 - (c) the concern is not about – 15
 - (i) the conditions of service of persons serving with the police, or
 - (ii) a matter that is, or could be, the subject of a complaint by the person under Part 2.
- (2) The Commission may investigate any concern raised by a whistle-blower of which it becomes aware (whether because the whistle-blower has contacted the Commission or for any other reason) but only if the whistle-blower informs the Commission, before the beginning of the investigation, that he or she consents to an investigation taking place. 20
- (3) In deciding whether to investigate, the Commission must take into account the public interest. 25
- (4) Subsection (2) is subject to section 29G (which deals with the position where the concern is a conduct matter for the purposes of Part 2).
- (5) Schedule 3A (which makes provision about the procedure etc where the Commission decides to investigate under subsection (2)) has effect. 30

29F Commission’s powers and duties where it decides not to investigate

- (1) If the Commission decides not to carry out an investigation under section 29E(2), the Commission must inform the whistle-blower of the decision.
- (2) In such a case, the Commission may, with the consent of the whistle-blower – 35
- (a) disclose the nature of the concern to the appropriate authority, and
 - (b) make recommendations in the light of the concern.
- (3) In this Part, “appropriate authority” means – 40

- (a) if the concern relates to a chief officer or an acting chief officer, the local policing body for the area of the police force of which he or she is a member;
 - (b) if the concern relates to any other person, the chief officer under whose direction and control that person is; 5
 - (c) if the concern does not relate to any particular persons, the chief officer of the police force to which the concern relates.
- (4) The Secretary of State may by regulations make further provision about recommendations under subsection (2).
- (5) The regulations may (amongst other things) – 10
- (a) describe the kinds of recommendations that the Commission may make under subsection (2);
 - (b) specify the persons to whom the recommendations may be made;
 - (c) authorise the Commission to require a response to any recommendation made by the Commission under subsection (2). 15

29G Special provision for “conduct matters”

- (1) Before deciding whether to carry out an investigation under section 29E(2), the Commission must consider whether the concern is about a conduct matter for the purposes of Part 2 (see section 12(2)). 20
- (2) If the Commission determines that the concern is about a conduct matter for the purposes of Part 2 –
- (a) it may not carry out an investigation under section 29E(2), and
 - (b) it must notify the appropriate authority in relation to the person whose conduct is in question of its determination. 25
- (3) Where the appropriate authority in relation to the person whose conduct is in question is notified under subsection (2), it must record the matter under paragraph 11 of Schedule 3 to this Act as a conduct matter. 30
- (4) The Secretary of State may by regulations make provision modifying Schedule 3 in relation to a conduct matter that, in accordance with subsection (3), is recorded under paragraph 11 of that Schedule but only for the purpose of making provision for the protection of the anonymity of whistle-blowers. 35

29H Commission’s powers and duties where whistle-blower is deceased

- (1) The power of the Commission to carry out an investigation under section 29E(2) applies where the whistle-blower dies before the Commission becomes aware of the concern (or before it decides to investigate). 40
- (2) Any investigation begun by the Commission under section 29E(2) before the death of the whistle-blower may be continued after the death.
- (3) Where a whistle-blower dies –

-
- (a) any requirement under this Part to obtain the consent of the whistle-blower may be satisfied by obtaining the consent of that person’s approved representative;
- (b) any requirement under this Part to give any document or other information to the whistle-blower may be satisfied by giving the document or other information to the person’s approved representative; 5
- (c) any requirement under this Part not to disclose the identity of the whistle-blower does not apply or (where the Commission became aware of the concern before the death) ceases to apply. 10
- (4) For the purpose of this section, “approved representative” means a person who has been approved by the Commission for the purposes of this Part.
- (5) The Commission may only approve a person who is – 15
- (a) the widow or widower (or surviving civil partner) of the deceased whistle-blower,
- (b) a personal representative (within the meaning of section 55(1)(xi) of the Administration of Estates Act 1925) of the deceased whistle-blower, or
- (c) any other person appearing to the Commission to have, by reason of a family or similar relationship with the deceased whistle-blower, a relevant interest in the outcome of the concern. 20
- 29I Protection of anonymity of whistle-blowers**
- (1) The Secretary of State may by regulations make provision setting out the circumstances in which the Commission is required or authorised to disclose information falling within subsection (2) (or any particular description of such information) to persons specified, or of a description specified, in the regulations. 25
- (2) The information falling within this subsection is – 30
- (a) the identity of a whistle-blower or information that might (whether alone or with other information) tend to reveal that identity;
- (b) the nature of a concern raised by a whistle-blower.
- (3) Except as provided by regulations under subsection (1) or by any other provision of this Part, the Commission may not disclose information falling within subsection (2) unless the whistle-blower consents to the disclosure. 35
- 29J Other restrictions on disclosure of information**
- (1) The Secretary of State may by regulations make provision setting out the circumstances in which the Commission is required or authorised to disclose information falling within subsection (2) (or any particular description of such information) to whistle-blowers or to other persons specified, or of a description specified, in the regulations. 40
- (2) The information falling within this subsection is – 45
- (a) information relating to an investigation under section 29E;
- (b) information relating to the outcome of any such investigation.

- (3) Except as provided by regulations under subsection (1) or by any other provision of this Part, the Commission may not disclose information falling within subsection (2).

29K Application of provisions of Part 2

- (1) The following provisions of Part 2 apply in relation to the functions of the Commission under this Part as they apply in relation to the functions of the Commission under Part 2— 5
- (a) section 15 (general duties of local policing bodies, chief officers and inspectors);
 - (b) section 16 (payment for assistance with investigation); 10
 - (c) section 17 (provision of information to the Commission);
 - (d) section 18 (inspection of police premises on behalf of the Commission);
 - (e) section 19 (use of investigatory powers by or on behalf of the Commission); 15
 - (f) section 22 (power of the Commission to issue guidance);
 - (g) section 26 (forces maintained otherwise than by local policing bodies);
 - (h) section 26BA (College of Policing);
 - (i) section 26C (the National Crime Agency). 20
- (2) Except as provided by subsection (1), the provision made by sections 15 to 29 of Part 2 does not apply in relation to the functions of the Commission under this Part.

29L Regulation-making powers: consultation

- Before making regulations under this Part, the Secretary of State must consult— 25
- (a) the Commission,
 - (b) such persons as appear to the Secretary of State to represent the views of police and crime commissioners,
 - (c) the Mayor’s Office for Policing and Crime; 30
 - (d) the Common Council,
 - (e) the National Police Chiefs’ Council, and
 - (f) such other persons as the Secretary of State thinks fit.

29M Interpretation

- (1) In this Part— 35
- “the Commission” means the Independent Police Complaints Commission;
 - “appropriate authority” has the meaning given by section 29F(3);
 - “chief officer” means the chief officer of police of any police force; and “acting chief officer” means (as appropriate)— 40
 - (a) a person exercising or performing functions of a chief constable in accordance with section 41 of the Police Reform and Social Responsibility Act 2011,
 - (b) a person exercising powers or duties of the Commissioner of Police of the Metropolis in accordance with section 44 or 45(4) of that Act, or 45

- (c) a person exercising duties of the Commissioner of Police for the City of London in accordance with section 25 of the City of London Police Act 1839;
“conduct” has the same meaning as in Part 2 (see section 29(1));
“whistle-blower” has the meaning given by section 29E(1). 5
- (2) References in this Part to a person serving with the police have the same meaning as in Part 2 (see section 12(7)).”
- (2) After Schedule 3 to the Police Reform Act 2002 insert the new Schedule 3A set out in Schedule 5 to this Act.
- (3) In section 10 of that Act, after subsection (3A) (for which see section 20 above), insert – 10
“(3B) The Commission also has the functions which are conferred on it by Part 2B (whistle-blowing).”
- (4) In section 105 of that Act, in subsection (5), after “Part 2” insert “or 2B”.

CHAPTER 4

15

POLICE DISCIPLINE

22 **Disciplinary proceedings: former members of police forces and former special constables**

- (1) The Police Act 1996 is amended as follows.
- (2) In section 50 (regulations for police forces), after subsection (3) (regulations concerning disciplinary proceedings) insert – 20
“(3A) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (3) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where – 25
- (a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of a chief officer of police, a local policing body or the Independent Police Complaints Commission,
- (b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a member of a police force, and 30
- (c) either –
- (i) the person ceases to be a member of a police force after the allegation first comes to the attention of a person mentioned in paragraph (a) but before disciplinary proceedings in respect of the alleged misconduct, inefficiency or ineffectiveness are brought or, if brought, before they are concluded, or 35
- (ii) the person had ceased to be a member of a police force before the allegation first came to the attention of a person mentioned in paragraph (a) but the period between the person having ceased to be a member of a police force and the allegation first coming to the attention of a person mentioned in paragraph (a) does not exceed the period specified in the regulations.” 40 45

- (3) In section 51 (regulations for special constables), after subsection (2A) (regulations concerning disciplinary proceedings) insert –
- “(2B) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (2A) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where –
- (a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of a chief officer of police, a local policing body or the Independent Police Complaints Commission,
 - (b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a special constable, and
 - (c) either –
 - (i) the person ceases to be a special constable after the allegation first comes to the attention of a person mentioned in paragraph (a) but before disciplinary proceedings in respect of the alleged misconduct, inefficiency or ineffectiveness are brought or, if brought, before they are concluded, or
 - (ii) the person had ceased to be a special constable before the allegation first came to the attention of a person mentioned in paragraph (a) but the period between the person having ceased to be a special constable and the allegation first coming to the attention of a person mentioned in paragraph (a) does not exceed the period specified in the regulations.”
- (4) In section 84 (representation etc at disciplinary and other proceedings) –
- (a) in subsection (1) –
 - (i) after “50(3)” insert “or (3A)”;
 - (ii) after “51(2A)” insert “or (2B)”;
 - (b) in subsection (4) –
 - (i) in the definition of “the officer concerned”, after “constable” insert “or, as the case may be, the former member of a police force or the former special constable,”;
 - (ii) in the definition of “relevant authority”, after “authority” insert “, in relation to proceedings conducted under regulations made in pursuance of section 50(3) or section 51(2A),”;
 - (iii) after the definition of “relevant authority” insert –
 - ““relevant authority”, in relation to proceedings conducted under regulations made in pursuance of section 50(3A) or section 51(2B), means –
 - (a) where the officer concerned is a former member of a police force (other than a former chief officer of police), or a former special constable, the chief officer of police of the police force of which the officer was last a member, or for which the officer was last appointed as a special constable;
 - (b) where the officer concerned is a former chief officer of police, the local policing

body for the police force of which the officer was last a member;”.

- (5) In section 85 (appeals against dismissal etc), in subsection (1), after “constable” insert “, or a former member of a police force or a former special constable,”.
- (6) In Schedule 6 (appeals to Police Appeals Tribunals), in paragraph 10— 5
- (a) in paragraph (b), before “means” insert “, except in relation to an appeal under section 85 that relates to proceedings conducted under regulations made in pursuance of section 50(3A) or section 51(2B),”;
- (b) after paragraph (b) insert—
- “(ba) “the relevant local policing body”, in relation to an appeal under section 85 that relates to proceedings conducted under regulations made in pursuance of section 50(3A) or section 51(2B), means the local policing body which maintains— 10
- (i) the police force of which the appellant was last a member, or 15
- (ii) the police force for the area for which the appellant was last appointed as a special constable, 20
- as the case may be.”
- (7) Regulations made in pursuance of section 50(3A) or 51(2B) of the Police Act 1996 (as inserted by subsections (2) and (3))—
- (a) may not make provision in relation to a person who ceases to be a member of a police force or a special constable (as the case may be) before the coming into force of this section; 25
- (b) may make provision in relation to a person who ceases to be a member of a police force or a special constable (as the case may be) after the coming into force of this section even though the alleged misconduct, inefficiency or ineffectiveness occurred at a time before the coming into force of this section. 30

23 Police barred list and police advisory list

- (1) After Part 4 of the Police Act 1996, insert the Part set out in Schedule 6 to this Act.
- (2) In consequence of the new Part 4A of the Police Act 1996 (as inserted by Schedule 6), the Police Reform and Social Responsibility Act 2011 is amended as follows. 35
- (3) In section 42 (appointment of Commissioner of Police of the Metropolis), after subsection (3A) insert—
- “(3AA) But a person who would be eligible for appointment by virtue of subsection (3A) is not eligible for appointment at a time when the person is included in the police barred list maintained under section 88B of the Police Act 1996.” 40
- (4) In section 43 (Deputy Commissioner of Police of the Metropolis), after

- subsection (3) insert –
- “(3A) The Secretary of State may not recommend to Her Majesty that She appoint a person as the Deputy Commissioner of Police of the Metropolis unless that person is eligible for appointment.
- (3B) A person is not eligible for appointment at a time when the person is included in the police barred list maintained under section 88B of the Police Act 1996.” 5
- (5) In Part 1 of Schedule 8 (appointment of Chief Constables), in paragraph 1 –
- (a) the existing text becomes sub-paragraph (1);
- (b) after that sub-paragraph insert – 10
- “(2) The police and crime commissioner also has duties under section 88C of the Police Act 1996 (effect of inclusion in police barred list) in relation to the appointment of a chief constable.”
- (6) The Secretary of State may by regulations made by statutory instrument make provision that – 15
- (a) corresponds or is similar to that made by Part 4A of the Police Act 1996 (as inserted by Schedule 6), and
- (b) relates to a person who is, or has been, employed or appointed by a person with functions of a public nature exercisable in, or in relation to, England and Wales that relate to policing or law enforcement (other than a chief officer of police or a local policing body, within the meaning of the Police Act 1996). 20
- (7) A statutory instrument containing regulations under subsection (6) is subject to annulment in pursuance of a resolution of either House of Parliament. 25

24 Appeals to Police Appeals Tribunals

- (1) The Police Act 1996 is amended as follows.
- (2) In section 85 (appeals against dismissal etc), after subsection (1) insert –
- “(1A) “Police appeals tribunal” means a tribunal constituted in accordance with rules made by the Secretary of State. 30
- (1B) Rules made by virtue of subsection (1A) may, in particular, make provision for a person who under the rules is to appoint the members of a tribunal to be able to delegate that power of appointment.”
- (3) In section 101 (interpretation), in subsection (1), at the appropriate place insert – 35
- ““police appeals tribunal” has the meaning given by section 85;”.
- (4) In Schedule 6 (appeals to Police Appeals Tribunals) –
- (a) omit paragraphs 1 and 2;
- (b) in paragraph 5 – 40
- (i) the existing text becomes sub-paragraph (1);
- (ii) after that sub-paragraph insert –
- “(2) The chairman shall be such member of the tribunal as may be prescribed by rules made under section 85.”;

- (c) in paragraph 10, omit paragraphs (a) and (c).
- (5) In the table in Part 1 of Schedule 1 to the Tribunals and Inquiries Act 1992 (tribunals to which the 1992 Act applies), in the entry relating to the Police, in the second column, for “Schedule 6 to” substitute “rules made under section 85 of”.
- (6) In consequence of the repeals made by subsection (4), omit the following –
- (a) in the Criminal Justice and Police Act 2001, section 125(5)(a);
 - (b) in the Constitutional Reform Act 2005, in Part 3 of Schedule 14, in Table 1, the entry beginning “Person nominated for the purpose of Schedule 6 to the Police Act 1996”;
 - (c) in the Tribunals, Courts and Enforcement Act 2007, in Part 1 of Schedule 10, paragraph 27;
 - (d) in the Criminal Justice and Immigration Act 2008, in Part 1 of Schedule 22, paragraph 11(2), (3) and (6)(b);
 - (e) in the Police Reform and Social Responsibility Act 2011, in Part 1 of Schedule 16, paragraph 47(2).
- (7) In section 4A of the Ministry of Defence Police Act 1987 (appeals against dismissal etc), after subsection (7) insert –
- “(8) Regulations under this section concerning the constitution of a police appeals tribunal may, in particular, make provision for a person who under the regulations is to appoint the members of a tribunal to be able to delegate that power of appointment.”
- 25 Guidance concerning disciplinary proceedings and conduct etc**
- (1) Section 87 of the Police Act 1996 (guidance concerning disciplinary proceedings etc) is amended as follows.
- (2) For subsections (1) to (1A) substitute –
- “(1) The Secretary of State may issue guidance as to the discharge of their disciplinary functions to –
- (a) local policing bodies,
 - (b) chief officers of police,
 - (c) other members of police forces,
 - (d) members of the civilian staff of a police force, including the metropolitan police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011), and
 - (e) the Independent Police Complaints Commission.”
- (3) Before subsection (2) insert –
- “(1B) The College of Policing may, with the approval of the Secretary of State, issue guidance to the persons mentioned in subsection (1)(a) to (c) as to the discharge of their disciplinary functions in relation to members of police forces and special constables and former members of police forces and former special constables.”
- (4) After subsection (4) insert –
- “(4A) In this section “disciplinary functions” means –

- (a) functions in relation to the conduct, efficiency and effectiveness of, and the maintenance of discipline of, the following persons (including functions in relation to disciplinary proceedings) –
 - (i) members of police forces;
 - (ii) special constables; 5
 - (iii) members of the civilian staff of a police force, including the metropolitan police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011);
 - (b) functions in relation to disciplinary proceedings against persons who were, but have ceased to be, persons falling within paragraph (a).” 10
- (5) For subsection (5) substitute –
 - “(5) In this section “disciplinary proceedings” –
 - (a) in relation to a member of a police force or a special constable, or a former member of a police force or a former special constable, means any proceedings under regulations under section 50 or 51 that are identified as disciplinary proceedings by those regulations; 15
 - (b) in relation to any other person, means any proceedings identified as disciplinary proceedings by regulations made by the Secretary of State for the purposes of this section.” 20
- (6) After subsection (5) insert –
 - “(6) A statutory instrument containing regulations under subsection (5)(b) is subject to annulment in pursuance of a resolution of either House of Parliament.” 25
- (7) After section 87 insert –
 - “87A Guidance concerning conduct etc**
 - (1) The Secretary of State may issue guidance as to matters of conduct, efficiency and effectiveness to –
 - (a) members of police forces,
 - (b) special constables, and
 - (c) members of the civilian staff of a police force, including the metropolitan police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011). 30 35
 - (2) The College of Policing may, with the approval of the Secretary of State, issue guidance of the type described in subsection (1) to the persons mentioned in paragraphs (a) and (b) of that subsection.
 - (3) It shall be the duty of every person to whom any guidance under this section is issued to have regard to the guidance. 40
 - (4) A failure by a person to whom guidance under this section is issued to have regard to the guidance shall be admissible in evidence in any disciplinary proceedings brought against the person.
 - (5) In this section “disciplinary proceedings” has the same meaning as in section 87.” 45

CHAPTER 5

INSPECTION

26 Powers of inspectors to obtain information, access to police premises etc

- (1) In Schedule 4A to the Police Act 1996 (further provision about Her Majesty’s Inspectors of Constabulary), for paragraphs 6A and 6B substitute – 5
- “Powers of inspectors to obtain information etc*
- 6A (1) An inspector may serve on a person a notice requiring the person –
- (a) to provide the inspector with any information or documents that the inspector reasonably requires for the purposes of an inspection under section 54; 10
 - (b) to produce or deliver up to the inspector any evidence or other things that the inspector reasonably requires for those purposes.
- This is subject to sub-paragraphs (6) to (9).
- (2) A notice under this paragraph must – 15
- (a) specify or describe the information, documents, evidence or other things that are required by the inspector;
 - (b) specify the period within which the information, documents, evidence or other things must be provided, produced or delivered up; 20
 - (c) give details of the right of appeal under paragraph 6D against the notice.
- (3) A period specified under sub-paragraph (2)(b) must not end before the end of the period within which an appeal can be brought against the notice. 25
- (4) A notice under this paragraph may specify the form and manner in which any information, documents, evidence or other things are to be provided, produced or delivered up.
- (5) An inspector may cancel a notice under this paragraph by written notice to the person on whom it was served. 30
- (6) A notice under this paragraph must not be used to obtain information, or any document or other thing, from –
- (a) the Security Service,
 - (b) the Secret Intelligence Service,
 - (c) the Government Communications Headquarters, 35
 - (d) any part of Her Majesty’s forces, or of the Ministry of Defence, which engages in intelligence activities,
 - (e) the Crown Prosecution Service,
 - (f) the Service Prosecuting Authority, or
 - (g) the Serious Fraud Office. 40
- (7) A notice under this paragraph must also not be used to obtain information, or any document or other thing, from any person if –

- (a) the information, or the document or other thing, was obtained by that person (directly or indirectly) from a body or other entity mentioned in sub-paragraph (6), or
 - (b) the information, or the document or other thing, relates to a body or other entity mentioned in that subsection. 5
- (8) A notice under this paragraph must not require a person –
- (a) to provide information that might incriminate the person;
 - (b) to provide an item subject to legal privilege within the meaning of the Police and Criminal Evidence Act 1984 (see section 10 of that Act); 10
 - (c) to make a disclosure that would be prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000;
 - (d) to provide information that was provided to the person by, or by an agency of, the government of a country or territory outside the United Kingdom where that government does not consent to the disclosure of the information. 15
- (9) A notice under this paragraph must not require a postal or telecommunications operator (within the meaning of Chapter 2 of Part 1 of the Regulation of Investigatory Powers Act 2000) to provide communications data (within the meaning of that Chapter). 20
- (10) In this paragraph –
- “document” means anything in which information of any description is recorded;
 - “inspector” means – 25
 - (a) an inspector of constabulary, or
 - (b) a person appointed under section 56 as an assistant inspector of constabulary or staff officer to the inspectors of constabulary.

Powers of inspectors to obtain access to police premises

- 6B (1) An inspector may serve on a person a notice requiring the person to allow the inspector access, which the inspector reasonably requires for the purposes of an inspection under section 54, to – 30
- (a) premises that are occupied for the purposes of –
 - (i) a police force,
 - (ii) a local policing body, or 35
 - (iii) a person providing services, in pursuance of contractual arrangements (but without being employed by a chief officer of police of the police force or its local policing body), to assist a police force in relation to the discharge of its chief officer’s functions, and 40
 - (b) documents and other things on those premises.
- (2) A notice under this paragraph must –
- (a) specify or describe the premises to which the inspector requires access; 45
 - (b) specify the time when access is required;
 - (c) give details of the right of appeal under paragraph 6D against the notice.

- (3) Where there are reasonable grounds for not allowing the inspector to have access to the premises at the time specified under sub-paragraph (2)(b), the requirement under this paragraph has effect as a requirement to secure that access is allowed to the inspector at the earliest practicable time specified by the inspector after there cease to be such grounds. 5
- (4) A time specified under sub-paragraph (2)(b) or (3) must be after the end of the period within which an appeal can be brought against the notice.
- (5) An inspector may cancel a notice under this paragraph by written notice to the person on whom it was served. 10
- (6) In this paragraph “document” and “inspector” have the same meanings as in paragraph 6A.

Failure to comply with notice under paragraph 6A or 6B

- 6C (1) If a person who has received a notice under paragraph 6A or 6B— 15
- (a) fails or refuses without reasonable excuse to do what is required by the notice, or
- (b) (in the case of a notice under paragraph 6A) knowingly or recklessly provides information in response to the notice that is false in a material respect, 20
- the chief inspector of constabulary may certify in writing to the High Court that the person has failed to comply with the notice.
- (2) The High Court may then inquire into the matter and, after hearing any witness who may be produced against or on behalf of the person, and after hearing any statement offered in defence, deal with the person as if the person had committed a contempt of court. 25

Appeals against notices under paragraph 6A or 6B

- 6D (1) A person on whom a notice is served under paragraph 6A or 6B may appeal against the notice to the First-tier Tribunal on the ground that the notice is not in accordance with the law. 30
- (2) If an appeal is brought, any requirement imposed by the notice is of no effect pending the determination or withdrawal of the appeal.
- (3) If the Tribunal considers that the notice is not in accordance with the law—
- (a) it must quash the notice, and 35
- (b) it may give directions regarding the service of a further notice under paragraph 6A or 6B.

Sensitive information: restriction on further disclosure

- 6E (1) Where an inspector receives information within sub-paragraph (2), the inspector must not disclose the information, or the fact that it has been received, unless the relevant authority consents to the disclosure. 40
- (2) The information is—

- (a) intelligence service information;
 - (b) intercept information;
 - (c) information obtained from a government department which, at the time it is provided to the inspector, is identified by the department as information the disclosure of which may, in the opinion of the relevant authority –
 - (i) cause damage to national security, international relations or the economic interests of the United Kingdom or any part of the United Kingdom, or
 - (ii) jeopardise the safety of any person.
- (3) Where an inspector discloses to another person information within sub-paragraph (2), or the fact that the inspector has received it, the other person must not disclose that information or that fact unless the relevant authority consents to the disclosure.
- (4) A prohibition on disclosure in sub-paragraph (1) or (3) does not apply to disclosure by one inspector to another.
- (5) In this paragraph –
- “government department” means a department of Her Majesty’s Government but does not include –
 - (a) the Security Service,
 - (b) the Secret Intelligence Service, or
 - (c) the Government Communications Headquarters (“GCHQ”);
 - “inspector” means –
 - (a) an inspector of constabulary, or
 - (b) a person appointed under section 56 as an assistant inspector of constabulary or staff officer to the inspectors of constabulary;
 - “intelligence service information” means information that was obtained (directly or indirectly) from or that relates to –
 - (a) the Security Service,
 - (b) the Secret Intelligence Service,
 - (c) GCHQ, or
 - (d) any part of Her Majesty’s forces, or of the Ministry of Defence, which engages in intelligence activities;
 - “intercept information” means information relating to any of the matters mentioned in section 19(3) of the Regulation of Investigatory Powers Act 2000;
 - “Minister of the Crown” includes the Treasury;
 - “relevant authority” means –
 - (a) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Security Service, the Director-General of the Security Service;
 - (b) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Secret Intelligence Service, the Chief of the Secret Intelligence Service;

- (c) in the case of intelligence service information obtained (directly or indirectly) from or relating to GCHQ, the Director of GCHQ;
 - (d) in the case of intelligence service information obtained (directly or indirectly) from or relating to Her Majesty’s forces or the Ministry of Defence, the Secretary of State; 5
 - (e) in the case of intercept information, the person to whom the relevant interception warrant is or was addressed; 10
 - (f) in the case of information within sub-paragraph (2)(c) –
 - (i) the Secretary of State, or
 - (ii) the Minister of the Crown in charge of the government department from which the information was obtained (if that Minister is not a Secretary of State); 15
- “relevant interception warrant” means the interception warrant issued under section 5 of the Regulation of Investigatory Powers Act 2000 that relates to the intercept information.” 20
- (2) Omit section 86 of the Police Reform and Social Responsibility Act 2011 (which is spent as a result of subsection (1) above).

27 Inspectors and inspections: miscellaneous

- (1) In section 54 of the Police Act 1996 (appointment and functions of inspectors of constabulary), after subsection (6) insert – 25
- “(7) For the purposes of this section, a police force includes –
- (a) staff appointed by the chief officer of police of the police force;
 - (b) staff appointed by a local policing body if, or to the extent that, they are employed to assist the police force;
 - (c) persons providing services, in pursuance of contractual arrangements (but without being employed by the chief officer of police of the police force or its local policing body), to assist the police force in relation to the discharge of its chief officer’s functions.” 30
- (2) In section 55 of that Act (publication of reports of inspections), after subsection (5) insert – 35
- “(5A) The comments of the local policing body, together with any comments submitted by the chief officer of police and any response to those comments by the local policing body, must be published before the end of the period of 56 days beginning with the day on which the report is published. 40
- (5B) If the published report includes a recommendation, the comments of the local policing body must include an explanation of –
- (a) the action the local policing body has taken or proposes to take in response to the recommendation, or 45
 - (b) why the local policing body has not taken, or does not propose to take, any action in response.”

- (3) In that section, in subsection (6), for the words after “subsection (5)” substitute “to –
- (a) the inspectors of constabulary, and
 - (b) the Secretary of State.”
- (4) In section 56 of that Act (assistant inspectors and staff officers), in subsections (1) and (2), for “Secretary of State” substitute “chief inspector of constabulary”. 5
- (5) In paragraph 2 of Schedule 4A to that Act (inspection programmes and inspection frameworks) –
- (a) in sub-paragraph (1)(a), for “he proposes” substitute “the inspectors of constabulary propose”; 10
 - (b) in sub-paragraph (1)(b), for “he proposes to carry out his” substitute “they propose to carry out their”;
 - (c) after sub-paragraph (5) insert –
 - “(6) The chief inspector of constabulary or, at the request of the chief inspector, any other inspector may carry out inspections that have not been set out in an inspection programme (and have not been required under section 54(2B) or requested under section 54(2BA)). 15
 - (7) Before deciding to carry out, or to request another inspector to carry out, an inspection that has not been set out in an inspection programme, the chief inspector of constabulary must consult –
 - (a) the Secretary of State, and
 - (b) the local policing body for the police force to which the inspection relates.” 20 25
- (6) In Schedule 6 to the Crime and Courts Act 2013 (inspection and complaints), in paragraph 4, after sub-paragraph (1) insert –
- “(1A) The comments must be published before the end of the period of 56 days beginning with the day on which the HMIC report is published by the Secretary of State. 30
 - (1B) If the HMIC report includes a recommendation, the comments must include an explanation of –
 - (a) the action the Director General has taken or proposes to take in response to the recommendation, or
 - (b) why the Director General has not taken, or does not propose to take, any action in response.” 35

PART 3

POLICE WORKFORCE AND REPRESENTATIVE INSTITUTIONS

CHAPTER 1

POLICE WORKFORCE

Powers of police civilian staff and volunteers 5

28 Powers of police civilian staff and police volunteers

- (1) Chapter 1 of Part 4 of the Police Reform Act 2002 (exercise of police powers etc by civilians) is amended as follows.
- (2) In section 38 (police powers for civilian staff), for subsections (1) and (2) substitute – 10
 - “(1) The chief officer of police of any police force may designate a relevant employee as either or both of the following –
 - (a) a community support officer;
 - (b) a policing support officer.
 - (1A) The chief officer of police of any police force may designate a police volunteer as either or both of the following – 15
 - (a) a community support volunteer;
 - (b) a policing support volunteer.”
- (3) In that section, omit subsections (5A) to (6A).
- (4) In that section, before subsection (7) insert – 20
 - “(6B) The powers and duties that may be conferred or imposed on a person designated under this section are –
 - (a) any power or duty of a constable, other than a power or duty specified in Part 1 of Schedule 3B (excluded powers and duties);
 - (b) where the person is designated as a community support officer or a community support volunteer, any power or duty that is described in Schedule 3C as a power or duty of a community support officer or community support volunteer. 25
 - (6C) The Secretary of State may by regulations amend Part 1 of Schedule 3B so as to add to the list of powers and duties specified in it. 30
 - (6D) Part 2 of Schedule 3B makes provision about the application of legislation in relation to powers or duties of a constable that may be exercised or performed by a person designated under this section.
 - (6E) Any power or duty of a constable that is conferred or imposed on a person designated under this section by a chief officer of police of a police force may (subject to provision included in the designation under subsection (6F)) be exercised or performed by the person – 35
 - (a) in the area of that police force, and
 - (b) in any cases or circumstances in which it could be exercised or performed by a constable who is a member of that force. 40

- (6F) A designation under this section may provide that any power or duty of a constable that is conferred or imposed by the designation may be exercised or performed by the person designated –
- (a) in such areas outside the area of the police force in question as are specified in the designation (as well as within the area of the police force); 5
 - (b) only in such parts of the area of that police force as are specified in the designation;
 - (c) only in cases or circumstances so specified.”
- (5) In that section, after subsection (7) insert – 10
- “(7A) A police volunteer authorised or required to do anything by virtue of a designation under this section –
- (a) shall not be authorised or required by virtue of that designation to engage in any conduct otherwise than while acting as a police volunteer; 15
 - (b) shall be so authorised or required subject to such restrictions and conditions (if any) as may be specified in the designation.”
- (6) After subsection (9) insert –
- “(9A) The chief officer of police of a police force must ensure that no person designated by the chief officer under this section is authorised to use a firearm, within the meaning given by section 57(1) of the Firearms Act 1968, in carrying out functions for the purposes of the designation. 20
- (9B) However, subsection (9A) does not apply to –
- (a) the use of a weapon, designed or adapted for the discharge of either of the following substances, for the purpose of discharging either of those substances – 25
 - (i) the substance, commonly known as “CS spray”, that is produced by the use of 2-chlorobenzalmalonitrile;
 - (ii) the substance, commonly known as PAVA spray, that is produced by the use of pelargonic acid vanillylamide; 30
 - (b) the use of a weapon for a purpose specified in regulations made by the Secretary of State;
 - (c) the use of a weapon of a description specified in regulations made by the Secretary of State, whether generally or for a purpose so specified.” 35
- (7) After subsection (9B) (as inserted by subsection (6) above) insert –
- (9C) A statutory instrument containing regulations under subsection (6C) or (9B)(b) or (c) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”
- (8) In that section, at the end insert – 40
- “(12) In this section, “police volunteer” means a person who is under the direction and control of the chief officer making a designation under subsection (1A) otherwise than because the person is a constable, a special constable or a relevant employee.
- (13) For the purpose of subsection (12), a person is to be treated as a relevant employee only in relation to times when the person is acting in the course of the person’s employment.” 45

- (9) In the heading to section 38, after “civilian staff” insert “and volunteers”.
- (10) Omit section 38A (standard powers and duties of community support officers).
- (11) After Schedule 3 insert –
- (a) the new Schedule 3B set out in Schedule 7 to this Act, and
 - (b) (after that new Schedule) the new Schedule 3C set out in Schedule 8 to this Act. 5

29 Training etc of police volunteers

- (1) After section 53E of the Police Act 1996 (guidance about civilian staff employed by local policing bodies and chief officers) insert –
- “53F Guidance about designated police volunteers 10**
- (1) The College of Policing may issue guidance to chief officers of police about –
 - (a) the experience or qualifications that it would be appropriate for a person to have before being designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002; 15
 - (b) the training to be undertaken by a person before being so designated or after being so designated.
 - (2) The College may from time to time revise the whole or any part of any guidance issued under this section. 20
 - (3) The College must publish any guidance issued under this section and any revision of it.
 - (4) Each chief officer of police must have regard to guidance issued under this section.”
- (2) In section 97 of the Criminal Justice and Police Act 2001 (regulations for police forces about police training etc), in subsection (6)(c) –
- (a) omit the “or” at the end of sub-paragraph (ii);
 - (b) after sub-paragraph (iii) insert “or
 - (iv) a person designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002.” 30

30 Police volunteers: complaints and disciplinary matters

- (1) In section 12 of the Police Reform Act 2002 (complaints, matters and persons to which Part 2 of the Act applies), in subsection (7) (what it means to be a person serving with the police) –
- (a) omit the “or” at the end of paragraph (b);
 - (b) at the end of paragraph (c) insert “; or
 - (d) he is a person designated as a community support volunteer or a policing support volunteer under section 38.” 40
- (2) In section 87 of the Police Act 1996 (guidance concerning disciplinary proceedings etc), in subsection (4A)(a) (as inserted by section 25), after sub-

paragraph (iii) insert –

- “(iv) persons designated as community support volunteers or policing support volunteers under section 38 of the Police Reform Act 2002;”.
- (3) In section 87A of the Police Act 1996 (guidance concerning conduct etc) (as inserted by section 25), in subsection (1) – 5
- (a) omit the “and” at the end of paragraph (b);
 - (b) at the end of paragraph (c) insert “, and
 - (d) persons designated as community support volunteers or policing support volunteers under section 38 of the Police Reform Act 2002.” 10

31 Police volunteers: police barred list and police advisory list

- (1) Part 4A of the Police Act 1996 (police barred list and police advisory list) (as inserted by Schedule 6) is amended as follows.
- (2) In section 88C (effect of inclusion in police barred list), at the end insert – 15
- “(9) Before designating a person as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002, a chief officer of police must check with the College of Policing whether the person is a barred person.
 - (10) A chief officer of police may not designate a barred person as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002.” 20
- (3) In section 88I (duty to report resignations and retirements to College of Policing) –
- (a) in the heading, after “retirements” insert “etc”; 25
 - (b) in subsection (1), after paragraph (b) insert –
 - “(c) the person’s designation as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002 is withdrawn and the reason, or one of the reasons, for the withdrawal of the designation relates to conduct, efficiency or effectiveness; 30
 - (d) the person, having been designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002, decides to stop volunteering as a police volunteer (within the meaning of that section) after a relevant allegation about the person comes to the attention of the relevant authority.”; 35
 - (c) in subsection (4), after paragraph (d) insert –
 - “(e) in relation to a person falling within subsection (1)(c) or (d), the chief officer of police by whom the person was designated.”; 40
 - (d) in subsection (6)(b), at the end insert “or (as the case may be) the person’s designation as a community support volunteer or a policing support volunteer being withdrawn if the person had not decided to stop volunteering”. 45

-
- (4) In section 88K (effect of inclusion in police advisory list), at the end insert –
- “(8) Before designating a person as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002, a chief officer of police must check with the College of Policing whether the person is included in the police advisory list.” 5
- (5) In section 88L (removal from police advisory list), in subsection (7) –
- (a) the words from “a person who,” to the end of the subsection become paragraph (a);
- (b) after that paragraph insert –
- “(b) a person who was designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002.” 10
- 32 Restrictions on designated persons acting as covert human intelligence sources**
- In section 29 of the Regulation of Investigatory Powers Act 2000 (authorisation of covert human intelligence sources), after subsection (6) insert – 15
- “(6A) An authorisation under this section may not have the effect of authorising a covert human intelligence source who is a person designated under section 38 of the Police Reform Act 2002 to establish contact in person with another person.” 20
- 33 Further amendments consequential on section 28 etc**
- Schedule 9 –
- (a) makes further amendments in consequence of the amendments made by section 28 (see Parts 1 and 2 of that Schedule), and
- (b) makes minor correcting amendments of the Police Reform Act 2002 (see Part 3 of that Schedule). 25
- Removal of powers of police to appoint traffic wardens*
- 34 Removal of powers of police in England and Wales to appoint traffic wardens**
- (1) Sections 95 to 97 of the Road Traffic Regulation Act 1984 (traffic wardens), so far as extending to England and Wales, are repealed. 30
- (2) Those sections, so far as extending to Scotland, are amended as follows.
- (3) In section 95 (appointment of traffic wardens), omit subsection (1).
- (4) In subsection (2) of that section, for “any such functions as are mentioned in subsection (1) above” substitute “, in aid of the police, functions normally undertaken by the police in connection with the control and regulation of, or the enforcement of the law relating to, traffic (including pedestrians) or stationary vehicles”. 35
- (5) In subsection (3) of that section, omit “under subsection (1) or”.
- (6) In subsection (4) of that section –
- (a) omit “(whether in England and Wales or in Scotland)”;
- (b) for “subsection (1)” substitute “subsection (2)”; 40

- (c) in paragraph (b) –
 - (i) omit “or (in England and Wales) with the Secretary of State”;
 - (ii) omit “or, as the case may be, by the Secretary of State”.
- (7) Omit subsection (4A) of that section.
- (8) In section 96 (additional powers of traffic wardens), in subsection (2), omit paragraphs (a), (b) and (d). 5
- (9) In section 97 (supplementary provisions as to traffic wardens), in subsection (3), omit, in both places where it occurs, “the Common Council or”.
- (10) Schedule 10 makes further amendments consequential on the repeal made by subsection (1). 10

Police rank structure

35 Power to make regulations about police ranks

After section 50 of the Police Act 1996 insert –

“50A Regulations for police forces: ranks

- (1) The Secretary of State may by regulations specify the ranks that may be held by members of police forces, other than chief officers of police. 15
- (2) The ranks must include the rank of constable.
- (3) The Secretary of State may by regulations make provision that is consequential on, or incidental or supplemental to, regulations under subsection (1). 20
- (4) The power conferred by subsection (3) includes power to –
 - (a) repeal, revoke or otherwise amend legislation that (in relation to members of police forces in England and Wales) makes provision with respect to ranks that are not specified in regulations under subsection (1); 25
 - (b) make other amendments of legislation that are consequential on regulations under subsection (1).
- (5) In subsection (4), “legislation” means any provision of –
 - (a) an Act (including this Act);
 - (b) subordinate legislation within the meaning of the Interpretation Act 1978, 30
 - (c) an Act of the Scottish Parliament or an instrument made under such an Act,
 - (d) a Measure or Act of the National Assembly for Wales or an instrument made under a Measure or Act of that Assembly, or 35
 - (e) Northern Ireland legislation or an instrument made under Northern Ireland legislation.
- (6) Regulations under this section may include transitional, transitory or saving provision.
- (7) Regulations under this section may make different provision for different cases or circumstances. 40

50B Regulations under section 50A: procedure

- (1) A statutory instrument containing regulations under section 50A may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (2) If the College of Policing submits to the Secretary of State a draft of regulations under section 50A, then (subject to subsection (3)) the Secretary of State must—
- (a) lay before each House of Parliament for approval a draft of a statutory instrument containing regulations in terms of the draft prepared by the College of Policing, and
 - (b) if the draft of the statutory instrument is approved by both Houses of Parliament, make the regulations in those terms.
- (3) The duty under subsection (2) does not apply if the Secretary of State considers—
- (a) that it would be unlawful to make regulations in terms of the draft,
 - (b) that it would impair the efficiency of the police to do so, or
 - (c) that it would for some other reason be wrong to do so.
- (4) The Secretary of State may not lay before each House of Parliament for approval a draft of a statutory instrument containing regulations under section 50A unless—
- (a) the draft is laid in accordance with the duty under subsection (2), or
 - (b) the College of Policing has approved the text of the regulations.”

36 Section 35: consequential amendments

- (1) The Police Act 1996 is amended as follows.
- (2) Omit—
- (a) section 9H (other members of the metropolitan police force);
 - (b) section 13 (other members of police forces).
- (3) Section 50 (regulations for police forces) is amended as follows.
- (4) Omit subsection (2)(a).
- (5) In subsection (2ZA), after “under” insert “section 50A (regulations as to police ranks) or under”.
- (6) In each of subsections (2ZB) and (2ZC), for “subsection (2)(a), (b), (c) or (g)” substitute “subsection (2)(b), (c) or (g)”.

CHAPTER 2

REPRESENTATIVE INSTITUTIONS

37 Duties of Police Federation for England and Wales in fulfilling its purpose

- In section 59 of the Police Act 1996 (Police Federations), after subsection (1)

insert –

- “(1A) In fulfilling that purpose, the Police Federation for England and Wales must –
- (a) protect the public interest,
 - (b) maintain high standards of conduct, and
 - (c) maintain high standards of transparency.”

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38 Freedom of Information Act etc: Police Federation for England and Wales

The Police Federation for England and Wales is to be treated for the purposes of –

- (a) the Freedom of Information Act 2000,
- (b) the Data Protection Act 1998, and
- (c) section 18 of the Inquiries Act 2005,

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as if it were a body listed in Part 5 of Schedule 1 to the 2000 Act (public authorities).

39 Removal of references to ACPO

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Schedule 11 removes references in legislation to the Association of Chief Police Officers and replaces most of them with references to the National Police Chiefs' Council.

PART 4

POLICE POWERS

20

CHAPTER 1

PRE-CHARGE BAIL

Release without bail or on bail

40 Arrest elsewhere than at a police station: release before charge

- (1) Section 30A of the Police and Criminal Evidence Act 1984 (release of a person arrested elsewhere than at police station) is amended as follows.
- (2) In the heading for “Bail” substitute “Release of a person arrested”.
- (3) In subsection (1) –
 - (a) omit “on bail”, and
 - (b) at the end insert “ –
 - (a) without bail unless subsection (1A) applies, or
 - (b) on bail if subsection (1A) applies.”

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- (4) After subsection (1) insert –

“(1A) This subsection applies if –

- (a) the constable is satisfied that releasing the person on bail is necessary and proportionate in all the circumstances (having

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- regard, in particular, to any conditions of bail which would be imposed), and
- (b) a police officer of the rank of inspector or above authorises the release on bail (having considered any representations made by the person).” 5
- (5) In subsection (2) omit “on bail”.
- 41 Section 40: consequential amendments**
- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 18(5)(a) (circumstances in which a search after arrest may be conducted) omit “on bail”. 10
- (3) In section 30 (arrest elsewhere than at police station) –
- (a) in subsection (1B) for “on bail” substitute “of a person arrested elsewhere than at police station”,
- (b) in subsection (7A) omit the words from “or releasing” to the end, and
- (c) in subsections (10) and (11) for “on bail” substitute “under section 30A”. 15
- (4) Section 30B (section 30A: notices) is amended as follows.
- (5) In the heading omit “Bail under”.
- (6) In subsection (1) for “grants bail to” substitute “releases”.
- (7) In subsection (2) –
- (a) omit the “and” before paragraph (b), and 20
- (b) after paragraph (b) insert “and
- (c) whether the person is being released without bail or on bail”.
- (8) In subsection (3) for “The notice” substitute “A notice given to a person who is released on bail”. 25
- (9) In section 30C (section 30A: supplemental) –
- (a) in the heading omit “Bail under”, and
- (b) in subsection (4) omit “on bail”.
- 42 Release from detention at a police station**
- (1) Section 34 of the Police and Criminal Evidence Act 1984 (limitations on police detention) is amended as follows. 30
- (2) In subsection (5) for the words from “without” to the end substitute “ –
- (a) without bail unless subsection (5A) applies, or
- (b) on bail if subsection (5A) applies.”
- (3) After subsection (5) insert – 35
- “(5A) This subsection applies if –
- (a) it appears to the custody officer –
- (i) that there is need for further investigation of any matter in connection with which the person was detained at any time during the period of the person’s detention, or 40

- (ii) that, in respect of any such matter, proceedings may be taken against the person or the person may be given a youth caution under section 66ZA of the Crime and Disorder Act 1998, and
 - (b) the pre-conditions for bail are satisfied.” 5
- (4) Section 37 of the Police and Criminal Evidence Act 1984 (duties of custody officer before charge) is amended as follows.
- (5) In subsection (2) for the words from “either” to the end substitute “ –
 - “(a) without bail unless the pre-conditions for bail are satisfied, or
 - (b) on bail if those pre-conditions are satisfied, 10(subject to subsection (3))”.
- (6) In subsection (3) for “so believing” substitute “believing that the person’s detention without being charged is necessary to secure or preserve evidence relating to an offence for which the person is under arrest or to obtain such evidence by questioning the person”. 15
- (7) In subsection (7) for paragraphs (b) and (c) substitute –
 - “(b) shall be released without charge and without bail unless the pre-conditions for bail are satisfied,
 - (c) shall be released without charge and on bail if those pre-conditions are satisfied but not for the purpose mentioned in paragraph (a), or”.20
- (8) In subsection (8A)(b) for “(b)” substitute “(c)”.

43 Release following arrest for breach of bail etc

- (1) Section 37CA of the Police and Criminal Evidence Act 1984 (release following arrest for breach of bail) is amended as follows. 25
- (2) In the heading and subsection (1) for “section 37(7)(b)” substitute “section 37(7)(c)”.
- (3) In subsection (2)(b) for the words from “, either” to the end substitute “ –
 - (i) without bail unless the pre-conditions for bail are satisfied, or
 - (ii) on bail if those pre-conditions are satisfied.” 30
- (4) In subsection (4) at the end insert “(and the reference in section 50A to any conditions of bail which would be imposed is to be read accordingly)”.
- (5) In section 37D(4A) of the Police and Criminal Evidence Act 1984 (power to keep a person in police detention) for “section 37(7)(b)” substitute “section 37(7)(c)”. 35

44 Release from further detention at police station

- (1) In section 41(7) of the Police and Criminal Evidence Act 1984 (limits on period of detention without charge) for the words from “either” to the end substitute “ –
 - (a) without bail unless the pre-conditions for bail are satisfied, or
 - (b) on bail if those pre-conditions are satisfied.” 40

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- (2) Section 42 of the Police and Criminal Evidence Act 1984 (authorisation of continued detention) is amended as follows.
- (3) In subsection (10) –
- (a) omit “, either on bail or without bail”, and
 - (b) for the words from “, unless” to the end substitute “ –
 - (a) without bail unless the pre-conditions for bail are satisfied, or
 - (b) on bail if those pre-conditions are satisfied, (subject to subsection (10A))”.
- (4) After subsection (10) insert –
- “(10A) Subsection (10) does not apply if –
- (a) the person has been charged with an offence, or
 - (b) the person’s continued detention is authorised or otherwise permitted in accordance with section 43.”

45 Warrants of further detention: release

(1) Section 43 of the Police and Criminal Evidence Act 1984 (warrants of further detention) is amended as follows.

(2) In subsection (15) for the words from “, either” to the end substitute “ –

 - (a) without bail unless the pre-conditions for bail are satisfied, or
 - (b) on bail if those pre-conditions are satisfied.”

(3) In subsection (18) for the words from “be released” to the end substitute “, unless the person is charged, be released from police detention upon or before the expiry of the warrant –

 - (a) without bail unless the pre-conditions for bail are satisfied, or
 - (b) on bail if those pre-conditions are satisfied.”

(4) In section 44(7) of the Police and Criminal Evidence Act 1984 (extension of warrants of further detention) for the words from “, either” to the end substitute “ –

 - (a) without bail unless the pre-conditions for bail are satisfied, or
 - (b) on bail if those pre-conditions are satisfied.”

46 Meaning of “pre-conditions for bail”

After section 50 of the Police and Criminal Evidence Act 1984 insert –

“50A Interpretation of references to pre-conditions for bail

For the purposes of this Part the following are the pre-conditions for bail in relation to the release of a person by a custody officer –

 - (a) that the custody officer is satisfied that releasing the person on bail is necessary and proportionate in all the circumstances (having regard, in particular, to any conditions of bail which would be imposed), and
 - (b) that an officer of the rank of inspector or above authorises the release on bail (having considered any representations made by the person or the person’s legal representative).”

Conditions of bail

47 Bail before charge: conditions of bail etc

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 46A(1A) (power of arrest for failure to answer police bail) for “section 37, 37C(2)(b) or 37CA(2)(b) above” substitute “this Part”. 5
- (3) Section 47 (bail after arrest) is amended as follows.
- (4) In subsection (1A) for the words from “section 37” to “cases” substitute “this Part (except sections 37C(2)(b) and 37CA(2)(b))”.
- (5) In subsections (1B) and (1C) omit “37;”.

Time limits on period of bail 10

48 Limit on period of bail under section 30A

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) Section 30B (section 30A: notices) is amended as follows.
- (3) For subsection (4) substitute –
 - “(4) The notice must also specify – 15
 - (a) the police station which the person is required to attend, and
 - (b) the time on the bail end date when the person is required to attend the police station.”
- (4) Omit subsection (4A)(c) and the “and” before it.
- (5) Omit subsection (5). 20
- (6) In subsection (6) for the words from “(5)” to the end substitute “to attend at a different time or an additional time”.
- (7) After subsection (6) insert –
 - “(6A) A person may not be required under subsection (6) to attend a police station at a time which is after the bail end date in relation to the person.” 25
- (8) After subsection (7) insert –
 - “(8) In this section “bail end date”, in relation to a person, means the last day of the period of 28 days beginning with the day after the day on which the person was arrested for the offence in relation to which bail is granted under section 30A.” 30
- (9) In section 30CA (bail under section 30A: variation of conditions by police) omit subsection (1)(b) and the “or” before it.
- (10) In section 30D(3) (meaning of “specified” in section 30D(1)) omit “or (5)”.

49 Limits on period of bail without charge under Part 4 of PACE

After section 47 of the Police and Criminal Evidence Act 1984 insert –

“47ZA Limits on period of bail without charge

- (1) This section applies in relation to the power conferred on a custody officer, when releasing a person on bail under this Part, to appoint a time for the person to attend at a police station in accordance with section 47(3)(c). 5
- (2) The power must be exercised so as to appoint a time on the day on which the applicable bail period in relation to the person ends, unless subsection (3) applies. 10
- (3) This subsection applies where –
 - (a) at the time of the exercise of the power the person is on bail under this Part in relation to one or more offences other than the relevant offence, and
 - (b) the custody officer believes that it is appropriate to align the person’s attendance in relation to the relevant offence with the person’s attendance in relation to the one or more other offences. 15
- (4) Where subsection (3) applies, the power may be exercised so as to appoint a time on a day falling before the end of the applicable bail period in relation to the person. 20
- (5) This section is subject to section 47ZL.
- (6) In this section references to attendance are to attendance at a police station in accordance with section 47(3)(c).
- (7) In this Part the “relevant offence”, in relation to a person, means the offence in respect of which the power mentioned in subsection (1) is exercised in relation to the person. 25

47ZB Applicable bail period: initial limit

- (1) In this Part the “applicable bail period”, in relation to a person, means –
 - (a) in an SFO case, the period of 3 months beginning with the person’s bail start date, or 30
 - (b) otherwise, the period of 28 days beginning with the person’s bail start date.
- (2) The applicable bail period in relation to a person may be extended under sections 47ZD to 47ZG or treated as extended under section 47ZJ(3). 35
- (3) Subsection (1) and sections 47ZD to 47ZG are subject to sections 47ZL and 47ZM.
- (4) For the purposes of this Part –
 - (a) a person’s bail start date is the day after the day on which the person was arrested for the relevant offence, 40
 - (b) an “SFO case” is a case in which –
 - (i) the relevant offence in relation to the person is being investigated by the Director of the Serious Fraud Office, and 45

- (ii) a senior officer confirms that sub-paragraph (i) applies, and
 - (c) “senior officer” means a police officer of the rank of superintendent or above.

- 47ZC Applicable bail period: conditions A to D in sections 47ZD to 47ZG** 5
 - (1) This section applies for the purposes of sections 47ZD to 47ZG.
 - (2) Condition A is that the decision-maker has reasonable grounds for suspecting the person in question to be guilty of the relevant offence.
 - (3) Condition B is that the decision-maker has reasonable grounds for believing— 10
 - (a) in a case where the person in question is or is to be released on bail under section 37(7)(c) or 37CA(2)(b), that further time is needed for making a decision as to whether to charge the person with the relevant offence, or
 - (b) otherwise, that further investigation is needed of any matter in connection with the relevant offence. 15
 - (4) Condition C is that the decision-maker has reasonable grounds for believing—
 - (a) in a case where the person in question is or is to be released on bail under section 37(7)(c) or 37CA(2)(b), that the decision as to whether to charge the person with the relevant offence is being made diligently and expeditiously, or 20
 - (b) otherwise, that the investigation is being conducted diligently and expeditiously.
 - (5) Condition D is that the decision-maker has reasonable grounds for believing that the release on bail of the person in question is necessary and proportionate in all the circumstances (having regard, in particular, to any conditions of bail which are, or are to be, imposed). 25
 - (6) In this section “decision-maker” means—
 - (a) in relation to a condition which falls to be considered by virtue of section 47ZD, the senior officer in question; 30
 - (b) in relation to a condition which falls to be considered by virtue of section 47ZE, the appropriate decision-maker in question;
 - (c) in relation to a condition which falls to be considered by virtue of section 47ZF or 47ZG, the court in question. 35

- 47ZD Applicable bail period: extension of initial limit in standard cases**
 - (1) This section applies in relation to a person if—
 - (a) the applicable bail period in relation to a person is the period mentioned in section 47ZB(1)(b),
 - (b) that period has not ended, and 40
 - (c) a senior officer is satisfied that conditions A to D are met in relation to the person.
 - (2) The senior officer may authorise the applicable bail period in relation to the person to be extended so that it ends at the end of the period of 3 months beginning with the person’s bail start date. 45

- (3) Before determining whether to give an authorisation under subsection (2) in relation to a person, the senior officer must arrange for the person or the person’s legal representative to be informed that a determination is to be made.
- (4) In determining whether to give an authorisation under subsection (2) in relation to a person, the senior officer must consider any representations made by the person or the person’s legal representative. 5
- (5) The senior officer must arrange for the person or the person’s legal representative to be informed whether an authorisation under subsection (2) has been given in relation to the person. 10

47ZE Applicable bail period: extension of limit in designated cases

- (1) This section applies in relation to a person if –
 - (a) the person’s case is an SFO case, or
 - (b) a senior officer has authorised an extension of the applicable bail period in relation to the person under section 47ZD. 15
- (2) A qualifying prosecutor may designate the person’s case as being an exceptionally complex case (a “designated case”).
- (3) If an appropriate decision-maker is satisfied that conditions A to D are met in relation to the person in a designated case, the decision-maker may authorise the applicable bail period in relation to the person to be extended so that it ends at the end of the period of 6 months beginning with the person’s bail start date. 20
- (4) An appropriate decision-maker is –
 - (a) a member of the Serious Fraud Office who is of the Senior Civil Service (in an SFO case), or
 - (b) a qualifying police officer (in any other case). 25
- (5) Before determining whether to give an authorisation under subsection (3) in relation to a person –
 - (a) the appropriate decision-maker must arrange for the person or the person’s legal representative to be informed that a determination is to be made, and
 - (b) if the appropriate decision-maker is a qualifying police officer, the officer must consult a qualifying prosecutor. 30
- (6) In determining whether to give an authorisation under subsection (3) in relation to a person, the appropriate decision-maker must consider any representations made by the person or the person’s legal representative. 35
- (7) The appropriate decision-maker must arrange for the person or the person’s legal representative to be informed whether an authorisation under subsection (3) has been given in relation to the person. 40
- (8) Any designation under subsection (2) must be made, and any authorisation under subsection (3) must be given, before the applicable bail period in relation to the person has ended.
- (9) In this section – 45

“qualifying police officer” means a police officer of the rank of commander or assistant chief constable or above, and

“qualifying prosecutor” means a prosecutor of the description designated for the purposes of this section by the Director of the Serious Fraud Office or the Director of Public Prosecutions.

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47ZF Applicable bail period: first extension of limit by court

- (1) This section applies in relation to a person if –
 - (a) the person’s case is an SFO case,
 - (b) a senior officer has authorised an extension of the applicable bail period in relation to the person under section 47ZD, or 10
 - (c) an appropriate decision-maker has authorised an extension of the applicable bail period in relation to the person under section 47ZE.
- (2) Before the applicable bail period in relation to the person ends a qualifying applicant may apply to a magistrates’ court for it to authorise an extension of the applicable bail period in relation to the person under this section. 15
- (3) If the court is satisfied that –
 - (a) conditions B to D are met in relation to the person, and
 - (b) the case does not fall within subsection (7), 20it may authorise the applicable bail period to be extended as specified in subsection (4).
- (4) The applicable bail period is to end –
 - (a) in a case falling within subsection (1)(a) or (b), at the end of the period of 6 months beginning with the person’s bail start date; 25
 - (b) in a case falling within subsection (1)(c), at the end of the period of 9 months beginning with the person’s bail start date.
- (5) If the court is satisfied that –
 - (a) conditions B to D are met in relation to the person, and
 - (b) the case falls within subsection (7), 30it may authorise the applicable bail period to be extended as specified in subsection (6).
- (6) The applicable bail period is to end –
 - (a) in a case falling within subsection (1)(a) or (b), at the end of the period of 9 months beginning with the person’s bail start date; 35
 - (b) in a case falling within subsection (1)(c), at the end of the period of 12 months beginning with the person’s bail start date.
- (7) A case falls within this subsection if the nature of the decision or further investigations mentioned in condition B means that that decision is unlikely to be made or those investigations completed if the applicable bail period in relation to the person is not extended as specified in subsection (6). 40
- (8) In this section “qualifying applicant” means a constable, a member of the Serious Fraud Office or a Crown Prosecutor.

47ZG Applicable bail period: subsequent extensions of limit by court

- (1) Subsections (2) to (6) apply where a court has authorised an extension of the applicable bail period in relation to a person under section 47ZF.
- (2) Before the applicable bail period in relation to the person ends a qualifying applicant may apply to a magistrates' court for it to authorise an extension of the applicable bail period in relation to the person under this section. 5
- (3) If the court is satisfied that –
 - (a) conditions B to D are met in relation to the person, and
 - (b) the case does not fall within subsection (8),
 it may authorise the applicable bail period to be extended as specified in subsection (4). 10
- (4) The applicable bail period is to end at the end of the period of 3 months beginning with the end of the current applicable bail period in relation to the person. 15
- (5) If the court is satisfied that –
 - (a) conditions B to D are met in relation to the person, and
 - (b) the case falls within subsection (8),
 it may authorise the applicable bail period to be extended as specified in subsection (6). 20
- (6) The applicable bail period is to end at the end of the period of 6 months beginning with the end of the current applicable bail period in relation to the person.
- (7) Where a court has authorised an extension of the applicable bail period in relation to a person under subsection (3) or (5), a qualifying applicant may make further applications under subsection (2) (and subsections (3) to (6) apply accordingly). 25
- (8) A case falls within this subsection if the nature of the decision or further investigations mentioned in condition B means that that decision is unlikely to be made or those investigations completed if the current applicable bail period in relation to the person is not extended as specified in subsection (6). 30
- (9) For the purposes of this section –
 - (a) references to the current applicable bail period in relation to a person are to the applicable bail period applying to the person when the application under this section is made (subject to section 47ZJ(3)), and
 - (b) “qualifying applicant” has the same meaning as in section 47ZF. 35

47ZH Sections 47ZF and 47ZG: withholding sensitive information

- (1) This section applies where a qualifying applicant makes an application to a magistrates' court under section 47ZF or 47ZG in relation to a person. 40
- (2) The qualifying applicant may apply to the court for it to authorise the specified information to be withheld from the person and any legal representative of the person. 45

-
- (3) The court may grant an application under subsection (2) only if satisfied that there are reasonable grounds for believing that the specified information is sensitive information.
- (4) For the purposes of this section information is sensitive information if its disclosure would have one or more of the following results – 5
- (a) evidence connected with an indictable offence would be interfered with or harmed;
 - (b) a person would be interfered with or physically injured;
 - (c) a person suspected of having committed an indictable offence but not yet arrested for the offence would be alerted; 10
 - (d) the recovery of property obtained as a result of an indictable offence would be hindered.
- (5) In this section “specified information” means the information specified in the application under subsection (2).
- 47ZI Sections 47ZF to 47ZH: proceedings in magistrates’ court** 15
- (1) An application made to a magistrates’ court under section 47ZF or 47ZG in relation to a person is to be determined by a single justice of the peace on written evidence unless subsection (2) or (3) applies.
- (2) This subsection applies if – 20
- (a) the effect of the application would be to extend the applicable bail period in relation to the person so that it ends at or before the end of the period of 12 months beginning with the person’s bail start date, and
 - (b) a single justice of the peace considers that the interests of justice require an oral hearing. 25
- (3) This subsection applies if – 30
- (a) the effect of the application would be to extend the applicable bail period in relation to the person so that it ends after the end of the period of 12 months beginning with the person’s bail start date, and
 - (b) the person, or the person who made the application, requests an oral hearing.
- (4) If subsection (2) or (3) applies, the application is to be determined by two or more justices of the peace sitting otherwise than in open court.
- (5) Where an application under section 47ZF or 47ZG in relation to a person is to be determined as mentioned in subsection (4), the justices may direct that the person and any legal representative of the person be excluded from any part of the hearing. 35
- (6) The justices may give a direction under subsection (5) only if satisfied that there are reasonable grounds for believing that sensitive information would be disclosed at the part of the hearing in question. 40
- (7) An application under section 47ZH is to be determined by a single justice of the peace on written evidence unless the justice determines that the interests of justice require an oral hearing.
- (8) If the justice makes a determination under subsection (7) – 45

- (a) the application is to be determined by two or more justices of the peace sitting otherwise than in open court, and
- (b) the justices hearing the application must direct that the person to whom the application relates and any legal representative of the person be excluded from the hearing. 5
- (9) In this section “sensitive information” has the meaning given in section 47ZH(4).
- 47ZJ Sections 47ZF and 47ZG: late applications to magistrates’ court**
- (1) This section applies where –
- (a) an application under section 47ZF or 47ZG is made to a magistrates’ court before the end of the applicable bail period in relation to a person, but 10
- (b) it is not practicable for the court to determine the application before the end of that period.
- (2) The court must determine the application as soon as is practicable. 15
- (3) The applicable bail period in relation to the person is to be treated as extended until the application is determined.
- (4) If it appears to the court that it would have been reasonable for the application to have been made in time for it to have been determined by the court before the end of the applicable bail period in relation to the person, it may refuse the application. 20
- 47ZK Rules**
- Criminal Procedure Rules may make provision in connection with applications under sections 47ZF, 47ZG and 47ZH and the proceedings for determining such applications. 25
- 47ZL Applicable bail period and bail return date: special case of release on bail under section 37(7)(a) or 37C(2)(b)**
- (1) This section applies where a person is released on bail under section 37(7)(a) or 37C(2)(b).
- (2) The running of the applicable bail period in relation to the person – 30
- (a) does not begin (in the case of a first release on bail), or
- (b) is suspended (in any other case),
- (subject to subsection (6)).
- (3) Accordingly section 47ZA does not apply to the exercise of the power mentioned in section 47ZA(1) when releasing the person on bail. 35
- (4) Subsections (5) and (6) apply if a DPP request is made in relation to the person.
- (5) A custody officer must exercise the power mentioned in section 47(4A) to appoint a different time for the person to attend at the police station (and section 47(4B) to (4D) applies accordingly). 40
- (6) The applicable bail period in relation to the person –
- (a) begins to run on the day on which the DPP request is made (in the case of a first release on bail), or
- (b) resumes running on that day (in any other case).

- (7) Subsection (8) applies where –
 - (a) a DPP request has been made in relation to the person, and
 - (b) the applicable bail period in relation to the person would end before the end of the period of 7 days beginning with the day on which the DPP request was made. 5
- (8) The running of the applicable bail period in relation to the person is suspended for the number of days necessary to secure that the applicable bail period ends at the end of the period of 7 days beginning with the day on which the DPP request was made.
- (9) Subsections (10) and (11) apply if the DPP request made in relation to the person is met. 10
- (10) The running of the applicable bail period in relation to the person is suspended.
- (11) Accordingly section 47(4D) does not apply to any exercise of the power under section 47(4A). 15
- (12) For the purposes of this section –
 - (a) a “DPP request”, in relation to a person, means a request by the Director of Public Prosecutions for the further information specified in the request to be provided before the Director decides under section 37B(2) whether there is sufficient evidence to charge the person with the relevant offence, 20
 - (b) a DPP request is met when the further information specified in the request is provided, and
 - (c) references to the case of a first release on bail are to a case where the person has not been released on bail in relation to the relevant offence under any other provision of this Part or under section 30A. 25

47ZM Applicable bail period: special cases of release on bail under section 30A and periods in hospital

- (1) Subsections (2) and (3) apply where a person was released on bail under section 30A. 30
- (2) The period of 28 days mentioned in section 30B(8) in relation to the person is to be treated as being the period of 28 days mentioned in section 47ZB(1)(b) in relation to the person.
- (3) Any reference to the relevant offence, in relation to the person, is to be read as a reference to the offence in respect of which the power in section 30A(1) was exercised. 35
- (4) Subsection (5) applies if, at any time on the day on which the applicable bail period in relation to a person would end, the person is in hospital as an in-patient. 40
- (5) The running of the applicable bail period in relation to the person is to be treated as having been suspended for any day on which the patient was in hospital as an in-patient.”

50 Section 49: consequential amendments

- (1) The Police and Criminal Evidence Act 1984 is amended as follows. 45

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- (2) Section 37D (release on bail under section 37) is amended as follows.
- (3) Omit subsections (1) to (3).
- (4) In subsections (4) to (5) for “subsection (1) above” substitute “section 47(4A)”.
- (5) Section 47 (bail after arrest) is amended as follows.
- (6) In subsection (3)(c) at the end insert “(subject to section 47ZA)”. 5
- (7) After subsection (4) insert –
- “(4A) Where a person has been granted bail under this Part subject to a duty to attend at a police station, a custody officer may subsequently appoint a different time, or an additional time, at which the person is to attend at the police station to answer bail. 10
- (4B) The custody officer must give the person notice in writing of the exercise of the power under subsection (4A).
- (4C) The exercise of the power under subsection (4A) does not affect the conditions of bail (if any).
- (4D) A custody officer may not appoint a time for a person’s attendance under subsection (4A) which is after the end of the applicable bail period in relation to the person. 15
- (4E) Subsection (4D) is subject to section 47ZL.”

Re-arrest of person released under provisions of PACE

- 51 Release under provisions of PACE: re-arrest 20**
- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 30C(4) (re-arrest without warrant of person released under section 30A) for the words from “new” to the end substitute “, since the person’s release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before the person’s release”. 25
- (3) In section 41(9) (re-arrest without warrant of person released under section 41(7)) for the words from “new” to “since” substitute “, since the person’s release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before”. 30
- (4) In section 42(11) (re-arrest without warrant of person released under section 42(10)) for the words from “new” to “since” substitute “, since the person’s release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before”. 35
- (5) In section 43(19) (re-arrest without warrant of person released under section 43(18)) for the words from “new” to “since” substitute “, since the person’s release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before”. 40

- (6) In section 47(2) (re-arrest without warrant of person released on bail subject to a duty to attend at a police station) for the words from “new” to the end substitute “, since the person’s release, new evidence has come to light or an examination or analysis of existing evidence has been made which could not reasonably have been made before the person’s release”. 5

CHAPTER 2

POWERS UNDER PACE: MISCELLANEOUS

52 PACE: entry and search of premises for the purpose of arrest

In section 17 of the Police and Criminal Evidence Act 1984 (entry for the purpose of arrest) after subsection (1)(caa) insert – 10

“(cab) of arresting a person under any of the following provisions –

- (i) section 30D(1) or (2A);
- (ii) section 46A(1) or (1A);
- (iii) section 5B(7) of the Bail Act 1976 (arrest where a person fails to surrender to custody in accordance with a court order); 15
- (iv) section 7(3) of the Bail Act 1976 (arrest where a person is not likely to surrender to custody etc);
- (v) section 97(1) of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (arrest where a child is suspected of breaking conditions of remand);” 20

53 PACE: treatment of those aged 17

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 30A (bail elsewhere than at police station), in subsection (3B)(d), for “under the age of 17” substitute “under the age of 18”. 25
- (3) In section 63B (testing for presence of class A drugs) –
- (a) in subsection (5A), for “has not attained the age of 17” substitute “has not attained the age of 18”;
 - (b) in subsection (10), in the definition of “appropriate adult”, for “has not attained the age of 17” substitute “has not attained the age of 18”. 30
- (4) In section 65 (which makes provision to supplement the provisions of Part 5 on the questioning and treatment of persons by the police), in subsection (1), in the definition of “appropriate consent”, in paragraph (a), for “has attained the age of 17 years” substitute “has attained the age of 18 years”.

54 PACE: detention: use of live links 35

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.

- (2) After section 45 insert –

“Use of live links

45ZA Functions of extending detention: use of live links

- | | |
|---|----|
| (1) The functions of a police officer under section 42(1) or (2) may be performed, in relation to an arrested person who is held at a police station, by an officer who is not present at the police station but has access to the use of a live link if – | 5 |
| (a) a custody officer considers that the use of the live link is appropriate, | |
| (b) the arrested person has had advice from a solicitor on the use of the live link, and | 10 |
| (c) the appropriate consent to the use of the live link has been given. | |
| (2) In subsection (1)(c), “the appropriate consent” means – | |
| (a) in relation to a person who has attained the aged 18, the consent of that person; | 15 |
| (b) in relation to a person who has not attained that age but has attained the age of 14, the consent of that person and of his or her parent or guardian; | |
| (c) in relation to a person who has not attained the age of 14, the consent of his or her parent or guardian. | 20 |
| (3) The consent of a person who has not attained the age of 18 (but has attained the age of 14), or who is a vulnerable adult, may only be given in the presence of an appropriate adult. | |
| (4) Section 42 applies with the modifications set out in subsections (5) to (7) below in any case where the functions of a police officer under that section are, by virtue of subsection (1), performed by an officer who is not at the police station where the arrested person is held. | 25 |
| (5) Subsections (5)(b) and (9)(b)(iii) and (iv) of that section are each to be read as if, instead of requiring the officer to make a record, they required the officer to cause another police officer to make a record. | 30 |
| (6) Subsection (6) of that section is to be read as if it required the officer to give the persons mentioned in that subsection an opportunity to make representations – | |
| (a) if facilities exist for the immediate transmission of written representations to the officer, either in writing by means of those facilities or orally by means of the live link, or | 35 |
| (b) in any other case, orally by means of the live link. | |
| (7) Subsection (9) of that section is to be read as if the reference in paragraph (b) to the right conferred by section 58 were omitted. | 40 |
| (8) In this section – | |
| “live link” means an arrangement by which an officer who is not present at the police station where an arrested person is held is able to see and hear, and to be seen and heard by, the arrested person and the arrested person’s solicitor (and for this purpose any impairment of eyesight or hearing is to be disregarded); | 45 |

- “vulnerable adult” means a person aged 18 or over who may have difficulty understanding the purpose of an authorisation under section 42(1) or (2) or anything that occurs in connection with a decision whether to give such an authorisation (whether because of a mental disorder or for any other reason); 5
- “appropriate adult”, in relation to a person who has not attained the age of 18, means –
- (a) the persons’s parent or guardian or, if the person is in the care of a local authority or voluntary organisation, a person representing that authority or organisation, 10
 - (b) a social worker of a local authority, or
 - (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed for, or engaged on, police purposes; 15
- “appropriate adult”, in relation to a vulnerable adult, means –
- (a) a relative, guardian or other person responsible for the vulnerable adult’s care;
 - (b) a person who is experienced in dealing with vulnerable adults but who is not a police officer or a person employed for, or engaged on, police purposes, or 20
 - (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed for, or engaged on, police purposes. 25
- (9) In subsection (8), in both definitions of “appropriate adult”, “police purposes” has the meaning given by section 101(2) of the Police Act 1996.

45ZB Warrants for further detention: use of live links

- (1) A magistrates’ court may give a live link direction for the purpose of the hearing of an application under section 43 for a warrant authorising further detention of a person, or the hearing of an application under section 44 for an extension of such a warrant, if – 30
- (a) a custody officer considers that the use of a live link for that purpose is appropriate, 35
 - (b) the person to whom the application relates has had legal advice on the use of the live link,
 - (c) the appropriate consent to the use of the live link has been given, and
 - (d) it is not contrary to the interests of justice to give the direction. 40
- (2) In subsection (1)(c), “the appropriate consent” means –
- (a) in relation to a person who has attained the age of 18, the consent of that person;
 - (b) in relation to a person who has not attained that age but has attained the age of 14, the consent of that person and of his or her parent or guardian; 45
 - (c) in relation to a person who has not attained the age of 14, the consent of his or her parent or guardian.

- (3) Where a live link direction is given, the requirement under section 43(2)(b) for the person to whom the application relates to be brought before the court for the hearing does not apply.
- (4) In this section –
- “live link direction” means a direction that a live link be used for the purposes of the hearing; 5
 - “live link” means an arrangement by which a person (when not in the place where the hearing is being held) is able to see and hear, and to be seen and heard by, the court during a hearing (and for this purpose any impairment of eyesight or hearing is to be disregarded). 10
 - “vulnerable adult” means a person aged 18 or over who may have difficulty understanding the purpose of the hearing or what occurs at it (whether because of a mental disorder or for any other reason); 15
 - “appropriate adult”, in relation to a person aged under 18, means –
 - (a) the person’s parent or guardian or, if the person is in the care of a local authority or voluntary organisation, a person representing that authority or organisation, 20
 - (b) a social worker of a local authority, or
 - (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed for, or engaged on, police purposes; 25
 - “appropriate adult”, in relation to a vulnerable adult, means –
 - (a) a relative, guardian or other person responsible for the appropriate adult’s care,
 - (b) a person who is experienced in dealing with vulnerable adults but who is not a police officer or a person employed for, or engaged on, police purposes, or 30
 - (c) if no person falling within paragraph (a) or (b) is available, any responsible person aged 18 or over who is not a police officer or a person employed for, or engaged on, police purposes. 35
- (5) In subsection (4), in both definitions of “appropriate adult”, “police purposes” has the meaning given by section 101(2) of the Police Act 1996.”
- (3) In section 45 (detention before charge-supplementary), in subsection (1), for “sections 43 and 44” substitute “sections 43, 44 and 45ZB”. 40
- (4) In section 45A –
- (a) for the heading substitute “Use of live links for other decisions about detention”;
 - (b) in subsection (1)(b), for the words from “video-conferencing facilities” to the end substitute “a live link”; 45
 - (c) in subsection (3), for “the facilities mentioned in subsection (1) above” substitute “a live link”;
 - (d) in subsection (7), in each of paragraphs (a)(i) and (b), for “the video-conferencing facilities” substitute “the live link”;

- (e) for subsection (10) substitute –
- “(10) In this section, “live link”, in relation to any functions, means an arrangement by which the functions may be performed by an officer who is not present at the police station where an arrested person is held but who is able (for the purpose of the functions) to see and hear, and to be seen and heard by, the arrested person and any legal representative of that person (and for this purpose any impairment of eyesight or hearing is to be disregarded).” 5
- (5) In consequence of the amendments made by subsection (4), in section 40A – 10
- (a) in subsection (2)(a), for “video-conferencing facilities” substitute “a live link”;
- (b) in subsection (5), for “video-conferencing facilities” substitute “live link”.
- 55 PACE: interviews: use of live links 15**
- (1) Section 39 of the Police and Criminal Evidence Act 1984 (responsibilities in relation to persons detained) is amended as follows.
- (2) In subsection (2)(a), for “a police officer investigating an offence for which that person is in police detention” substitute “another police officer at the police station where the person is in police detention, for the purpose of an interview that is part of the investigation of an offence for which the person is in police detention or otherwise in connection with the investigation of such an offence”. 20
- (3) After subsection (3) insert –
- “(3A) Subsections (3B) and (3C) apply if the custody officer, in accordance with any code of practice issued under this Act, transfers or permits the transfer of a person in police detention to an officer mentioned in subsection (2)(a) for the purpose of an interview that is to be conducted to any extent by means of a live link by another police officer who is investigating the offence but is not at the police station where the person in police detention is held at the time of the interview. 25
- (3B) The officer who is not at the police station has the same duty as the officer mentioned in subsection (2)(a) to ensure that the person is treated in accordance with the provisions of this Act and of any such codes of practice as are mentioned in subsection (1). 30
- (3C) If the person detained is subsequently returned to the custody of the custody officer, the officer who is not at the police station also has the same duty under subsection (3) as the officer mentioned in subsection (2)(a). 35
- (3D) For the purpose of subsection (3C), subsection (3) applies as if the reference to “in his custody” were a reference to “being interviewed”. 40
- (3E) In subsection (3A), “live link” means an arrangement by which the officer who is not at the police station is able to see and hear, and to be seen and heard by, the person in police detention, any legal representative of that person and the officer who has custody of that person at the police station (and for this purpose any impairment of eyesight or hearing is to be disregarded).” 45

56 PACE: audio recording of interviews

- (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 60 (which currently makes provision about the tape-recording of interviews) –
 - (a) in subsection (1), in each of paragraphs (a) and (b), for “tape-recording” substitute “audio recording”; 5
 - (b) in the heading of the section, for “Tape-recording” substitute “Audio recording”.
- (3) In section 113 (application of Act to armed forces), in subsection (4)(a), for “tape recording” substitute “audio recording”. 10

57 PACE: consultation on codes of practice

In section 67 of the Police and Criminal Evidence Act 1984 (codes of practice: supplementary), after subsection (4) insert –

- “(4A) The duty to consult under subsection (4) does not apply to a revision of a code where the Secretary of State considers that – 15
- (a) the revision is necessary in consequence of legislation, and
 - (b) the Secretary of State has no discretion as to the nature of the revision.
- (4B) Where, in consequence of subsection (4A), a revision of a code is issued without prior consultation with the persons mentioned in subsection (4), the Secretary of State must (at the same time as issuing the revision) publish a statement that, in his or her opinion, paragraphs (a) and (b) of subsection (4A) apply to the revision. 20
- (4C) In subsection (4A), “legislation” means any provision of – 25
- (a) an Act,
 - (b) subordinate legislation within the meaning of the Interpretation Act 1978.”

58 Definition of “appropriate adult” in criminal justice legislation

- (1) In section 63B of the Police and Criminal Evidence Act 1984 (testing for presence of Class A drugs), in subsection (10), in paragraph (c), in the definition of “appropriate adult”, for “a person employed by the police” substitute “a person employed for, or engaged on, police purposes; and “police purposes” has the meaning given by section 101(2) of the Police Act 1996”. 30
- (2) In section 66ZA of the Crime and Disorder Act 1998 (youth cautions), in subsection (7) (which defines “appropriate adult”), in paragraph (d), for “a person employed by the police” substitute “a person employed for, or engaged on, police purposes; and “police purposes” has the meaning given by section 101(2) of the Police Act 1996”. 35
- (3) In section 161 of the Criminal Justice Act 2003 (pre-sentence drug testing), in subsection (8) (which defines “appropriate adult”), in paragraph (c), for “a person employed by the police” substitute “a person employed for, or engaged on, police purposes; and “police purposes” has the meaning given by section 101(2) of the Police Act 1996”. 40

CHAPTER 3

POWERS UNDER THE MENTAL HEALTH ACT 1983

59 Extension of powers under sections 135 and 136 of the Mental Health Act 1983

- (1) The Mental Health Act 1983 is amended as follows.
- (2) In section 135 (warrant to search for and remove patients), after subsection (1) insert –
 - “(1A) If the premises specified in the warrant are a place of safety, the constable executing the warrant may, instead of removing the person to another place of safety, keep the person at those premises for the purpose mentioned in subsection (1).”
- (3) In subsection (3) of that section –
 - (a) for “under this section” substitute “under subsection (1)”;
 - (b) before “may” insert “, or kept at the premises specified in the warrant under subsection (1A),”.
- (4) In section 136 (mentally disordered persons found in public places), for subsection (1) substitute –
 - “(1) If a person appears to a constable to be suffering from mental disorder and to be in immediate need of care or control, the constable may, if he thinks it necessary to do so in the interests of that person or for the protection of other persons –
 - (a) remove the person to a place of safety within the meaning of section 135, or
 - (b) if the person is already at a place of safety within the meaning of that section, keep the person at that place or remove the person to another place of safety.
 - (1A) For the purpose of exercising the power conferred by subsection (1), the constable may, if need be by force, enter any place where he or she believes the mentally disordered person to be, other than –
 - (a) any house, flat or room where that person, or any other person, is living, or
 - (b) any yard, garden, garage or outhouse that is used in connection with the house, flat or room, other than one that is also used in connection with one or more other houses, flats or rooms.”
- (5) After subsection (1A) of that section (inserted by subsection (4) above) insert –
 - “(1B) Before deciding to remove a person to, or to keep a person at, a place of safety under subsection (1), the constable must, if it is practicable to do so, consult –
 - (a) a registered medical practitioner,
 - (b) a registered nurse,
 - (c) an approved mental health professional, or
 - (d) a person of a description specified in regulations made by the Secretary of State.”
- (6) In subsection (2) of that section, for “removed to” substitute “removed to, or kept at,”.

- (7) For the heading of that section substitute “Removal etc of mentally disordered persons without a warrant”.

60 Restrictions on places that may be used as places of safety

- (1) The Mental Health Act 1983 is amended as follows.
- (2) In section 135 (warrant to search for and remove patients), in subsection (6), omit the words “the occupier of which is willing temporarily to receive the patient”. 5
- (3) After subsection (6) of that section insert—
- “**(7)** For the purpose of subsection (6)—
- (a) a house, flat or room where a person is living may not be regarded as a suitable place unless— 10
- (i) if the person believed to be suffering from a mental disorder is the sole occupier of the place, that person agrees to the use of the place as a place of safety;
- (ii) if the person believed to be suffering from a mental disorder is an occupier of the place but not the sole occupier, both that person and one of the other occupiers agree to the use of the place as a place of safety; 15
- (iii) if the person believed to be suffering from a mental disorder is not an occupier of the place, both that person and the occupier (or, if more than one, one of the occupiers) agree to the use of the place as a place of safety; 20
- (b) a place other than one mentioned in paragraph (a) may not be regarded as a suitable place unless a person who appears to the constable exercising powers under this section to be responsible for the management of the place agrees to its use as a place of safety.” 25
- (4) After subsection (7) of that section (inserted by subsection (3) above) insert— 30
- “**(8)** This section is subject to section 136A which makes provision about the removal and taking of persons to a police station under this section.”
- (5) In section 136, after subsection (4) insert—
- “**(5)** This section is subject to section 136A which makes provision about the removal and taking of persons to a police station, and the keeping of persons at a police station, under this section.” 35
- (6) After section 136 insert—
- “136A Use of police stations as places of safety**
- (1) A child may not, in the exercise of a power to which this section applies, be removed to, kept at or taken to a place of safety that is a police station. 40
- (2) The Secretary of State may by regulations—
- (a) provide that an adult may be removed to, kept at or taken to a place of safety that is a police station, in the exercise of a power

- to which this section applies, only in circumstances specified in the regulations;
- (b) make provision about how adults removed to, kept at or taken to a police station, in the exercise of a power to which this section applies, are to be treated while at the police station, including provision for review of their detention. 5
- (3) Regulations under this section –
- (a) may make different provision for different cases;
- (b) may make provision that applies subject to specified exceptions;
- (c) may include incidental, supplementary or consequential provision or transitional, transitory or saving provision. 10
- (4) The powers to which this section applies are –
- (a) the power to remove a person to a place of safety under a warrant issued under section 135(1);
- (b) the power to take a person to a place of safety under section 135(3A); 15
- (c) the power to remove a person to, or to keep a person at, a place of safety under section 136(1);
- (d) the power to take a person to a place of safety under section 136(3). 20
- (5) In this section –
- (a) “child” means a person aged under 18;
- (b) “adult” means a person aged 18 or over.”

61 Periods of detention in places of safety etc

- (1) The Mental Health Act 1983 is amended as follows. 25
- (2) In section 135 (warrant to search for and remove patients) –
- (a) in subsection (3), for “72 hours” substitute “the permitted period of detention”;
- (b) after subsection (3) insert –
- “(3ZA) In subsection (3), “the permitted period of detention” means – 30
- (a) the period of 24 hours beginning with –
- (i) in a case where the person is removed to a place of safety, the time when the person arrives at that place;
- (ii) in a case where the person is kept at the premises specified in the warrant, the time when the constable first entered the premises to execute the warrant; or 35
- (b) where an authorisation is given in relation to the person under section 136B, that period of 24 hours and such further period as is specified in the authorisation.”; 40
- (c) in subsection (3A), for “the period of 72 hours” substitute “the permitted period of detention”;
- (d) in subsection (3B), for “the period of 72 hours” substitute “the permitted period of detention”. 45
- (3) In section 136 (mentally disordered persons found in public places) –

- (a) in subsection (2), for “72 hours” substitute “the permitted period of detention”;
- (b) after subsection (2) insert –
- “(2A) In subsection (2), “the permitted period of detention” means –
- (a) the period of 24 hours beginning with – 5
- (i) in a case where the person is removed to a place of safety, the time when the person arrives at that place;
- (ii) in a case where the person is kept at a place of safety, the time when the constable decides to keep the person at that place; or 10
- (b) where an authorisation is given in relation to the person under section 136B, that period of 24 hours and such further period as is specified in the authorisation.”;
- (c) in subsection (3), for “the period of 72 hours” substitute “the permitted period of detention”; 15
- (d) in subsection (4), for “the period of 72 hours” substitute “the permitted period of detention”.
- (4) After section 136A (inserted by section 60) insert –
- “136B Extension of detention”** 20
- (1) The registered medical practitioner who is responsible for the examination of a person detained under section 135 or 136 may, at any time before the expiry of the period of 24 hours mentioned in section 135(3ZA) or (as the case may be) 136(2A), authorise the detention of the person for a further period not exceeding 12 hours (beginning immediately at the end of the period of 24 hours). 25
- (2) An authorisation under subsection (1) may be given only if the registered medical practitioner considers that the extension is necessary because the condition of the person detained is such that it would not be practicable for the assessment of the person for the purpose of section 135 or (as the case may be) section 136 to be carried out before the end of the period of 24 hours (or, if the assessment began within that period, for it to be completed before the end). 30
- (3) If the person is detained at a police station, and the assessment would be carried out or completed at the station, the registered medical practitioner may give an authorisation under subsection (1) only if an officer of the rank of superintendent or above approves it.” 35
- (5) In section 138 (retaking of patients escaping from custody), in subsection (3), for the words from “after the expiration of the period” to the end of the subsection substitute “ – 40
- (a) in a case where the person escapes while being removed to a place of safety in the execution of a warrant under section 135(1) or under section 136(1), after the end of the period of 24 hours beginning with the escape;
- (b) in a case where the person escapes after the beginning of the period that is the permitted period of detention in relation to the person under section 135(3ZA) or 136(2A), after the end of that period (taking into account any authorisation under section 136B(1) that was given before the person escaped).” 45

CHAPTER 4

POLICE POWERS: MARITIME ENFORCEMENT

Application of maritime enforcement powers: general

62 Application of maritime enforcement powers: general

- (1) A law enforcement officer may, for the purpose of preventing, detecting, investigating or prosecuting an offence under the law of England and Wales, exercise any of the maritime enforcement powers in relation to—
 - (a) a United Kingdom ship in England and Wales waters, foreign waters or international waters, 5
 - (b) a ship without nationality in England and Wales waters or international waters, 10
 - (c) a foreign ship in England and Wales waters, or
 - (d) a ship, registered under the law of a relevant territory, in England and Wales waters.
- (2) In this Chapter, “the maritime enforcement powers” are the powers set out in—
 - (a) section 66 (power to stop, board, divert and detain);
 - (b) section 67 (power to search and obtain information);
 - (c) section 68 (power of arrest and seizure). 15
- (3) The following persons are “law enforcement officers” for the purpose of this Chapter—
 - (a) a constable who is a member of a police force in England and Wales,
 - (b) a special constable appointed under section 27 of the Police Act 1996,
 - (c) a constable who is a member of the British Transport Police Force,
 - (d) a port constable, within the meaning of section 7 of the Marine Navigation Act 2013, or a person appointed to act as a constable under provision made by virtue of section 16 of the Harbours Act 1964; 25
 - (e) a designated customs official within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009 (see section 14(6) of that Act), or
 - (f) a person of a description specified in regulations made by the Secretary of State. 30
- (4) Regulations under subsection (3)(f) are to be made by statutory instrument.
- (5) A statutory instrument containing regulations under subsection (3)(f) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) This section is subject to section 63 (which makes provision about when the authority of the Secretary of State is required before the maritime enforcement powers are exercised in reliance on this section). 35

63 Restriction on exercise of maritime enforcement powers

- (1) The authority of the Secretary of State is required before a law enforcement officer exercises any of the maritime enforcement powers, in reliance on section 62(1), in relation to a United Kingdom ship in foreign waters. 40

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- (2) The Secretary of State may give authority under subsection (1) only if the State, or the relevant territory, in whose waters the powers would be exercised consents to the exercise of the powers.
- (3) The authority of the Secretary of State is required before a law enforcement officer exercises any of the maritime enforcement powers, in reliance on section 62(1), in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to England and Wales. 5
- (4) The Secretary of State may give authority under subsection (3) in relation to a foreign ship only if –
- (a) the home state has requested the assistance of the United Kingdom for the purpose of preventing, detecting, investigating or prosecuting an offence under the law of England and Wales, 10
 - (b) the home state has authorised the United Kingdom to act for that purpose, or
 - (c) the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) otherwise permits the exercise of the powers in relation to the ship. 15

Ships in Scotland and Northern Ireland waters: hot pursuit

64 Hot pursuit of ships in Scotland or Northern Ireland waters

- (1) A law enforcement officer may, for the purpose of preventing, detecting, investigating or prosecuting an offence under the law of England and Wales, exercise any of the maritime enforcement powers in relation to a ship in Scotland waters or in Northern Ireland waters if – 20
- (a) the ship is pursued there,
 - (b) immediately before the pursuit of the ship, the ship was in relevant waters, 25
 - (c) before the pursuit of the ship, a signal was given for it to stop,
 - (d) the signal was given in such a way as to be audible or visible from the ship, and
 - (e) the pursuit of the ship is not interrupted.
- (2) For the purposes of subsection (1)(b), “relevant waters” are – 30
- (a) in the case of a United Kingdom ship or a ship without nationality, England and Wales waters or international waters;
 - (b) in the case of a foreign ship or a ship registered under the law of a relevant territory, England and Wales waters.
- (3) For the purposes of subsection (1)(e), pursuit is not interrupted by reason only of the fact that – 35
- (a) the method of carrying out the pursuit, or
 - (b) the identity of the ship or aircraft carrying out the pursuit, changes during the course of the pursuit.
- (4) This section is subject to section 65 (which requires the authority of the Secretary of State before the maritime enforcement powers are exercised in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to Scotland or Northern Ireland). 40

65 Restriction on exercise of maritime enforcement powers in hot pursuit

- (1) The authority of the Secretary of State is required before a law enforcement officer exercises any of the maritime enforcement powers, in reliance on section 64, in relation to a foreign ship, or a ship registered under the law of a relevant territory, within the territorial sea adjacent to Scotland or Northern Ireland. 5
- (2) The Secretary of State may give authority under subsection (1) in relation to a foreign ship only if –
 - (a) the home state has requested the assistance of the United Kingdom for the purpose of preventing, detecting, investigating or prosecuting an offence under the law of England and Wales, 10
 - (b) the home state has authorised the United Kingdom to act for that purpose, or
 - (c) the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) otherwise permits the exercise of the powers in relation to the ship.

The maritime enforcement powers 15

66 Power to stop, board, divert and detain

- (1) This section applies if a law enforcement officer has reasonable grounds to suspect that –
 - (a) an offence under the law of England and Wales is being, or has been, committed on a ship in relation to which the powers conferred by this section are exercisable by virtue of section 62 or 64, or 20
 - (b) a ship in relation to which those powers are so exercisable is otherwise being used in connection with the commission of an offence under that law.
- (2) The law enforcement officer may – 25
 - (a) stop the ship;
 - (b) board the ship;
 - (c) require the ship to be taken to a port in England and Wales or elsewhere and detained there.
- (3) Except as provided by subsection (5), the authority of the Secretary of State is required before a law enforcement officer may exercise the power conferred by subsection (2)(c) to require the ship to be taken to a port outside the United Kingdom. 30
- (4) The Secretary of State may give authority for the purposes of subsection (3) only if the State, or the relevant territory, in which the port is located is willing to receive the ship. 35
- (5) If the law enforcement officer is acting under authority given for the purposes of section 63(3) or 65(1), the law enforcement officer may require the ship to be taken to –
 - (a) a port in the home state or relevant territory in question, or 40
 - (b) if the home state or relevant territory requests, a port in any other State or relevant territory willing to receive the ship.
- (6) The law enforcement officer may require the master of the ship, or any member of its crew, to take such action as is necessary for the purposes of subsection (2)(c). 45

- (7) A law enforcement officer must give notice in writing to the master of any ship detained under this section.
- (8) The notice must state that the ship is to be detained until the notice is withdrawn by the giving of a further notice in writing signed by a law enforcement officer. 5

67 Power to search and obtain information

- (1) This section applies if a law enforcement officer has reasonable grounds to suspect that there is evidence relating to an offence under the law of England and Wales (other than items subject to legal privilege) on a ship in relation to which the powers conferred by this section are exercisable by virtue of section 62 or 64. 10
- (2) The law enforcement officer may search—
- (a) the ship;
 - (b) anyone found on the ship;
 - (c) anything found on the ship (including cargo). 15
- (3) The law enforcement officer may require a person found on the ship to give information about himself or herself or about anything found on the ship.
- (4) The power to search conferred by subsection (2) is a power to search only to the extent that it is reasonably required for the purpose of discovering evidence of the kind mentioned in subsection (1). 20
- (5) The power to search a person conferred by subsection (2) does not authorise a law enforcement officer to require the person to remove any clothing in public other than an outer coat, jacket or gloves.
- (6) In exercising a power conferred by subsection (2) or (3), a law enforcement officer may (amongst other things)— 25
- (a) open any containers;
 - (b) require the production of documents, books or records relating to the ship or anything on it, other than anything that the law enforcement officer has reasonable grounds to believe to be an item subject to legal privilege; 30
 - (c) make photographs or copies of anything the production of which the law enforcement officer has power to require.
- (7) The power in subsection (6)(b) to require the production of documents, books or records includes, in relation to documents, books or records kept in electronic form, power to require the provision of the documents, books or records in a form in which they are legible and can be taken away. 35
- (8) The power of a law enforcement officer under subsection (2)(b) or (c) or (3) may be exercised on the ship or elsewhere.

68 Power of arrest and seizure

- (1) This section applies if a law enforcement officer has reasonable grounds to suspect that an offence under the law of England and Wales has been, or is being, committed on a ship in relation to which the powers conferred by this section are exercisable by virtue of section 62 or 64. 40

- (2) The law enforcement officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of the offence.
- (3) The law enforcement officer may seize and retain anything found on the ship which appears to the officer to be evidence of the offence, other than anything that the officer has reasonable grounds to believe to be an item subject to legal privilege. 5
- (4) The power of a law enforcement officer under subsection (2) or (3) may be exercised on the ship or elsewhere.

Supplementary provision

69 Maritime enforcement powers: supplementary: protective searches 10

- (1) This section applies where a power conferred by section 66 is exercised in relation to a ship.
- (2) A law enforcement officer may search any person found on the ship for anything which the officer has reasonable grounds to believe the person might use to – 15
 - (a) cause physical injury,
 - (b) cause damage to property, or
 - (c) endanger the safety of any ship.
- (3) The power under subsection (2) may be exercised on board the ship or elsewhere. 20
- (4) A law enforcement officer searching a person under subsection (2) may seize and retain anything found if the law enforcement officer has reasonable grounds to believe that the person might use it for a purpose mentioned in paragraphs (a) to (c) of that subsection.
- (5) Anything seized under subsection (4) may be retained only for so long as there are reasonable grounds to believe that it might be used as mentioned in that subsection. 25
- (6) The power to search a person conferred by subsection (2) does not authorise a law enforcement officer to require the person to remove any clothing in public, other than an outer coat, jacket or gloves. 30

70 Maritime enforcement powers: other supplementary provision

- (1) A law enforcement officer may –
 - (a) be accompanied by other persons, and
 - (b) take equipment or materials,to assist the officer in the exercise of powers under this Chapter. 35
- (2) A law enforcement officer may use reasonable force, if necessary, in the performance of functions under this Chapter.
- (3) A person accompanying a law enforcement officer under subsection (1) may perform any of the officer’s functions under this Chapter, but only under the officer’s supervision. 40
- (4) A law enforcement officer must produce evidence of the officer’s authority if asked to do so.

- (5) A law enforcement officer is not liable in any criminal or civil proceedings for anything done in the purported performance of functions under this Chapter if the court is satisfied that –
- (a) the act was done in good faith, and
 - (b) there were reasonable grounds for doing it. 5
- (6) The powers conferred by this Chapter do not affect any other powers that a law enforcement officer may have.

71 Maritime enforcement powers: offences

- (1) A person commits an offence if the person –
- (a) intentionally obstructs a law enforcement officer in the performance of functions under this Chapter, or 10
 - (b) fails without reasonable excuse to comply with a requirement imposed by a law enforcement officer in the performance of those functions.
- (2) A person who provides information in response to a requirement imposed by a law enforcement officer in the performance of functions under this Chapter commits an offence if – 15
- (a) the information is false in a material particular, and the person either knows it is or is reckless as to whether it is, or
 - (b) the person intentionally fails to disclose any material particular.
- (3) A law enforcement officer may arrest without warrant anyone whom the officer has reasonable grounds for suspecting to be guilty of an offence under this section. 20
- (4) A person guilty of an offence under this section is liable on summary conviction to a fine.

72 Maritime enforcement powers: code of practice 25

- (1) The Secretary of State must prepare and issue a code of practice in respect of the practice to be followed by law enforcement officers when arresting a person under the power conferred by section 68.
- (2) The code must, in particular, provide guidance as to the information to be given to the person at the time of arrest (whether about procedural rights or other matters). 30
- (3) A failure of a law enforcement officer to comply with any provision of the code does not of itself render the law enforcement officer liable to any criminal or civil proceedings.
- (4) The code – 35
- (a) is admissible in evidence in criminal and civil proceedings, and
 - (b) may be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.
- (5) The Secretary of State may at any time revise the whole or any part of the code.
- (6) The code, or any revision of the code, does not come into operation until the Secretary of State so provides by regulations. 40
- (7) Regulations under this section are to be made by statutory instrument.

- (8) A statutory instrument containing regulations under this section that bring the code into operation may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.
- (9) A statutory instrument containing regulations under this section that bring a revision of the code into operation must be laid before Parliament (if the regulations are made without a draft having been laid and approved as mentioned in subsection (8)). 5
- (10) Where a statutory instrument, or draft of a statutory instrument, is laid under this section, the code or revision of the code to which it relates must also be laid.
- 73 Interpretation** 10
- (1) In this Chapter –
- “England and Wales waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to England and Wales;
- “foreign ship” means a ship which –
- (a) is registered in a State other than the United Kingdom, or 15
- (b) is not so registered but is entitled to fly the flag of a State other than the United Kingdom;
- “foreign waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to any relevant territory or State other than the United Kingdom; 20
- “home state”, in relation to a foreign ship, means –
- (a) the State in which the ship is registered, or
- (b) the State whose flag the ship is otherwise entitled to fly;
- “international waters” means waters beyond the territorial sea of the United Kingdom or of any other State or relevant territory; 25
- “items subject to legal privilege” has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 10 of that Act);
- “law enforcement officer” has the meaning given by section 62(3);
- “maritime enforcement powers” has the meaning given by section 62(2);
- “Northern Ireland waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to Northern Ireland; 30
- “relevant territory” means –
- (a) the Isle of Man;
- (b) any of the Channel Islands;
- (c) a British overseas territory; 35
- “Scotland waters” means the sea and other waters within the seaward limits of the territorial sea adjacent to Scotland;
- “ship” includes every description of vessel (including a hovercraft) used in navigation;
- “ship without nationality” means a ship which – 40
- (a) is not registered in, or otherwise entitled to fly the flag of, any State or relevant territory, or
- (b) sails under the flags of two or more States or relevant territories, or under the flags of a State and relevant territory, using them according to convenience; 45
- “United Kingdom ship” means a ship which –
- (a) is registered under Part 2 of the Merchant Shipping Act 1995,

- (b) is a Government ship within the meaning of that Act,
- (c) is not registered in any State or relevant territory but is wholly owned by persons each of whom has a United Kingdom connection, or
- (d) is registered under an Order in Council under section 1 of the Hovercraft Act 1968. 5
- (2) For the purposes of paragraph (c) of the definition of “United Kingdom ship” in subsection (1), a person has a “United Kingdom connection” if the person is –
- (a) a British citizen, a British overseas territories citizen or a British Overseas citizen, 10
- (b) an individual who is habitually resident in the United Kingdom, or
- (c) a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in the United Kingdom. 15
- (3) References in this Chapter to the United Nations Convention on the Law of the Sea include references to any modifications of that Convention agreed after the passing of this Act that have entered into force in relation to the United Kingdom.

PART 5

20

POLICE AND CRIME COMMISSIONERS AND POLICE AREAS

74 Term of office of deputy police and crime commissioners

- (1) Schedule 1 to the Police Reform and Social Responsibility Act 2011 (police and crime commissioners) is amended in accordance with subsections (2) and (3).
- (2) In paragraph 8 (the deputy police and crime commissioner), for sub-paragraph (3) substitute – 25
- “(3) The terms and conditions of a person appointed as the deputy police and crime commissioner must ensure that the term of office ends no later than the sixth day after the day of the poll at the next ordinary election of police and crime commissioners (that is, the day on which the term of office of the appointing police and crime commissioner would, if there were no vacancy in the office before then, end in accordance with section 50(7)(b)). 30
- (3A) The terms and conditions must also provide for the deputy police and crime commissioner’s appointment to end when, following an election held under section 51 to fill a vacancy in the office of the appointing police and crime commissioner, the person elected makes and delivers a declaration of acceptance of office under section 70(1). 35
- (3B) Subject to sub-paragraphs (3) and (3A), the terms and conditions may make such provision about termination as the appointing police and crime commissioner thinks appropriate.” 40
- (3) In that paragraph, omit sub-paragraph (5).
- (4) The amendments made by this section apply in relation to the terms and conditions of a person appointed as a deputy police and crime commissioner

- before this section comes into force (as well as to the terms and conditions of a person appointed after it comes into force).
- (5) But the amendments do not apply in relation to the terms and conditions of a person appointed as a deputy police and crime commissioner before this section comes into force if, at the time when it comes into force, an election held under section 51 of the 2011 Act to fill a vacancy in the office of police and crime commissioner for the police area in question is in progress. 5
- (6) For the purpose of subsection (5), an election held under section 51 of the 2011 Act is in progress during the period – 10
- (a) beginning with the time when the vacancy in the office of police and crime commissioner occurred, and
 - (b) ending immediately after the person elected to fill the vacancy has made and delivered a declaration of acceptance under section 70(1) of that Act.
- 75 Eligibility of deputy police and crime commissioners for election 15**
- (1) In section 65 of the Police Reform and Social Responsibility Act 2011 (disqualification from election or holding office as police and crime commissioner: police grounds), after subsection (1) insert –
- “(1A) Subsection (1)(e)(i) does not prevent a deputy police and crime commissioner – 20
- (a) from being elected as police and crime commissioner at an ordinary election of police and crime commissioners;
 - (b) from being elected at an election held under section 51 to fill a vacancy in the office of police and crime commissioner if, on the day on which the person is nominated as a candidate at the election and at all times between that day and the declaration of the result of the election, the deputy is acting as police and crime commissioner under section 62.” 25
- (2) Section 65(1A)(b) of the 2011 Act (as inserted by subsection (1) above) does not apply in relation to an election held under section 51 of that Act to fill a vacancy in the office of police and crime commissioner if the election is in progress at the time this section comes into force. 30
- (3) For the purpose of subsection (2), an election held under section 51 of the 2011 Act is in progress during the period – 35
- (a) beginning with the time when the vacancy in the office of police and crime commissioner occurred, and
 - (b) ending immediately after the person elected to fill the vacancy has made and delivered a declaration of acceptance under section 70(1) of that Act.

76 Amendments to the names of police areas

- (1) After section 31 of the Police Act 1996 insert –

*“Amendment of names of police areas***31A Power to amend names of police areas**

- (1) The Secretary of State may by regulations amend any name of a police area specified in the first column of Schedule 1 (police areas). 5
- (2) A statutory instrument containing regulations under subsection (1) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”
- (2) In consequence of the amendment made by subsection (1), in section 1 of that Act (police areas), in the words in brackets, for “any amendment made to that Schedule by an order” substitute “any amendment made to the first column of that Schedule by regulations under section 31A or any amendment made to the second column, or to the first and second columns, by an order”. 10

PART 6

15

FIREARMS

77 Firearms Act 1968: meaning of “firearm” etc.

- (1) The Firearms Act 1968 is amended as follows.
- (2) In section 57 (interpretation), in subsection (1), for the words from the beginning to the end of paragraph (c) substitute – 20
- “(1) In this Act, the expression “firearm” means –
- (a) a lethal barrelled weapon (see subsection (1B));
- (b) a prohibited weapon;
- (c) a relevant component part in relation to a lethal barrelled weapon or a prohibited weapon (see subsection (1C)); 25
- (d) an accessory to a lethal barrelled weapon or a prohibited weapon where the accessory is designed or adapted to diminish the noise or flash caused by firing the weapon;”.
- (3) In that section, before subsection (2) insert –
- “(1B) In subsection (1)(a), “lethal barrelled weapon” means a barrelled weapon of any description from which a shot, bullet or other missile, with kinetic energy of more than one joule at the muzzle of the weapon, can be discharged. 30
- (1C) Subsection (1) is subject to section 57A (exception for airsoft guns).”
- (4) In that section, after subsection (1C) (as inserted by subsection (3) above) insert – 35
- “(1D) For the purposes of subsection (1)(c), each of the following items is a relevant component part in relation to a lethal barrelled weapon or a prohibited weapon –

- (a) a barrel, chamber or cylinder,
 - (b) a frame, body or receiver,
 - (c) a breech block, bolt or other mechanism for containing the pressure of discharge at the rear of a chamber,but only where the item is capable of being used as a part of a lethal barrelled weapon or a prohibited weapon.” 5
 - (5) After section 57 insert –
 - “57A Exception for airsoft guns**
 - (1) An “airsoft gun” is not to be regarded as a firearm for the purposes of this Act. 10
 - (2) An “airsoft gun” is a barrelled weapon of any description from which only a small plastic missile, with kinetic energy at the muzzle of the weapon that does not exceed the permitted level, can be discharged.
 - (3) “Small plastic missile” means a missile that –
 - (a) is made wholly or partly from plastics, and 15
 - (b) does not exceed 6 millimetres in diameter.
 - (4) The permitted kinetic energy level is –
 - (a) in the case of a weapon which is designed or adapted so that two or more missiles can be discharged successively without repeated pressure on the trigger, 1.3 joules; 20
 - (b) in any other case, 2.5 joules.”
 - (6) After section 57A (inserted by subsection (5)) –
 - “57B Power to amend section 57(1D)**
 - (1) The Secretary of State may by regulations made by statutory instrument amend section 57(1D) so as to make different provision for the purposes of section 57(1)(c) about the meaning of a relevant component part in relation to a lethal barrelled weapon or a prohibited weapon. 25
 - (2) Regulations under this section may include –
 - (a) incidental, supplementary or consequential provision; 30
 - (b) transitional, transitory or saving provision.
 - (3) A statutory instrument containing regulations under this section may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.”
- 78 Firearms Act 1968: meaning of “antique firearm” 35**
- (1) Section 58 of the Firearms Act 1968 (particular savings) is amended in accordance with subsections (2) and (3).
 - (2) After subsection (2) (which makes provision about antique firearms) insert –
 - “(2A) For the purposes of subsection (2), a firearm is an “antique firearm” if –**
 - (a) its chamber is capable of being used only with a cartridge of a description specified in regulations made by statutory instrument by the Secretary of State, or 40

- (b) its ignition system is of a description specified in regulations made by statutory instrument by the Secretary of State.
- (2B) Regulations under subsection (2A) may make different provision for different purposes.
- (2C) Subject to subsection (2D), a statutory instrument containing regulations under subsection (2A) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 5
- (2D) A statutory instrument containing regulations under subsection (2A) which contain only provision amending regulations previously made under that subsection so as to remove a description of cartridge or a description of ignition system from the descriptions specified in those regulations is subject to annulment in pursuance of a resolution of either House of Parliament.” 10
- (3) In subsection (2) – 15
- (a) in paragraph (a), for “section 21” substitute “sections 19, 20 and 21”;
- (b) in paragraph (b), for “section 21” substitute “section 19, 20 or 21”.
- (4) Subsections (5) to (7) apply where –
- (a) immediately before the coming into force of regulations under section 58(2A) of the Firearms Act 1968 (as inserted by subsection (2) above), a person has in his or her possession a firearm that is an antique firearm for the purposes of section 58(2) of that Act, and 20
- (b) in consequence of the coming into force of the regulations, the firearm ceases to be an antique firearm for those purposes.
- (5) Section 5 of the Firearms Act 1968 does not apply in relation to the possession of the firearm by the person unless – 25
- (a) the person carries on a business as a firearms dealer, and
- (b) the firearm is in his or her possession for the purpose of the business.
- (6) An application by the person for a certificate under section 1 or 2 of that Act in respect of possession of the firearm may not be refused on the ground that the person does not have a good reason for having the firearm in his or her possession. 30
- (7) An application by the person for the renewal of a certificate issued under section 1 or 2 of that Act in respect of possession of the firearm may not be refused on the ground that the person does not have a good reason for having the firearm in his or her possession. 35
- (8) The provision made by subsections (4) to (7) does not prevent additional transitional provision being made (under the power conferred by section 111(6)) in connection with the coming into force of this section (including provision for enabling certificates and authorisations under the Firearms Act 1968 to be issued or granted before this section comes fully into force). 40

79 Possession of articles for conversion of imitation firearms

After section 4 of the Firearms Act 1968 (conversion of weapons) insert –

“4A Possession of articles for use in connection with conversion

- (1) A person, other than a registered firearms dealer, commits an offence if – 5
 - (a) the person has in his or her possession or under his or her control an article that is capable of being used (whether by itself or with other articles) to convert an imitation firearm into a firearm, and
 - (b) the person intends to use the article (whether by itself or with other articles) to convert an imitation firearm into a firearm. 10
- (2) A person guilty of an offence under this section is liable –
 - (a) on summary conviction –
 - (i) in England and Wales, to imprisonment for a term not exceeding 12 months (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force, 6 months) or to a fine, or to both; 15
 - (ii) in Scotland, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both; 20
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine, or to both.”

80 Applications under the Firearms Acts: fees

- (1) After section 32 of the Firearms Act 1968 (fee for certificate and exemption from paying it in certain cases) insert – 25

“32ZA Fees in connection with authority under section 5

 - (1) The Secretary of State may by regulations authorise the appropriate national authority to require payment of a fee before an authority under section 5 is granted, varied or renewed. 30
 - (2) Regulations under subsection (1) must specify the amount of any fee that may be charged.
 - (3) The regulations may make different provision for different cases (including specifying different fees for different cases).
 - (4) The regulations may include – 35
 - (a) incidental, supplementary or consequential provision;
 - (b) transitional, transitory or saving provision.
 - (5) Regulations under this section are to be made by statutory instrument.
 - (6) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 40
 - (7) In this section, “the appropriate national authority” means –
 - (a) in or as regards England and Wales, the Secretary of State;

- (b) in or as regards Scotland, the Scottish Ministers.”
- (2) Before section 16 of the Firearms (Amendment) Act 1988 insert –
- “15B Fees in connection with approvals under section 15**
- (1) The Secretary of State may by regulations authorise the appropriate national authority to require payment of a fee before an approval under section 15 is granted, varied or renewed. 5
- (2) Regulations under subsection (1) must specify the amount of any fee that may be charged.
- (3) The regulations may make different provision for different cases (including specifying different fees for different cases). 10
- (4) The regulations may include –
- (a) incidental, supplementary or consequential provision;
- (b) transitional, transitory or saving provision.
- (5) Regulations under this section are to be made by statutory instrument.
- (6) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 15
- (7) In this section, “the appropriate national authority” means –
- (a) in or as regards England and Wales, the Secretary of State;
- (b) in or as regards Scotland, the Scottish Ministers.” 20
- (3) In the Schedule to the Firearms (Amendment) Act 1988 (firearms and ammunition in museums), omit paragraph 3.
- (4) Before paragraph 4 insert –
- “3A (1) The Secretary of State may by regulations authorise the appropriate national authority to require payment of a fee before a licence is granted, varied or renewed. 25
- (2) Regulations under sub-paragraph (1) must specify the amount of any fee that may be charged.
- (3) The regulations may make different provision for different cases (including specifying different fees for different cases). 30
- (4) The regulations may include –
- (a) incidental, supplementary or consequential provision;
- (b) transitional, transitory or saving provision.
- (5) Regulations under this paragraph are to be made by statutory instrument. 35
- (6) A statutory instrument containing regulations under this paragraph is subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) In this section, “the appropriate national authority” means –
- (a) in or as regards England and Wales, the Secretary of State; 40
- (b) in or as regards Scotland, the Scottish Ministers.”

- (5) In consequence of the amendment made by subsection (2), omit section 15(6) of the Firearms (Amendment) Act 1988.

81 Guidance to police officers in respect of firearms

- (1) The Firearms Act 1968 is amended as follows.
- (2) After section 55 insert— 5
- “55A Guidance as to exercise of police functions**
- (1) The Secretary of State may issue guidance to chief officers of police as to the exercise of their functions under, or in connection with, this Act.
- (2) The Secretary of State may revise any guidance issued under this section. 10
- (3) The Secretary of State must arrange for any guidance issued under this section, and any revision of it, to be published.
- (4) A chief officer of police must have regard to any guidance issued under this section.
- (5) Before issuing guidance under this section, the Secretary of State must consult— 15
- (a) the National Police Chiefs’ Council, and
- (b) the chief constable of the Police Service of Scotland.”
- (3) In section 44 (appeals against police decisions), after subsection (3) insert—
- “(3A) The court or sheriff hearing an appeal must consider whether the chief officer had regard to any guidance issued under section 55A that was relevant to the chief officer’s decision.” 20

PART 7

ALCOHOL: LICENSING

82 Meaning of “alcohol”: inclusion of alcohol in any state 25

In the Licensing Act 2003, in section 191(1) (meaning of “alcohol”) after “liquor” insert “(in any state)”.

83 Interim steps pending review: representations

- (1) In the Licensing Act 2003, section 53B (interim steps pending review) is amended as follows. 30
- (2) In subsection (6) at the beginning insert “Subject to subsection (9A),”.
- (3) After subsection (9) insert—
- “(9A) Where the relevant licensing authority has determined under subsection (8) whether to withdraw or modify the interim steps taken, the holder of the premises licence may only make further representations under subsection (6) if there has been a material change in circumstances since the authority made its determination.” 35

84 Summary reviews of premises licences: review of interim steps

- (1) The Licensing Act 2003 is amended as follows.
- (2) Section 53C (review of premises licence following review notice) is amended as follows.
- (3) In subsection (2) – 5
 - (a) at the end of paragraph (a) insert “and”,
 - (b) in paragraph (b) omit “and”, and
 - (c) omit paragraph (c).
- (4) After subsection (11) insert – 10

“(12) Section 53D makes provision about the application and review of any interim steps that have been taken under section 53B in relation to a premises licence before a decision under this section comes into effect in relation to the licence.”
- (5) After section 53C insert – 15

“53D Interim steps pending section 53C decision coming into effect

 - (1) At the hearing to consider an application for a review under section 53A, the relevant licensing authority must review any interim steps that have been taken by the relevant licensing authority under section 53B that have effect on the date of the hearing.
 - (2) In conducting the review under this section, the relevant licensing authority must – 20
 - (a) consider whether the interim steps are appropriate for the promotion of the licensing objectives;
 - (b) consider any relevant representations; and
 - (c) determine whether to withdraw or modify the interim steps taken. 25
 - (3) The power of the relevant licensing authority on a review under this section includes a power to take any of the following interim steps – 30
 - (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
 - (c) the removal of the designated premises supervisor from the licence;
 - (d) the suspension of the licence.
 - (4) Any interim steps taken under subsection (3) apply until – 35
 - (a) the end of the period given for appealing against a decision made under section 53C,
 - (b) if the decision under section 53C is appealed against, the time the appeal is disposed of, or
 - (c) the end of a period determined by the relevant licensing authority (which may not be longer than the period of time for which such interim steps could apply under paragraph (a) or (b)). 40

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- (5) Any interim steps taken under section 53B in relation to a premises licence cease to have effect when the decision made under section 53C comes into effect.
- (6) In subsection (2) “relevant representations” means representations which – 5
- (a) are relevant to one or more of the licensing objectives, and
 - (b) meet the requirements of subsection (7).
- (7) The requirements are –
- (a) that the representations are made by the holder of the premises licence, a responsible authority or any other person within the period prescribed under subsection 53A(3)(e), 10
 - (b) that they have not been withdrawn, and
 - (c) if they are made by a person who is not a responsible authority, that they are not, in the opinion of the relevant licensing authority, frivolous or vexatious. 15
- (8) Where the relevant licensing authority determines that any representations are frivolous or vexatious, it must notify the person who made them of the reasons for that determination.
- (9) A decision under this section may be appealed (see paragraph 8B of Part 1 of Schedule 5 (appeals: premises licences)).” 20
- (6) Part 1 of Schedule 5 (appeals: premises licences) is amended as follows.
- (7) After paragraph 8A (summary review of premises licence) insert –
- “Review of interim steps*
- 8B (1) This paragraph applies where a review of interim steps is decided under section 53D (review of interim steps at a summary review of a premises licence). 25
- (2) An appeal may be made against that decision by –
- (a) the chief officer of police for the police area (or each police area) in which the premises are situated, or
 - (b) the holder of the premises licence. 30
- (3) An appeal under this paragraph must be heard by the magistrates’ court within the period of 28 days beginning with the day on which the appellant commenced the appeal (see paragraph 9(2)).”
- (8) This section does not apply to applications made under section 53A of the Licensing Act 2003 (summary reviews on application of senior police officer) where a decision in relation to that application has been made under section 53C (review of premises licence following review notice) before the coming into force of this section. 35
- 85 Personal licences: licensing authority powers in relation to convictions**
- (1) The Licensing Act 2003 is amended as follows. 40
 - (2) In section 10(4)(a) (functions that may not be delegated to an officer) after sub-

paragraph (xii) insert –

“(xiii) section 132A(8) and (12) (revocation or suspension of licence by local authority where it becomes aware of convictions or immigration penalties),”.

- (3) After section 132 (licence holder’s duty to notify licensing authority of convictions) insert – 5

“132A Convictions etc of licence-holder: powers of licensing authority

- (1) This section applies where a licensing authority has granted a personal licence and it becomes aware (whether by virtue of section 123(1), 131 or 132 or otherwise) that the holder of the licence (“the licence holder”) has been, at any time before or after the grant of the licence – 10
- (a) convicted of any relevant offence or foreign offence, or
 - (b) required to pay an immigration penalty.
- (2) But this section does not apply at any time when – 15
- (a) in the case of a licence holder who has been convicted of any relevant offence or foreign offence –
 - (i) the licence holder has appealed against a conviction for, or any sentence imposed in relation to, a relevant offence or foreign offence and that appeal has not been disposed of, or 20
 - (ii) the time limit for appealing against such a conviction or sentence has not expired, or
 - (b) in the case of a licence holder who has been required to pay an immigration penalty –
 - (i) the licence holder has objected to, or appealed against, the imposition of the penalty and that objection or appeal has not been disposed of, or 25
 - (ii) the time limit for objecting to, or appealing against, the imposition of the penalty has not expired.
- (3) The relevant licensing authority may – 30
- (a) suspend the licence for a period not exceeding six months, or
 - (b) revoke the licence.
- (4) If the relevant licensing authority is considering whether to suspend or revoke the licence, the authority must give notice to the licence holder.
- (5) A notice under subsection (4) must invite the licence holder to make representations regarding – 35
- (a) the relevant offence, foreign offence or immigration penalty that has caused the relevant licensing authority to issue the notice,
 - (b) any decision of a court under section 129 or 130 in relation to the licence, and 40
 - (c) any other relevant information (including information regarding the licence holder’s personal circumstances).
- (6) The licence holder may make representations under subsection (5) to the relevant licensing authority within the period of 28 days beginning with the day the notice was issued. 45

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- (7) Before deciding whether to suspend or revoke the licence the relevant licensing authority must take into account –
- (a) any representations made by the licence holder under this section,
 - (b) any decision of a court under section 129 or 130 of which the licensing authority is aware, and
 - (c) any other information which the authority considers relevant.
- (8) Having taken into account the matters described in subsection (7) the relevant licensing authority may make a decision whether to suspend or revoke a licence, unless subsection (9) applies.
- (9) This subsection applies where the relevant licensing authority has taken into account the matters described in subsection (7) and proposes not to revoke the licence.
- (10) Where subsection (9) applies the authority must –
- (a) give notice to the chief officer of police for its area that it proposes not to revoke the licence, and
 - (b) invite the officer to make representations regarding the issue of whether the licence should be suspended or revoked having regard to the crime prevention objective.
- (11) The chief officer of police may make representations under subsection (10)(b) to the relevant licensing authority within the period of 14 days beginning with the day the notice was received.
- (12) Where the relevant licensing authority has given notice to the chief officer of police under subsection (10)(a), the authority must take into account –
- (a) any representations from the officer, and
 - (b) the matters described in subsection (7),
- and then make a decision whether to suspend or revoke the licence.
- (13) The relevant licensing authority must give notice of any decision made under subsection (8) or (12) to the licence holder and the chief officer of police, including reasons for the decision.
- (14) A decision under this section does not have effect –
- (a) until the end of the period given for appealing against the decision, or
 - (b) if the decision is appealed against, until the appeal is disposed of.
- (15) A decision under subsection (8) or (12) may be appealed (see paragraph 17(5A) of Part 3 of Schedule 5 (appeals: personal licences)).”
- (4) In paragraph 17 of Part 3 of Schedule 5 (appeals: personal licences) after subparagraph (5) insert –
- “(5A) Where a licensing authority revokes or suspends a personal licence under section 132A(8) or (12) the holder of the licence may appeal against that decision.”

86 Licencing Act 2003: addition of further relevant offences

- (1) Schedule 4 to the Licensing Act 2003 (personal licence: relevant offences) is amended as follows.
- (2) In paragraph 18 (sexual offences), after sub-paragraph (a) insert –
 “(aa) listed in Schedule 3 to the Sexual Offences Act 2003 (sexual offences for the purposes of notification and orders);” 5
- (3) After paragraph 19 (violent offences) insert –
 “19A An offence listed in Part 1 of Schedule 15 to the Criminal Justice Act 2003 (specified violent offences).”
- (4) After paragraph 22 (fraud offences) insert – 10
 “22ZA An offence under any of the following provisions of the Violent Crime Reduction Act 2006 –
 (a) section 28 (using someone to mind a weapon);
 (b) section 36 (manufacture, import and sale of realistic imitation firearms).” 15
- (5) After paragraph 23A (offences under the Psychoactive Substances Act 2016) insert –
 “23B An offence listed in section 41 of the Counter-Terrorism Act 2008 (terrorism offences).”

87 Licensing Act 2003: guidance

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In the Licensing Act 2003, in section 182 (guidance) omit subsections (2) and (4) to (6).

PART 8

FINANCIAL SANCTIONS

Interpretation

25

88 Interpretation

- (1) This section sets out definitions that apply for the purposes of this Part.
- (2) “EU financial sanctions Regulation” means an EU Regulation adopted under Article 215 of the Treaty on the Functioning of the European Union to the extent that the Regulation – 30
 (a) imposes prohibitions or obligations for one or more of the following purposes –
 (i) freezing funds or economic resources;
 (ii) preventing funds or economic resources being made available;
 (iii) prohibiting or restricting access to financial markets or financial services; 35
 (b) makes provision to supplement prohibitions or obligations of the kind mentioned in paragraph (a).

- (3) “UN financial sanctions Resolution” means a resolution adopted by the Security Council of the United Nations to the extent that the resolution provides under article 41 of the Charter of the United Nations for States to take measures that –
- (a) impose prohibitions or obligations for one or more of the following purposes –
 - (i) freezing funds or economic resources;
 - (ii) preventing funds or economic resources being made available;
 - (iii) prohibiting or restricting access to financial markets or financial services;
 - (b) make provision to supplement prohibitions or obligations of the kind mentioned in paragraph (a).
- (4) “Financial sanctions legislation” means –
- (a) an EU financial sanctions Regulation;
 - (b) an instrument made under section 2(2) of the European Communities Act 1972 for the purpose of implementing, or otherwise in relation to, EU obligations created or arising by or under an EU financial sanctions Regulation;
 - (c) a provision of an Act or of subordinate legislation (within the meaning of the Interpretation Act 1978) where the purpose of the provision is to implement a UN financial sanctions Resolution;
 - (d) a freezing order under section 4 of the Anti-terrorism, Crime and Security Act 2001;
 - (e) a direction under Schedule 7 to the Counter-Terrorism Act 2008 to the extent that it contains a requirement of a kind mentioned in paragraph 13 of that Schedule (limiting or ceasing business), paragraph 17 of that Schedule and Part 5 of that Schedule so far as it relates to the enforcement of a requirement of a kind mentioned in paragraph 13 of that Schedule.
- (5) The reference in subsection (2) to Article 215 of the Treaty on the Functioning of the European Union includes a reference to any of Articles 60, 301 and 308 of the Treaty establishing the European Community (as it had effect before 1 December).

Enhanced maximum penalties

- 89 Powers to create offences under section 2(2) ECA 1972: maximum term of imprisonment**
- (1) Paragraph 1(1)(d) of Schedule 2 to the European Communities Act 1972 applies with the following modifications in relation to the exercise of the powers conferred by section 2(2) of that Act (“the section 2(2) powers”) to make provision for the purpose of implementing, or otherwise in relation to, EU obligations created or arising by or under an EU financial sanctions Regulation.
 - (2) The prohibition arising under paragraph 1(1)(d) on the creation of offences punishable by imprisonment for more than a period specified in that paragraph does not apply to the exercise of the section 2(2) powers for those purposes.
 - (3) Instead, the section 2(2) powers may not be exercised for those purposes to create an offence punishable by imprisonment for a period exceeding –

- (a) in the case of conviction on indictment, 7 years;
- (b) in the case of summary conviction –
 - (i) in relation to England and Wales, 12 months or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force, 6 months; 5
 - (ii) in relation to Scotland, 12 months;
 - (iii) in relation to Northern Ireland, 6 months.
- (4) Subsection (5) applies where, at any time before this section comes into force, the section 2(2) powers have been exercised for those purposes to create an offence punishable by imprisonment. 10
- (5) The section 2(2) powers may (at any time after this section comes into force) be exercised for those purposes to vary the provision made for the maximum period of imprisonment by making any provision that could (by virtue of subsections (2) and (3)) be made if the offence were created after this section comes into force. 15
- (6) A variation made in reliance on subsection (5) does not affect the penalty for an offence if any act or other event proof of which is required for conviction of the offence takes place before this section comes into force.

90 Other offences: maximum term of imprisonment

- (1) Schedule 3 to the Anti-terrorism, Crime and Security Act 2001 (freezing orders) is amended in accordance with subsections (2) and (3). 20
- (2) In paragraph 7 (offences), for sub-paragraph (6)(a) and (b) substitute –
 - “(a) on summary conviction –
 - (i) in England and Wales, to imprisonment for a term not exceeding 12 months (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force, 6 months) or to a fine, or to both; 25
 - (ii) in Scotland, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both; 30
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years or to a fine, or to both.” 35
- (3) In that paragraph, in sub-paragraph (7), for the words from “on summary conviction” to the end of the sub-paragraph substitute “ –
 - (a) on summary conviction –
 - (i) in England and Wales, to imprisonment for a term not exceeding 12 months (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force, 6 months) or to a fine, or to both; 40
 - (ii) in Scotland, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both; 45

- (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.” 5
 - (4) Schedule 7 to the Counter-Terrorism Act 2008 (terrorist financing and money laundering) is amended in accordance with subsections (5) to (9).
 - (5) In paragraph 30 (offence of failure to comply with requirement imposed by direction), after sub-paragraph (4) insert –
 - “(4A) In a case where a person is guilty of an offence under this paragraph by failing to comply with a requirement of a kind mentioned in paragraph 13, the person is liable –
 - (a) on summary conviction –
 - (i) in England and Wales, to imprisonment for a term not exceeding 12 months (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force, 6 months) or to a fine, or to both; 15
 - (ii) in Scotland, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both; 20
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both;
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years or to a fine, or to both.” 25
 - (6) In sub-paragraph (5) of that paragraph, at the beginning insert “In any other case,”.
 - (7) In paragraph 30A (offence of relevant person circumventing requirements), after sub-paragraph (1) insert – 30
 - “(1A) In a case where a person is guilty of an offence under this paragraph in relation to a requirement of a kind mentioned in paragraph 13, the person is liable –
 - (a) on summary conviction –
 - (i) in England and Wales, to imprisonment for a term not exceeding 12 months (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force, 6 months) or to a fine, or to both; 35
 - (ii) in Scotland, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both; 40
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both; 45
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 7 years or to a fine, or to both.”
 - (8) In sub-paragraph (2) of that paragraph, at the beginning insert “In any other case,”.

- (9) In paragraph 31 (offences in connection with licences), in sub-paragraph (2), for the words from “on conviction on indictment” to the end of the sub-paragraph substitute “–
- (a) on summary conviction –
 - (i) in England and Wales, to imprisonment for a term not exceeding 12 months (or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force, 6 months) or to a fine, or to both; 5
 - (ii) in Scotland, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both; 10
 - (iii) in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both; 15
 - (b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or to a fine, or to both.”
- (10) The amendments made by this section do not affect the penalty for an offence if any act or other event proof of which is required for conviction of the offence takes place before this section comes into force. 20

Civil sanctions

91 Power to impose monetary penalties

- (1) The Treasury may impose a monetary penalty on a person if it is satisfied, on the balance of probabilities, that –
- (a) the person has breached a prohibition, or failed to comply with an obligation, that is imposed by or under financial sanctions legislation, and 25
 - (b) the person knew, or had reasonable cause to suspect, that the person was in breach of the prohibition or (as the case may be) had failed to comply with the obligation. 30
- (2) The amount of the penalty is to be such amount as the Treasury may determine but it may not exceed the permitted maximum.
- (3) In a case where the breach or failure relates to particular funds or economic resources and it is possible to estimate the value of the funds or economic resources, the permitted maximum is the greater of – 35
- (a) £1,000,000, and
 - (b) 50% of the estimated value of the funds or resources.
- (4) In any other case, the permitted maximum is £1,000,000.
- (5) In subsection (4), “funds” and “economic resources” have the same meanings as they have in the financial sanctions legislation that contains the prohibition or obligation in respect of which the monetary penalty is imposed. 40
- (6) The Treasury must keep the amount for the time being specified in subsection (3)(a) or (4) under review.

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- (7) The Treasury may by regulations made by statutory instrument amend subsection (3)(a) or (4) so as to substitute another amount for the amount for the time being specified in it.
- (8) Regulations under subsection (7) may include transitional provision.
- (9) Before making regulations under subsection (7), the Treasury must consult such persons as it considers appropriate. 5
- (10) A statutory instrument containing regulations under subsection (7) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- (11) Any monetary penalty payable under this section is recoverable by the Treasury as a civil debt. 10
- (12) Any monetary penalty received by the Treasury by virtue of this section must be paid into the Consolidated Fund.
- (13) This section does not authorise the imposition of a monetary penalty on the Crown. 15
- 92 Monetary penalties: procedural rights**
- (1) Before imposing a monetary penalty on a person under section 91, the Treasury must inform the person of its intention to do so.
- (2) The Treasury must also – 20
- (a) explain the grounds for imposing the penalty,
 - (b) specify the amount of the penalty,
 - (c) explain that the person is entitled to make representations, and
 - (d) specify the period within which any such representations must be made.
- (3) If (having considered any representations), the Treasury decides to impose the penalty, the Treasury must – 25
- (a) inform the person of its decision,
 - (b) explain that the person is entitled to seek a review by a Minister of the Crown, and
 - (c) specify the period within which the person must inform the Treasury that the person wishes to seek such a review. 30
- (4) If the person seeks a review, the Minister may – 35
- (a) uphold the decision to impose the penalty and its amount,
 - (b) uphold the decision to impose the penalty but substitute a different amount, or
 - (c) cancel the decision to impose the penalty.
- (5) A review under subsection (4) must be carried out by the Minister personally.
- (6) In this section, “Minister of the Crown” means the holder of an office in Her Majesty’s Government in the United Kingdom.
- 93 Monetary penalties: bodies corporate and unincorporated associations** 40
- (1) If a monetary penalty is payable under section 91 by a body, the Treasury may also impose a monetary penalty on an officer of the body if it is satisfied, on the

- balance of probabilities, that the breach or failure in respect of which the monetary penalty is payable by the body –
- (a) took place with the consent or connivance of the officer, or
 - (b) was attributable to any neglect on the part of the officer.
- (2) In subsection (1) – 5
- “body” means a body corporate, a partnership or an unincorporated body other than a partnership;
- “officer of a body” means –
- (a) in relation to a body corporate, a director, manager, secretary or other similar officer of the body or a person purporting to act in any such capacity; 10
 - (b) in relation to a partnership, a partner or a person purporting to act as a partner;
 - (c) in relation to an unincorporated body other than a partnership, a person who is concerned in the management or control of the body or purports to act in the capacity of a person so concerned. 15
- (3) Sections 91(2) to (5), (11) and (12) and 92 apply in relation to a monetary penalty that may be imposed under subsection (1) as they apply in relation to a monetary penalty that may be imposed under section 91(1).
- 94 Monetary penalties: supplementary** 20
- (1) The Treasury must issue guidance as to –
 - (a) the circumstances in which it may consider it appropriate to impose a monetary penalty under section 91 or 93, and
 - (b) how it will determine the amount of the penalty.
 - (2) The Treasury must, at such intervals as it considers appropriate, publish reports about the imposition of monetary penalties under section 91 or 93. 25

Other provisions about enforcement

- 95 Deferred prosecution agreements**
- In Part 2 of Schedule 17 to the Crime and Courts Act 2013 (which lists the offences in relation to which a deferred prosecution agreement may be entered into), after paragraph 26 insert – 30
- “26A(1) An offence under an instrument made under section 2(2) of the European Communities Act 1972 for the purpose of implementing, or otherwise in relation to, EU obligations created or arising by or under an EU financial sanctions Regulation. 35
- (2) An offence under an Act or under subordinate legislation where the offence was created for the purpose of implementing a UN financial sanctions Resolution.
 - (3) An offence under paragraph 7 of Schedule 3 to the Anti-terrorism, Crime and Security Act 2001 (freezing orders). 40
 - (4) An offence under paragraph 30 or 30A of Schedule 7 to the Counter-Terrorism Act 2008 where the offence relates to a requirement of the kind mentioned in paragraph 13 of that Schedule.

(5) An offence under paragraph 31 of Schedule 7 to the Counter-Terrorism Act 2008.

(5) In this paragraph –

“EU financial sanctions Regulation” and “UN financial sanctions Resolution” have the same meanings as in Part 8 of the Policing and Crime Act 2016 (see section 88 of that Act);

“subordinate legislation” has the same meaning as in the Interpretation Act 1978.”

5

96 Serious crime prevention orders

(1) Schedule 1 to the Serious Crime Act 2007 (which lists the offences in respect of which serious crime prevention orders may be made) is amended as follows. 10

(2) In Part 1 (England and Wales), after paragraph 13A insert –

“Financial sanctions legislation

13B (1) An offence under an instrument made under section 2(2) of the European Communities Act 1972 for the purpose of implementing, or otherwise in relation to, EU obligations created or arising by or under an EU financial sanctions Regulation. 15

(2) An offence under an Act or under subordinate legislation where the offence was created for the purpose of implementing a UN financial sanctions Resolution. 20

(3) An offence under paragraph 7 of Schedule 3 to the Anti-terrorism, Crime and Security Act 2001 (freezing orders).

(4) An offence under paragraph 30 or 30A of Schedule 7 to the Counter-Terrorism Act 2008 where the offence relates to a requirement of the kind mentioned in paragraph 13 of that Schedule. 25

(5) An offence under paragraph 31 of Schedule 7 to the Counter-Terrorism Act 2008.

(6) In this paragraph –

“EU financial sanctions Regulation” and “UN financial sanctions Resolution” have the same meanings as in Part 8 of the Policing and Crime Act 2016 (see section 88 of that Act);

“subordinate legislation” has the same meaning as in the Interpretation Act 1978.”

30

(3) In Part 1A (Scotland), after paragraph 16M –

“Financial sanctions legislation

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16MA(1) An offence under an instrument made under section 2(2) of the European Communities Act 1972 for the purpose of implementing, or otherwise in relation to, EU obligations created or arising by or under an EU financial sanctions Regulation.

(2) An offence under an Act or under subordinate legislation where the offence was created for the purpose of implementing a UN financial sanctions Resolution. 40

(3)	An offence under paragraph 7 of Schedule 3 to the Anti-terrorism, Crime and Security Act 2001 (freezing orders).	
(4)	An offence under paragraph 30 or 30A of Schedule 7 to the Counter-Terrorism Act 2008 where the offence relates to a requirement of the kind mentioned in paragraph 13 of that Schedule.	5
(5)	An offence under paragraph 31 of Schedule 7 to the Counter-Terrorism Act 2008.	
(6)	In this paragraph – “EU financial sanctions Regulation” and “UN financial sanctions Resolution” have the same meanings as in Part 8 of the Policing and Crime Act 2016 (see section 88 of that Act); “subordinate legislation” has the same meaning as in the Interpretation Act 1978.”	10
(4)	In Part 2 (Northern Ireland), after paragraph 29 insert – <i>“Financial sanctions legislation</i>	15
29A (1)	An offence under an instrument made under section 2(2) of the European Communities Act 1972 for the purpose of implementing, or otherwise in relation to, EU obligations created or arising by or under an EU financial sanctions Regulation.	
(2)	An offence under an Act or under subordinate legislation where the offence was created for the purpose of implementing a UN financial sanctions Resolution.	20
(3)	An offence under paragraph 7 of Schedule 3 to the Anti-terrorism, Crime and Security Act 2001 (freezing orders).	
(4)	An offence under paragraph 30 or 30A of Schedule 7 to the Counter-Terrorism Act 2008 where the offence relates to a requirement of the kind mentioned in paragraph 13 of that Schedule.	25
(5)	An offence under paragraph 31 of Schedule 7 to the Counter-Terrorism Act 2008.	
(6)	In this paragraph – “EU financial sanctions Regulation” and “UN financial sanctions Resolution” have the same meanings as in Part 8 of the Policing and Crime Act 2016 (see section 88 of that Act); “subordinate legislation” has the same meaning as in the Interpretation Act 1978.”	30 35
<i>Avoidance of delay: temporary regulations</i>		
97	Implementation of UN financial sanctions Resolutions: temporary regulations	
(1)	Where a UN financial sanctions Resolution is adopted, the Treasury may by regulations made by statutory instrument make such provision as it considers appropriate for the implementation of the Resolution.	40

- (2) Regulations under this section must provide for the regulations to cease to have effect at whichever of the following times first occurs –
 - (a) the time when an EU financial sanctions Regulation made for the purpose of implementing the UN financial sanctions Resolution enters into force; 5
 - (b) the end of a day specified in the regulations, which may not be a day that falls more than 30 days after the day on which the UN financial sanctions Resolution is adopted.
- (3) At any time before the end of the day specified in the regulations under subsection (2)(b), the Treasury may amend the regulations (by making further regulations) so as to substitute for the day specified in the regulations in accordance with subsection (2)(b) a different day, which may not be a day that falls more than 60 days after the day on which the UN financial sanctions Resolution is adopted. 10
- (4) The power conferred by subsection (3) may be exercised on only one occasion. 15
- (5) Subsection (3) does not affect the power (by virtue of section 14 of the Interpretation Act 1978) to amend regulations under subsection (1) for a purpose other than that mentioned in subsection (3).
- (6) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 20
- (7) Section 98 makes further provision about regulations under this section.

98 Content of regulations under section 97

- (1) Regulations under section 97 may impose prohibitions for such of the following purposes as are relevant to the UN financial sanctions Resolution that is being implemented by the regulations – 25
 - (a) freezing funds or economic resources owned, held or controlled by designated persons;
 - (b) preventing funds or economic resources being made available to, or for the benefit, of designated persons.
- (2) In subsection (1), “designated person” means a person who is specified in any of the following instruments as a person in relation to whom the measures required by the UN financial sanctions Resolution are to be taken –
 - (a) the UN financial sanctions Resolution or any other UN financial sanctions Resolution;
 - (b) an instrument made by an organ of the United Nations for the purpose of specifying the persons in relation to whom the measures required by the Resolution are to be taken. 35

For the purpose of this subsection, “person” includes (in addition to an individual and a body of persons corporate or unincorporate) any organisation and any association or combination of persons. 40
- (3) Regulations under section 97 must describe the designated persons to whom the prohibitions in the regulations relate but may do so by referring to any of the instruments mentioned in subsection (2) or in any other way; and, where the persons are described by referring to any of those instruments, the regulations may provide for the reference in the regulations to the instrument to have effect as a reference to the instrument as varied or supplemented from time to time. 45

- (4) The regulations may create exceptions to any prohibitions included in the regulations by virtue of subsection (1), including provision for any of those prohibitions not to apply to anything done under the authority of a licence issued by the Treasury under the regulations.
- (5) The regulations may make provision – 5
 (a) for requiring a person who is subject to a prohibition, or any other person of a description specified in the regulations, to provide information to the Treasury;
 (b) authorising or restricting the disclosure of information so provided.
- (6) The regulations may make provision for the enforcement of any prohibitions or requirements set out in the regulations, including provision for preventing any prohibitions from being circumvented. 10
- (7) The provision that may be made under subsection (6) includes –
 (a) the creation of offences;
 (b) provision corresponding or similar to sections 91 to 57 (civil sanctions). 15
- (8) The regulations may not create an offence punishable by imprisonment for a period exceeding –
 (a) in the case of conviction on indictment, 7 years;
 (b) in the case of summary conviction – 20
 (i) in relation to England and Wales, 12 months or, in relation to offences committed before section 154(1) of the Criminal Justice Act 2003 comes into force, 6 months;
 (ii) in relation to Scotland, 12 months;
 (iii) in relation to Northern Ireland, 6 months.
- (9) The regulations may provide that a person is not to be subject to any form of liability in consequence of anything done by that person under the regulations. 25
- (10) The regulations may bind the Crown but they may not –
 (a) provide for the Crown to be criminally liable, or
 (b) provide for the Crown to be liable to pay a monetary penalty.
- (11) The regulations may include – 30
 (a) incidental, supplementary or consequential provision;
 (b) transitional or transitory provision.
- (12) The regulations may –
 (a) make different provision for different purposes;
 (b) confer a discretion on any person. 35

Avoidance of delay: temporary listing

99 Linking of UN financial sanctions Resolutions with EU financial sanctions Regulations

- (1) For the purposes of section 100, the Treasury may by regulations made by statutory instrument provide that a United Nations financial sanctions Resolution specified in the regulations is linked to an EU financial sanctions Regulation specified in the regulations. 40

- (2) The regulations may provide for any reference in the regulations to a United Nations financial sanctions Resolution or to an EU financial sanctions Regulation to have effect as a reference to the United Nations financial sanctions Resolution or (as the case may be) to the EU financial sanctions Regulation as varied or supplemented from time to time. 5
- (3) A statutory instrument containing regulations under subsection (1) is subject to annulment in pursuance of a resolution of either House of Parliament.

100 Implementation of UN financial sanctions Resolutions: temporary listing

- (1) This section applies where –
 - (a) regulations under section 99 provide that a UN financial sanctions Resolution is linked to an EU financial sanctions Regulation, 10
 - (b) a person is designated for the purposes of the UN financial sanctions Resolution, and
 - (c) at the time the person is designated for those purposes, the person is not included in the list of persons, set out in the EU financial sanctions Regulation, to whom the prohibitions contained in the Regulation relate (“the EU list”). 15
- (2) The person is to be treated for a temporary period as if the person were included in the EU list (as well as being designated for the purposes of the UN financial sanctions Resolution). 20
- (3) The temporary period referred to in subsection (2) begins at the time the person is designated for the purposes of the UN financial sanctions Regulation.
- (4) The temporary period ends –
 - (a) at the end of the day on which the person is (otherwise than under subsection (2)) included in the EU list; 25
 - (b) if the person is not included in the EU list before the end of the period of 30 days beginning with the day after the day on which the person is designated for the purposes of the UN financial sanctions Resolution, at the end of that period of 30 days.
- (5) For the purposes of this section, a person is designated for the purposes of a UN financial sanctions Resolution if the person is specified in any of the following instruments as a person in relation to whom the measures required by the UN financial sanctions Resolution are to be taken –
 - (a) the UN financial sanctions Resolution or any other UN financial sanctions Resolution; 35
 - (b) an instrument made by an organ of the United Nations for the purpose of specifying the persons in relation to whom the measures required by the Resolution are to be taken.

For the purpose of this subsection, “person” includes (in addition to an individual and a body corporate or unincorporate) any organisation and any association or combination of persons. 40
- (6) This section applies where a person is designated for the purposes of the UN financial sanctions Resolution before this section comes into force (as well as where the person is designated after this section comes into force) but, in such a case, the temporary period begins on the day on which this section comes into force. 45

*Power to extend to Channel Islands etc***101 Extension to the Channels Islands, Isle of Man and BOTs**

- (1) Her Majesty may by Order in Council provide for regulations under section 97(1) (whether made before or after the making of the Order in Council) to extend with or without modifications to – 5
- (a) any of the Channel Islands;
 - (b) the Isle of Man;
 - (c) any of the British overseas territories.
- (2) Her Majesty may by Order in Council provide for section 88, regulations under section 99 (whether made before or after the making of the Order in Council) and section 100 to extend with or without modifications to – 10
- (a) any of the Channel Islands;
 - (b) the Isle of Man;
 - (c) any of the British overseas territories.
- (3) The power conferred by subsection (1) or (2), so far as relating to regulations, includes power to provide for the regulations as amended from time to time to extend as mentioned in that subsection. 15
- (4) The modifications that may be specified in an Order in Council under subsection (1) include a modification of any provision included in the regulations about the time at which the regulations are to cease to have effect. 20
- (5) A modification included in an Order in Council by virtue of subsection (4) –
- (a) may have the effect that the regulations (as extended by the Order in Council) continue to have effect after the time when the regulations have ceased to have effect under the law of England and Wales, Scotland and Northern Ireland, but 25
 - (b) must secure that the regulations (as so extended) cease to have effect on a day that falls no later than 120 days after the day on which the relevant UN financial sanctions Resolution is adopted.
- (6) In subsection (5), “the relevant UN financial sanctions Resolution” means the UN financial sanctions Resolution that is being implemented by the regulations. 30

PART 9

MISCELLANEOUS AND GENERAL

CHAPTER 1

MISCELLANEOUS

35

*Police collaboration***102 Power to enter into police collaboration agreements**

- (1) The Police Act 1996 is amended in accordance with subsections (2) to (4).
- (2) In section 22A (collaboration agreements) –
- (a) in subsection (1)(b), for “and two or more policing bodies” substitute 40

- “and—
- (i) one or more policing bodies together with one or more other persons, or
 - (ii) if no other person is a party to the agreement, two or more policing bodies.”; 5
- (b) in subsection (6), for “(1)” substitute “(1)(a)”.
- (3) In section 23F (collaboration agreements: guidance), after subsection (2) insert—
- “(3) The Secretary of State may give other persons who exercise functions of a public nature guidance about collaboration agreements or related matters, and those persons must have regard to the guidance in exercising such functions.” 10
- (4) In section 23G (collaboration agreements: directions), after subsection (2) insert—
- “(2A) The Secretary of State may give one or more other persons who exercise functions of a public nature directions about collaboration agreements or related matters.” 15
- (5) Schedule 12 contains amendments in relation to cases where the Director General of the National Crime Agency is a party to a collaboration agreement under section 22A of the Police Act 1996 (as amended by this section). 20

NCA powers

103 Powers of NCA officers in relation to customs matters

- (1) The Crime and Courts Act 2013 is amended as follows.
- (2) In section 9 (Director General: customs powers of Commissioners & operational powers)— 25
- (a) in subsection (2), after paragraph (b) insert—
“(ba) the powers of a general customs official;”;
 - (b) in subsection (8), in the definition of “operational power”, after paragraph (b) insert—
“(ba) a power of a general customs official;”.
- (3) In section 10 (operational powers of other NCA officers), in subsection (1) after paragraph (b) insert—
- “(ba) the powers of a general customs official;”.
- (4) In Schedule 5 (police, customs and immigration powers), after Part 5 (designation: powers of officers of Revenue and Customs) insert— 35

“PART 5A

DESIGNATIONS: POWERS OF GENERAL CUSTOMS OFFICIALS

NCA officers

- 18A (1) If an NCA officer is designated as a person having the powers of a general customs official, the NCA officer has, in relation to any 40

customs matter, the same powers as a general customs official would have.

- (2) But that is subject to any limitation included in the designation.

Powers only exercisable in relation to customs matters

- 18B If a power of a general customs official is exercisable both— 5
- (a) in relation to a customs matter, and
 - (b) in relation to any other matter,
- the power is exercisable by a designated officer only in relation to the customs matter.

Powers exercisable under warrant 10

- 18C (1) This paragraph applies to an enactment if it provides for the issuing of warrants which authorise a general customs official to exercise any power in relation to a customs matter.
- (2) For the purpose of enabling a designated officer to exercise that power in relation to a customs matter, the enactment has effect as if the designated officer were a general customs official.” 15

Requirements to confirm nationality

104 Requirement to state nationality

In the UK Borders Act 2007, after section 43 (supply of police information) insert— 20

“43A Requirement to state nationality

- (1) An individual who is arrested for an offence must state his or her nationality if required to do so by an immigration officer or a constable in accordance with this section.
- (2) A requirement may be imposed on an individual under subsection (1) only if the immigration officer or constable suspects that the individual may not be a British citizen. 25
- (3) When imposing a requirement under subsection (1) the immigration officer or constable must inform the individual that an offence may be committed if the individual fails to comply with a requirement imposed under this section. 30
- (4) The immigration officer or constable must make a written record of the imposition of a requirement under subsection (1) as soon as practicable.
- (5) The written record is to be made in the presence of the individual where this is practicable. 35

43B Offence of not giving nationality

- (1) A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed in accordance with section 43A, whether by providing false or incomplete information or by providing no information. 40

- (2) Information provided by a person in response to a requirement imposed in accordance with section 43A is not admissible in evidence in criminal proceedings against that person other than proceedings for an offence under this section.
- (3) A person who is guilty of an offence under subsection (1) is liable – 5
- (a) on summary conviction in England and Wales, to either or both of the following –
 - (i) imprisonment for a term not exceeding 51 weeks (or 6 months if the offence was committed before the commencement of section 281(5) of the Criminal Justice Act 2003); 10
 - (ii) a fine;
 - (b) on summary conviction in Scotland, to either or both of the following –
 - (i) imprisonment for a term not exceeding 12 months; 15
 - (ii) a fine not exceeding level 5 on the standard scale;
 - (c) on summary conviction in Northern Ireland, to either or both of the following –
 - (i) imprisonment for a term not exceeding 6 months;
 - (ii) a fine not exceeding level 5 on the standard scale.” 20

105 Requirement to produce nationality document

In the UK Borders Act 2007, after section 46 (seizure of nationality documents) insert –

“46A Requirement to produce nationality document

- (1) This section applies where – 25
- (a) an individual has been arrested on suspicion of the commission of an offence, and
 - (b) the individual is to be released after arrest (whether or not on bail) –
 - (i) before a decision is taken on whether the individual should be charged with an offence, or 30
 - (ii) after being charged with an offence.
- (2) Before the individual is released an immigration officer or a constable may give the individual a notice requiring the production of a nationality document not later than 72 hours after the individual is released. 35
- (3) A notice may be given under subsection (2) only if the immigration officer or constable giving it suspects that the individual may not be a British citizen.
- (4) A notice under subsection (2) must be given in writing. 40
- (5) The notice must include statements that –
- (a) the individual to whom it is given must produce the nationality document not later than 72 hours after the individual is released, and
 - (b) an offence may be committed if an individual fails to comply with a notice given under this section. 45

- (6) The notice must also set out –
- (a) the person to whom the document must be produced, and
 - (b) the means by which the document must be produced.
- (7) In this section, and in sections 46B and 46C –
- “nationality document” means a passport relating to the individual or, if there is no passport relating to the individual, a document showing the individual’s nationality or citizenship; 5
- “passport” means –
- (a) a United Kingdom passport (within the meaning of the Immigration Act 1971), 10
 - (b) a passport issued by or on behalf of the authorities of a country or territory outside the United Kingdom, or by or on behalf of an international organisation, or
 - (c) a document that can be used (in some or all circumstances) instead of a passport. 15
- 46B Retention of nationality document etc.**
- (1) An immigration officer or constable may retain a nationality document produced in response to a notice under section 46A(2) while the immigration officer or constable suspects that –
- (a) the individual to whom the document relates may be liable to removal from the United Kingdom in accordance with a provision of the Immigration Acts, and 20
 - (b) retention of the document may facilitate the individual’s removal.
- (2) Section 28I of the Immigration Act 1971 (seized material: access and copying) has effect in relation to a nationality document produced by an individual in response to a notice under section 46A(2) and retained by an immigration officer as if the nationality document had been seized when the individual had custody or control of it. 25
- (3) Section 21 of the Police and Criminal Evidence Act 1984 or Article 23 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (seized material: access and copying) has effect in relation to a nationality document produced by an individual in response to a notice under section 46A(2) and retained by a constable in England and Wales or Northern Ireland as if the nationality document had been seized when the individual had custody or control of it. 30 35
- 46C Offence of failing to produce nationality document**
- (1) A person commits an offence if, without reasonable excuse, the person fails to comply with a notice given in accordance with section 46A.
- (2) The fact that a person deliberately destroyed or disposed of a nationality document is not a reasonable excuse for the purposes of subsection (1) unless the destruction or disposal was – 40
- (a) for a reasonable cause, or
 - (b) beyond the control of the person charged with the offence.
- (3) In subsection (2)(a) “reasonable cause” does not include the purpose of – 45

- (a) delaying the handling or resolution of a claim or application or the taking of a decision,
 - (b) increasing the chances of success of a claim or application, or
 - (c) complying with instructions given by a person who offers advice about, or facilitates, immigration into the United Kingdom, unless in the circumstances of the case it is unreasonable to expect non-compliance with the instructions or advice. 5
- (4) A person who is guilty of an offence under subsection (1) is liable –
- (a) on summary conviction in England and Wales, to either or both of the following – 10
 - (i) imprisonment for a term not exceeding 51 weeks (or 6 months if the offence was committed before the commencement of section 281(5) of the Criminal Justice Act 2003); 15
 - (ii) a fine;
 - (b) on summary conviction in Scotland, to either or both of the following –
 - (i) imprisonment for a term not exceeding 12 months;
 - (ii) a fine not exceeding level 5 on the standard scale; 20
 - (c) on summary conviction in Northern Ireland, to either or both of the following –
 - (i) imprisonment for a term not exceeding 6 months;
 - (ii) a fine not exceeding level 5 on the standard scale.”
- 106 Requirement to give information in criminal proceedings 25**
- In the Courts Act 2003, after section 86 (alteration of place fixed for Crown Court trial) insert –
- “86A Requirement to give information in criminal proceedings**
- (1) A person who is a defendant in proceedings in a criminal court must provide his or her name, date of birth and nationality if required to do so at any stage of proceedings by the court. 30
 - (2) Criminal Procedure Rules must specify the stages of proceedings at which requirements are to be imposed by virtue of subsection (1) (and may specify other stages of proceedings when such requirements may be imposed). 35
 - (3) A person commits an offence if, without reasonable excuse, the person fails to comply with a requirement imposed by virtue of subsection (1), whether by providing false or incomplete information or by providing no information.
 - (4) Information provided by a person in response to a requirement imposed by virtue of subsection (1) is not admissible in evidence in criminal proceedings against that person other than proceedings for an offence under this section. 40
 - (5) A person guilty of an offence under subsection (3) is liable on summary conviction to either or both of the following – 45

- (a) imprisonment for a term not exceeding 51 weeks (or 6 months if the offence was committed before the commencement of section 281(5) of the Criminal Justice Act 2003), or
- (b) a fine.
- (6) The criminal court before which a person is required to provide his or her name, date of birth and nationality may deal with any suspected offence under subsection (3) at the same time as dealing with the offence for which the person was already before the court. 5
- (7) In this section a “criminal court” is, when dealing with any criminal cause or matter – 10
 - (a) the Crown Court;
 - (b) a magistrates’ court.”

Child sexual exploitation

107 Child sexual exploitation: streaming indecent images

In section 51(2) of the Sexual Offences Act 2003 (sexual exploitation of children: interpretation), in paragraph (b), at the end insert “or streamed or otherwise transmitted”. 15

CHAPTER 2

GENERAL

108 Consequential amendments, repeals and revocations

- (1) The Secretary of State may by regulations made by statutory instrument make such provision as the Secretary of State considers appropriate in consequence of this Act other than Part 8. 20
- (2) The Treasury may by regulations made by statutory instrument make such provision as the Treasury considers appropriate in consequence of Part 8. 25
- (3) Regulations under subsection (1) or (2) –
 - (a) may include transitional, transitory or saving provision;
 - (b) may repeal, revoke or otherwise amend any provision of primary or subordinate legislation (including legislation passed or made in the same Session as this Act). 30
- (4) A statutory instrument containing (whether alone or with other provision) regulations under this section that repeal, revoke or otherwise amend any provision of primary legislation is not to be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament. 35
- (5) A statutory instrument containing regulations under this section that do not repeal, revoke or otherwise amend any provision of primary legislation is subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section – 40
 - “primary legislation” means –

- (a) an Act;
 - (b) an Act of the Scottish Parliament;
 - (c) a Measure or Act of the National Assembly for Wales;
 - (d) Northern Ireland legislation;
- “subordinate legislation” means – 5
- (a) subordinate legislation within the meaning of the Interpretation Act 1978;
 - (b) an instrument made under an Act of the Scottish Parliament;
 - (c) an instrument made under a Measure or Act of the National Assembly for Wales; 10
 - (d) an instrument made under Northern Ireland legislation.

109 Financial provision

The following are to be paid out of money provided by Parliament –

- (a) *any expenditure incurred under or by virtue of this Act by the Secretary of State;* 15
- (b) *any increase attributable to this Act in the sums payable under any other Act out of money so provided.*

110 Extent

- (1) Except as provided by subsections (2) to (5), this Act extends only to England and Wales. 20
- (2) The following provisions extend to England and Wales, Scotland and Northern Ireland –
 - (a) section 6, so far as relating to paragraph 24 of Schedule 1, and that paragraph;
 - (b) section 8, so far as relating to paragraphs 106 and 119 of Schedule 2, and those paragraphs; 25
 - (c) section 13, so far as relating to paragraphs 21 and 43(g)(i) of Schedule 4, and those paragraphs;
 - (d) section 24(5), (6)(b) and (7);
 - (e) section 27(6); 30
 - (f) section 33, so far as relating to paragraphs 6, 13 and 14 of Schedule 9, and those paragraphs;
 - (g) section 34(10), so far as relating to paragraph 2 of Schedule 10, and that paragraph;
 - (h) section 35, so far as relating to the inserted sections 50A(3) to (7) and 50B of the Police Act 1996; 35
 - (i) section 38;
 - (j) section 56(3);
 - (k) sections 64 to 70 and 73 (and section 62(2) and (3), so far as relating to section 73); 40
 - (l) sections 88 to 94 and 96 to 101;
 - (m) section 102(5) and Schedule 12;
 - (n) section 103;
 - (o) sections 104 and 105;
 - (p) this Chapter. 45

-
- (3) The following provisions extend to England and Wales and Scotland (but not to Northern Ireland) –
- (a) section 6, so far as relating to paragraphs 9, 12 and 13 of Schedule 1, and those paragraphs;
 - (b) section 7(8); 5
 - (c) section 8, so far as relating to paragraphs 29, 30, 32, 33, 47, 49, 73, 76, 79, 83 to 89, 97 and 104 of Schedule 2, and those paragraphs;
 - (d) section 33, so far as relating to paragraphs 8, 12 and 17 of Schedule 9, and those paragraphs;
 - (e) section 34(10), so far as relating to paragraphs 4 and 6 of Schedule 10, and those paragraphs; 10
 - (f) section 37;
 - (g) section 39, so far as relating to paragraphs (a), (b) and (d) of paragraph 7 of Schedule 11, and those paragraphs;
 - (h) Part 6. 15
- (4) Section 39, so far as relating to paragraphs 2(2), 3(2) and (3)(d) and 5(b) and (c) of Schedule 11, and those paragraphs, extend to England and Wales and Northern Ireland (but not to Scotland).
- (5) Section 34(2) to (9) extends to Scotland only.
- 111 Commencement** 20
- (1) Except as provided by subsections (2) to (4), this Act comes into force on such day as the Secretary of State may by regulations made by statutory instrument appoint.
- (2) Part 8 comes into force on such day as the Treasury may by regulations made by statutory instrument appoint. 25
- (3) The following provisions come into force on the day on which this Act is passed –
- (a) section 76;
 - (b) this Chapter;
 - (c) any other provision of this Act so far as is necessary for enabling the exercise on or after the day on which this Act is passed of any power to make provision by subordinate legislation (within the meaning of the Interpretation Act 1978) or to issue codes of practice or guidance. 30
- (4) The following provisions come into force at the end of the period of 2 months beginning with the day on which this Act is passed – 35
- (a) section 56;
 - (b) section 102 and Schedule 12;
 - (c) section 103;
 - (d) section 107.
- (5) Regulations under subsection (1) or (2) may appoint different days for different purposes. 40
- (6) The Secretary of State may by regulations made by statutory instrument make such transitional, transitory or saving provision as the Secretary of State considers appropriate in connection with the coming into force of any provision of this Act other than Part 8. 45

- (7) The Treasury may by regulations made by statutory instrument make such transitional, transitory or saving provision as the Treasury considers appropriate in connection with the coming into force of any provision of Part 8.
- (8) The power to make regulations under subsection (6) or (7) includes power to make different provision for different purposes.

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112 Short title

This Act may be cited as the Policing and Crime Act 2016.

SCHEDULES

SCHEDULE 1

Section 6

PROVISION FOR POLICE AND CRIME COMMISSIONER TO BE FIRE AND RESCUE AUTHORITY

PART 1

AMENDMENTS TO THE FIRE AND RESCUE SERVICES ACT 2004 5

- 1 The Fire and Rescue Services Act 2004 is amended as follows.
- 2 Before section 1 insert –
- “Fire and rescue authorities”.*
- 3 In section 1(4) (fire and rescue authorities) for the words from “sections” to the end substitute – 10
- (a) sections 2 and 4 (schemes constituting combined fire and rescue authorities for particular areas), and
- (b) sections 4A and 4B (orders providing for police and crime commissioners to be fire and rescue authorities).”
- 4 Before section 2 insert – 15
- “Combined fire and rescue authorities”.*
- 5 After section 4 insert –
- “Fire and rescue authority involving police and crime commissioner*
- 4A Power to provide for police and crime commissioner to be fire and rescue authority 20**
- (1) The Secretary of State may by order provide –
- (a) for the creation of a corporation sole as the fire and rescue authority for the area specified in the order, and
- (b) for the person who is for the time being the police and crime commissioner for the relevant police area to be for the time being that fire and rescue authority. 25
- (2) In subsection (1) “the relevant police area” means the police area which –
- (a) is the same as the area of the fire and rescue authority created by the order, or 30
- (b) if the order creates two or more fire and rescue authorities, is the same as the areas of those authorities taken together.

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- (3) The whole of an area of a fire and rescue authority created by an order under this section must be –
- (a) within England, and
 - (b) outside the metropolitan police district and the City of London police area. 5
- (4) An order under this section may be made only if the relevant police and crime commissioner has submitted a proposal for the order to the Secretary of State.
- (5) An order under this section may be made only if it appears to the Secretary of State that – 10
- (a) it is in the interests of economy, efficiency and effectiveness for the order to be made, or
 - (b) it is in the interests of public safety for the order to be made.
- (6) In this section “relevant police and crime commissioner” has the same meaning as in Schedule A1; and that Schedule makes further provision about the procedure for an order under this section. 15
- 4B Changes to existing fire and rescue authorities**
- (1) An order under section 4A may make alterations to the areas of fire and rescue authorities in England outside Greater London.
- (2) The alterations that may be made by virtue of subsection (1) include alterations that result in a reduction or an increase in the number of such areas. 20
- (3) An order under section 4A(1) may make provision for the abolition of –
- (a) a metropolitan county fire and rescue authority, 25
 - (b) a combined fire and rescue authority constituted by a scheme under section 2,
 - (c) a combined fire and rescue authority constituted by a scheme to which section 4 applies, or
 - (d) a fire and rescue authority created by an order under section 4A(1). 30
- 4C Transfer of property, rights and liabilities**
- (1) This section applies if the Secretary of State makes an order under section 4A.
- (2) The Secretary of State may make one or more schemes for the transfer of property, rights and liabilities from an existing fire and rescue authority (“the transferor”) to the fire and rescue authority created by the order (“the transferee”). 35
- (3) The things that may be transferred under a transfer scheme include – 40
- (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities. 45

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- (4) A transfer scheme may make supplementary, incidental, transitional and consequential provision and may in particular –
- (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by the transferor in respect of anything transferred; 5
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred; 10
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (e) make provision for the shared ownership or use of property.
- (5) A transfer scheme may provide – 15
- (a) for the scheme to be modified by agreement after it comes into effect, and
 - (b) for any such modifications to have effect from the date when the original scheme comes into effect.
- (6) In this section – 20
- (a) references to the transfer of property include the grant of a lease;
 - (b) references to rights and liabilities include rights and liabilities under a contract of employment.
- 4D Further provision about authority created by section 4A** 25
- (1) A person who is a fire and rescue authority created by an order under section 4A is to be paid allowances, in respect of expenses incurred by the person in the exercise of the authority’s functions, which are of the kinds and amounts determined by the Secretary of State as payable in accordance with this subsection. 30
- (2) A determination under subsection (1) may make different provision for different cases.
- (3) Payments under subsection (1) are to be made by the fire and rescue authority.
- (4) A fire and rescue authority created by an order under section 4A may – 35
- (a) appoint such staff as the authority thinks appropriate to enable the authority to exercise the functions of the authority;
 - (b) pay remuneration, allowances and gratuities to members of the authority’s staff. 40
- (5) In subsection (4) “allowances”, in relation to a member of the authority’s staff, means allowances in respect of expenses incurred by the member of staff in the course of employment as such a member of staff.
- (6) A fire and rescue authority may pay – 45
- (a) pensions to, or in respect of, persons who are or have been members of the authority’s staff, and

- (b) amounts for or towards the provision of pensions to, or in respect of, persons who are or have been members of the authority's staff.
- (7) An order under section 4A may make provision –
- (a) about the delegation by the fire and rescue authority created by the order of the authority's functions to the person who is for the time being the relevant deputy police and crime commissioner; 5
- (b) about the further delegation of such functions by that person to a member of staff of the authority; 10
- (c) about the delegation by the authority of such functions to a member of staff of the authority.
- (8) In subsection (7) “the relevant deputy police and crime commissioner” means the deputy police and crime commissioner for the police area – 15
- (a) which corresponds to the area of the fire and rescue authority, or
- (b) within which the area of the fire and rescue authority falls.
- (9) Provision made under subsection (7) may –
- (a) enable the delegation of any of the functions of the fire and rescue authority; 20
- (b) enable the delegation of any of the functions of the authority other than those specified or described in the order;
- (c) enable the delegation of the functions of the authority specified or described in the order. 25
- (10) An order under section 4A may make provision about –
- (a) the personal liability of a person who is the fire and rescue authority created by the order for acts or omissions done by the person in the exercise of the authority's functions;
- (b) the personal liability of a person who is a member of staff of the fire and rescue authority created by the order for acts or omissions done by the person in the carrying out of duties as a member of staff. 30
- (11) A fire and rescue authority created by an order under section 4A may acquire land compulsorily. 35
- (12) The Acquisition of Land Act 1981 applies in relation to the compulsory purchase of land pursuant to subsection (11).

4E Effect of section 4A order

- (1) A person who is the fire and rescue authority by virtue of an order under section 4A may not act in that office unless the person has made and delivered a declaration of acceptance of office under section 70 of the Police Reform and Social Responsibility Act 2011 in accordance with that section. 40
- (2) Subsections (3) and (4) apply if –
- (a) an order under section 4A has effect for the area of a fire and rescue authority, and 45

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- (b) an acting commissioner is appointed under section 62 of the Police Reform and Social Responsibility Act 2011 for the police area –
- (i) which corresponds to the area of the fire and rescue authority, or 5
 - (ii) within which the area of the fire and rescue authority falls.
- (3) The acting commissioner is to act as the fire and rescue authority for the period of the acting commissioner’s appointment.
- (4) Accordingly – 10
- (a) all of the functions of the fire and rescue authority are exercisable by the acting commissioner during that period, and
 - (b) any property or rights vested in the fire and rescue authority may be dealt with by the acting commissioner in that period as if vested in the acting commissioner. 15
- (5) Subsection (6) applies if a person elected as police and crime commissioner for a police area –
- (a) is disqualified from being, or being elected as, a police and crime commissioner, or 20
 - (b) is disqualified from being, or being elected as, the police and crime commissioner for that area.
- (6) Any acts of the person when acting in the office of fire and rescue authority are, despite that disqualification, as valid and effectual as if the person had not been disqualified. 25
- 4F Delegation to chief constable for police area**
- (1) The Secretary of State may by order make provision about –
- (a) the delegation of functions of a fire and rescue authority created, or to be created, by an order under section 4A to the chief constable of the police force for the police area – 30
 - (i) which corresponds to the area of the fire and rescue authority, or
 - (ii) within which the area of the fire and rescue authority falls;
 - (b) the further delegation by such a chief constable of functions delegated to that chief constable under provision made under paragraph (a). 35
- (2) Provision made under subsection (1) may –
- (a) enable the delegation of any of the functions of the fire and rescue authority; 40
 - (b) enable the delegation of any of the functions of the authority other than those specified or described in the order;
 - (c) enable the delegation of the functions of the authority specified or described in the order.
- (3) Provision made under subsection (1)(b) may enable delegation to – 45
- (a) members of the chief constable’s police force;

- (b) the civilian staff of that police force, as defined by section 102(4) of the Police Reform and Social Responsibility Act 2011;
 - (c) members of staff transferred to the chief constable under a scheme under section 4G(1); 5
 - (d) members of staff appointed by the chief constable under section 4G(4).
- (4) An order under this section may be made only if the relevant police and crime commissioner has submitted a proposal for the order to the Secretary of State. 10
- (5) An order under this section may be made only if it appears to the Secretary of State that –
- (a) it is in the interests of economy, efficiency and effectiveness for the order to be made, or
 - (b) it is in the interests of public safety for the order to be made. 15
- (6) In this section “relevant police and crime commissioner” has the same meaning as in Schedule A1; and that Schedule makes provision about the procedure for an order under this section which is not combined, or not proposed to be combined, with an order under section 4A (see in particular paragraph 7 of that Schedule). 20
- (7) This section is subject to section 37 (prohibition on employment of police in fire-fighting).

4G Further provision about chief constable covered by section 4F order

- (1) If an order is made under section 4F, the Secretary of State may make one or more schemes for the transfer of property, rights and liabilities from a fire and rescue authority to the chief constable to whom the order applies. 25
- (2) The fire and rescue authority mentioned in subsection (1) may be one created by an order under section 4A or another kind of fire and rescue authority. 30
- (3) Subsections (3) to (6) of section 4C apply to a transfer scheme under subsection (2) as they apply to a transfer scheme under that section.
- (4) A chief constable to whom an order under section 4F applies may appoint staff for the purpose of the exercise of functions delegated to the chief constable under the order. 35
- (5) A chief constable to whom an order under section 4F applies may –
- (a) pay remuneration, allowances and gratuities to members of the chief constable’s fire and rescue staff;
 - (b) pay pensions to, or in respect of, persons who are or have been such members of staff; 40
 - (c) pay amounts for or towards the provision of pensions to, or in respect of, persons who are or have been such members of staff.
- (6) In subsection (5) “allowances”, in relation to a member of staff, means allowances in respect of expenses incurred by the member of staff in the course of employment as such a member of staff. 45

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- (7) A person who is employed pursuant to a transfer by virtue of subsection (1) or an appointment under subsection (4) may not at the same time be employed pursuant to an appointment by a chief constable of the police force for a police area under Schedule 2 to the Police Reform and Social Responsibility Act 2011. 5
- (8) Where an order under section 4F is in force, the fire and rescue authority to which the order applies must pay –
- (a) any damages or costs awarded against the chief constable to whom the order applies in any proceedings brought against the chief constable in respect of the acts or omissions of a member of the chief constable’s fire and rescue staff; 10
 - (b) any costs incurred by the chief constable in any such proceedings so far as not recovered by the chief constable in the proceedings;
 - (c) any sum required in connection with the settlement of any claim made against the chief constable in respect of the acts or omissions of a member of the chief constable’s fire and rescue staff, if the settlement is approved by the authority. 15
- (9) Where an order under section 4F is in force, the fire and rescue authority to which the order applies may, in such cases and to such extent as appears to the authority to be appropriate, pay – 20
- (a) any damages or costs awarded against a member of the fire and rescue staff of the chief constable to whom the order applies in proceedings for any unlawful conduct of that member of staff; 25
 - (b) costs incurred and not recovered by such a member of staff in such proceedings;
 - (c) sums required in connection with the settlement of a claim that has or might have given rise to such proceedings.
- (10) In this section “fire and rescue staff”, in relation to a chief constable to whom an order under section 4F applies, means – 30
- (a) staff transferred to the chief constable under a scheme under subsection (1), and
 - (b) staff appointed by the chief constable under subsection (4).
- 4H Effect of an order under section 4F** 35
- (1) This section applies if –
- (a) an order under section 4F makes provision in relation to the area of a fire and rescue authority, and
 - (b) under the order, functions of the fire and rescue authority are delegated to the chief constable of the police force for the police area – 40
 - (i) which corresponds to the area of the fire and rescue authority, or
 - (ii) within which the area of the fire and rescue authority falls. 45
- (2) The fire and rescue authority must –
- (a) secure the exercise of the duties which are delegated to the chief constable under the order, and

- (b) secure that functions which are delegated under the order are exercised efficiently and effectively.
- (3) The fire and rescue authority must hold the chief constable to account for the exercise of the functions which are delegated under the order. 5
- 4I Complaints and conduct matters etc**
- (1) If an order is made under section 4F(1)(b) that enables delegation to members of a police force or the civilian staff of a police force, the Secretary of State may by order amend Part 2 of the Police Reform Act 2002 (persons serving with the police: complaints and conduct matters etc) in consequence of that provision. 10
- (2) If an order is made under section 4F(1)(b) that enables delegation to members of staff transferred to a chief constable under a scheme under section 4G(1) or appointed by a chief constable under provision made under section 4G(4), the Secretary of State may by order make provision of the type described in subsection (3) in relation to those members of staff. 15
- (3) The provision referred to in subsection (2) is –
- (a) provision corresponding or similar to any provision made by or under Part 2 of the Police Reform Act 2002; 20
- (b) provision applying (with or without modifications) any provision made by or under Part 2 of that Act.
- (4) The Secretary of State may by order, in consequence of any provision made under subsection (2), amend Part 2 of the Police Reform Act 2002. 25
- (5) Before making an order under this section the Secretary of State must consult –
- (a) the Police Advisory Board for England and Wales,
- (b) the Independent Police Complaints Commission,
- (c) such persons as appear to the Secretary of State to represent the views of police and crime commissioners, 30
- (d) such persons as appear to the Secretary of State to represent the views of fire and rescue authorities, and
- (e) such other persons as the Secretary of State considers appropriate. 35
- 4J Application of local policing provisions**
- (1) Schedule A2 makes provision about the application, in relation to a fire and rescue authority created by an order under section 4A, of legislation relating to police and crime commissioners.
- (2) The Secretary of State may by order – 40
- (a) apply (with or without modifications) any provision of a local policing enactment in relation to a fire and rescue authority created by an order under section 4A;
- (b) make, in relation to a fire and rescue authority created by an order under section 4A, provision corresponding or similar to any provision of a local policing enactment. 45

- (3) The power conferred by subsection (2)(a) or (b) includes power to apply (with or without modifications) any provision made by or under a local policing enactment or make provision corresponding or similar to any such provision.
- (4) The Secretary of State may by order amend, revoke or repeal a provision of or made under an enactment in consequence of provision made by virtue of subsection (2). 5
- (5) In this section “local policing enactment” means an Act relating to a police and crime commissioner.”
- 6 Before section 5A insert – 10
- “Powers of certain fire and rescue authorities”.*
- 7 After section 5L insert –
- “5M Powers of fire and rescue authorities created by order under section 4A**
- (1) A fire and rescue authority created by an order under section 4A may do anything which is calculated to facilitate, or is conducive or incidental to, the exercise of its functions as a fire and rescue authority. 15
- (2) That includes –
- (a) entering into contracts and other agreements (whether legally binding or not); 20
- (b) acquiring and disposing of property (including land);
- (c) borrowing money.
- (3) This section is subject to the other provisions of –
- (a) this Act, or
- (b) any other Act, or instrument made under an Act, which makes provision about the functions of fire and rescue authorities. 25
- Interpretation of Part 1*
- 5N Interpretation of Part 1**
- In this Part – 30
- “City of London police area” means the City of London as defined for the purposes of the Acts relating to the City of London police force;
- “metropolitan police district” means that district as defined in section 76 of the London Government Act 1963; 35
- “police area” means a police area listed in Schedule 1 to the Police Act 1996 (police areas outside London).”
- 8 After section 25 (but before the italic heading before section 26) insert –
- “Police and crime plan*
- 25A Police and crime plan** 40
- A fire and rescue authority created by an order under section 4A must, in carrying out its functions, have regard to the police and

- crime plan issued by the police and crime commissioner for the police area –
- (a) which corresponds to the area of the fire and rescue authority, or
 - (b) within which the area of that fire and rescue authority falls.” 5
- 9 In section 34 (pensions etc) after subsection (10) insert –
- “(11) References in subsection (1) to persons who are or have been employed by a fire and rescue authority include persons who are or have been employed by the chief constable of the police force for a police area having been – 10
- (a) transferred to the chief constable under a scheme made under section 4G(1), or
 - (b) appointed by the chief constable under section 4G(4).
- (12) References in the other provisions of this section to a fire and rescue authority include a chief constable of the police force for a police area who employs persons of the kind mentioned in subsection (11).” 15
- 10 For section 37 (prohibition on employment of police) substitute –
- “37 Prohibition on employment of police in fire-fighting**
- (1) No member of a police force may be employed by a fire and rescue authority or a relevant chief constable for the purpose of – 20
 - (a) extinguishing fires, or
 - (b) protecting life and property in the event of fires.
 - (2) Subsection (1) does not prevent the exercise of functions under section 7 (fire-fighting) by –
 - (a) a relevant chief constable, or 25
 - (b) a deputy chief constable to whom such functions have been delegated by a relevant chief constable.
 - (3) In this section “relevant chief constable” means the chief constable of a police force for a police area to whom functions of a fire and rescue authority have been delegated under an order under section 4F.” 30
- 11 Before Schedule 1 insert –

“SCHEDULE A1 Sections 4A(6) and 4F(6)

PROCEDURE FOR ORDERS UNDER SECTION 4A

Proposal for order under section 4A

- 1 (1) A proposal for an order under section 4A (a “section 4A proposal”) must contain an assessment of why – 35
- (a) it is in the interests of economy, efficiency and effectiveness for the order to be made, or
 - (b) it is in the interests of public safety for the order to be made. 40
- (2) If the proposal suggests that an order under section 4A should be combined with an order under section 4F (delegation to and

employment by chief constable), the proposal must set out the reasons for that suggestion.

Duty of relevant fire and rescue authority to cooperate in preparation of proposal

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|---|---|----|
| 2 | <p>(1) A relevant fire and rescue authority must cooperate with a relevant police and crime commissioner in the preparation of a section 4A proposal.</p> | 5 |
| | <p>(2) A relevant fire and rescue authority must, in particular, provide a relevant police and crime commissioner with such information held by the authority as the commissioner reasonably requires for the purposes of the preparation of the proposal.</p> | 10 |
| | <p>(3) Sub-paragraph (2) does not require the authority to provide information if to do so would breach—</p> <p style="margin-left: 20px;">(a) any obligation of confidence owed by the authority, or</p> <p style="margin-left: 20px;">(b) any other restriction on the disclosure of information (however imposed).</p> | 15 |
| | <p>(4) Sub-paragraphs (1) and (2) do not apply if the proposal is for an order to create a fire and rescue authority for an area which, before the order is made, contains only the areas of two or more fire and rescue authorities created by order under section 4A.</p> | |

Consultation on proposal 20

- | | | |
|---|--|----|
| 3 | <p>Before submitting a section 4A proposal to the Secretary of State, a relevant police and crime commissioner must—</p> <p style="margin-left: 20px;">(a) consult each relevant local authority about the proposal, and</p> <p style="margin-left: 20px;">(b) make arrangements to seek the views of people in the commissioner’s police area about the proposal.</p> | 25 |
|---|--|----|

Provision of representations to Secretary of State

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|---|---|----|
| 4 | <p>(1) Sub-paragraphs (2) and (3) apply if, in response to a consultation by a relevant police and crime commissioner under paragraph 3(a), a relevant local authority indicates that it does not support a section 4A proposal.</p> | 30 |
| | <p>(2) The commissioner must, in submitting the proposal to the Secretary of State, provide the Secretary of State with—</p> <p style="margin-left: 20px;">(a) copies of each document provided by the commissioner for the purposes of paragraph 3,</p> <p style="margin-left: 20px;">(b) copies of each representation made by a relevant local authority in response,</p> <p style="margin-left: 20px;">(c) a summary of the views expressed by people in the commissioner’s police area about the proposal, and</p> <p style="margin-left: 20px;">(d) the commissioner’s response to those representations and views.</p> | 35 |
| | <p>(3) The Secretary of State must—</p> <p style="margin-left: 20px;">(a) obtain an independent assessment of the proposal, and</p> | 40 |

- (b) have regard to that assessment and to the material provided to the Secretary of State under sub-paragraph (2) in deciding whether to make an order under section 4A in response to the proposal.

Decision by Secretary of State

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- 5 (1) Subject to sub-paragraphs (2) and (3), the Secretary of State may, in making an order under section 4A, give effect to the proposal for the order with such modifications as the Secretary of State thinks appropriate.
- (2) If paragraph 1(2) applies to the proposal, the Secretary of State may not in response to the proposal make an order under section 4A which is not combined with an order under section 4F. 10
- (3) Before making an order which gives effect to the proposal for the order with modifications, the Secretary of State must consult the following on the modifications – 15
 - (a) the relevant police and crime commissioner;
 - (b) each relevant local authority.

Interpretation

- 6 (1) In this Schedule “section 4A proposal” has the meaning given by paragraph 1(1). 20
- (2) In this Schedule “relevant police and crime commissioner”, in relation to a section 4A proposal, means a police and crime commissioner –
 - (a) whose police area is the same as, or contains all of, the area of the fire and rescue authority proposed to be created by the order, or 25
 - (b) all or part of whose police area falls within the area of that fire and rescue authority.
- (3) Any changes to the police areas contained in the proposal are to be disregarded in determining who is a relevant police and crime commissioner for the purposes of sub-paragraph (2). 30
- (4) If there is more than one relevant police and crime commissioner in relation to a section 4A proposal, references in this Schedule to the relevant police and crime commissioner are to all of those police and crime commissioners acting jointly. 35
- (5) In this Schedule “relevant fire and rescue authority”, in relation to a section 4A proposal prepared by a police and crime commissioner, means a fire and rescue authority –
 - (a) whose area is the same as, or contains all of, the police area of the police and crime commissioner, or 40
 - (b) all or part of whose area falls within the police area of the police and crime commissioner.
- (6) In this Schedule “relevant local authority”, in relation to a section 4A proposal, means a local authority –

-
- (a) whose area is the same as, or contains all of, the area of the fire and rescue authority proposed to be created by the order, or
 - (b) all or part of whose area falls within the area of that fire and rescue authority. 5
- (7) In sub-paragraph (6) “local authority” means –
- (a) a county council,
 - (b) a district council for an area for which there is no county council,
 - (c) the Council of the Isles of Scilly, or 10
 - (d) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 which exercises the functions of a fire and rescue authority by virtue of section 105 or 105A of that Act. 15

Application of this Schedule to certain orders under section 4F

- 7 (1) This paragraph makes provision about the application of this Schedule to an order under section 4F which is not combined, or proposed to be combined, with an order under section 4A (a “section 4F order”). 20
- (2) Subject as follows, this Schedule applies to a section 4F order as it applies to an order under section 4A.
- (3) The following provisions of this Schedule do not apply in relation to a section 4F order –
- (a) paragraph 1(2); 25
 - (b) paragraph 5(2);
 - (c) paragraph 6.
- (4) In the application of this Schedule to a section 4F order –
- (a) “relevant police and crime commissioner” means the police and crime commissioner for the police area – 30
 - (i) which corresponds to the area of the fire and rescue authority to which the order relates, or
 - (ii) within which the area of that fire and rescue authority falls;
 - (b) “relevant fire and rescue authority” means that fire and rescue authority, and 35
 - (c) “relevant local authority” means a local authority (within the meaning of paragraph 6(7)) –
 - (i) whose area is the same as, or contains all of, the area of that fire and rescue authority, or 40
 - (ii) all or part of whose area falls within the area of that fire and rescue authority.

SCHEDULE A2

Section 4J(1)

APPLICATION OF LEGISLATION RELATING TO POLICE AND CRIME
COMMISSIONERS

Introductory

- 1 (1) This Schedule makes provision about the application of certain enactments relating to police and crime commissioners to a relevant fire and rescue authority. 5
- (2) In this Schedule –
- “relevant chief constable”, in relation to a relevant fire and rescue authority, means the chief constable of a police force (if any) to whom functions of the authority have been delegated under provision made under section 4F; 10
 - “relevant fire and rescue authority” means a fire and rescue authority created by an order under section 4A; 15
 - “relevant police and crime panel”, in relation to a relevant fire and rescue authority, means the police and crime panel for the police area – 15
 - (a) which corresponds to the area of the fire and rescue authority, or
 - (b) within which the area of the fire and rescue authority falls. 20
 - (3) In this Schedule “fire and rescue plan” means a document which –
 - (a) is prepared and published by a relevant fire and rescue authority in accordance with the Fire and Rescue National Framework, and 25
 - (b) sets out the authority’s priorities and objectives, for the period covered by the document, in connection with the discharge of the authority’s functions.
 - (4) In this Schedule “fire and rescue statement” means a document which – 30
 - (a) is prepared and published by a relevant fire and rescue authority in accordance with the Fire and Rescue National Framework, and
 - (b) contains a statement of the way in which the authority has had regard, in the period covered by the document, to the Framework and to any fire and rescue plan prepared by the authority for that period. 35

Arrangements for obtaining the views of the community

- 2 (1) Subsections (1) and (2) of section 96 of the Police Act 1996 (arrangements for obtaining the views of the community on policing) apply in relation to a relevant fire and rescue authority as they apply in relation to an elected local policing body, subject to sub-paragraph (2). 40
- (2) As applied by sub-paragraph (1), those subsections have effect as if – 45

- (a) the reference in subsection (1) to each police area were to each area of a relevant fire and rescue authority,
- (b) in that subsection, for paragraphs (a) and (b) and the words following those paragraphs there were substituted “the views of people in that area about fire and rescue services”, 5
- (c) the reference in subsection (2) to the police area were to the area of the relevant fire and rescue authority, and
- (d) the reference in that subsection to the chief officer of police for that police area were to the relevant chief constable. 10

Scrutiny of fire and rescue plan

- 3 (1) Subsections (6) to (12) of section 5 of the Police Reform and Social Responsibility Act 2011 (scrutiny of police and crime plans) apply in relation to a relevant fire and rescue authority as they apply in relation to an elected local policing body, subject to sub-paragraph (2). 15
- (2) As applied by sub-paragraph (1), those subsections have effect as if—
 - (a) references to a police and crime plan were to a fire and rescue plan, 20
 - (b) references to the relevant chief constable (within the meaning of that section) were to the relevant chief constable (within the meaning of this Schedule),
 - (c) references to the relevant police and crime panel (within the meaning of that Act) were to the relevant police and crime panel (within the meaning of this Schedule), 25
 - (d) in subsection (9), paragraph (b)(ii) and the words following that paragraph were omitted, and
 - (e) in subsection (10)(a) the words from “and to each” to “relevant police area” were omitted. 30

Information for public

- 4 (1) Section 11 of the Police Reform and Social Responsibility Act 2011 (information for public etc) applies in relation to a relevant fire and rescue authority as it applies in relation to an elected local policing body, subject to sub-paragraph (2). 35
- (2) As applied by sub-paragraph (1), that section has effect as if—
 - (a) references to the relevant chief officer of police were to the relevant chief constable, and
 - (b) the reference to the chief officer’s functions were to the functions delegated to the relevant chief officer under provision made under section 4F. 40

Scrutiny of fire and rescue statement

- 5 (1) Subsections (2) to (5) of section 12 of the Police Reform and Social Responsibility Act 2011 (annual reports) apply in relation to a relevant fire and rescue authority as they apply in relation to an elected local policing body, subject to sub-paragraph (2). 45

- (2) As applied by sub-paragraph (1), those subsection have effect as if –
- (a) references to an annual report were to a fire and rescue statement, and
 - (b) references to the relevant police and crime panel (within the meaning of that Act) were to the relevant police and crime panel (within the meaning of this Schedule).

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Information for police and crime panels

- 6 (1) Section 13 of the Police Reform and Social Responsibility Act 2011 (information for police and crime panels) applies in relation to a relevant fire and rescue authority as it applies in relation to an elected local policing body, subject to sub-paragraph (2).
- (2) As applied by sub-paragraph (1), that section has effect as if –
- (a) references to the relevant police and crime panel (within the meaning of that Act) were to the relevant police and crime panel (within the meaning of this Schedule), and
 - (b) in subsection (2), paragraphs (a) to (c) were omitted.

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Duties when carrying out functions

- 7 (1) Subsections (1) and (2) of section 17 of the Police Reform and Social Responsibility Act 2011 (duties when carrying out functions) apply in relation to a relevant fire and rescue authority as they apply in relation to an elected local policing body, subject to sub-paragraph (2).
- (2) As applied by sub-paragraph (1), those subsections have effect as if –
- (a) the reference to the relevant police and crime panel (within the meaning of that Act) were to the relevant police and crime panel (within the meaning of this Schedule), and
 - (b) the reference to any report or recommendations made by the panel on the annual report for the previous financial year were to any report or recommendations made by the panel with respect to the discharge of the relevant fire and rescue authority’s functions.

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Powers of police and crime panels

- 8 (1) Subsections (2) to (4), (6), (7) to (9) and (11) of section 28 of the Police Reform and Social Responsibility Act 2011 (police and crime panels outside London) apply in relation to a relevant fire and rescue authority as they apply in relation to a police and crime commissioner, subject to sub-paragraph (2).
- (2) As applied by sub-paragraph (1), those subsections have effect as if –
- (a) references to the police and crime panel or a police and crime panel were to the relevant police and crime panel,
 - (b) the references in subsection (3) to the draft police and crime plan were to the draft fire and rescue plan,

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- (c) the references in subsection (4) to an annual report were to a fire and rescue statement,
- (d) the references in subsection (6) to Schedules 1 and 8 were omitted, and
- (e) the second reference in subsection (8) to the police area were to the area of the relevant fire and rescue authority. 5

Power to require attendance and information

- 9 (1) Section 29 of the Police Reform and Social Responsibility Act 2011 (power to require attendance and information) applies in relation to a relevant fire and rescue authority as it applies in relation to a police and crime commissioner, subject to sub-paragraph (2). 10
- (2) As applied by sub-paragraph (1), that section has effect as if –
- (a) references to the police and crime panel or a police and crime panel were to the relevant police and crime panel, and 15
 - (b) the reference in subsection (6) to the relevant chief constable (within the meaning of that section) were to the relevant chief constable (within the meaning of this Schedule).

Scrutiny of precepts 20

- 10 (1) Schedule 5 to the Police Reform and Social Responsibility Act 2011 (issuing precepts) applies in relation to a relevant fire and rescue authority as it applies in relation to a police and crime commissioner, subject to sub-paragraph (2).
- (2) As applied by sub-paragraph (1), that Schedule has effect as if references to the relevant police and crime panel (within the meaning of that Act) or to the police and crime panel were to the relevant police and crime panel (within the meaning of this Schedule).” 25

PART 2 30

AMENDMENTS TO OTHER ACTS

Fire Services Act 1947 (c. 41)

- 12 In section 26 of the Fire Services Act 1947 (as continued in force by order under section 36 of the Fire and Rescue Services Act 2004) after subsection (5) insert – 35
- “(5A) References in this section to employment as a member of a fire brigade or on duties connected with the provision of fire services include employment by the chief constable of the police force for a police area as a result of –
- (a) a transfer to the chief constable under a scheme made under section 4G(1) of the Fire and Rescue Services Act 2004, or 40
 - (b) an appointment by the chief constable under section 4G(4) of that Act.

- (5B) References in this section to a fire authority include the chief constable of the police force for a police area who employs persons as mentioned in subsection (5A).”

Local Government, Planning and Land Act 1980 (c.65)

- 13 In section 2 of the Local Government, Planning and Land Act 1980 (duty of authorities to publish information) after subsection (1A) insert – 5
- “(1B) This section does not apply to a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.”

Local Government Finance Act 1992 (c. 14)

- 14 In section 39(1) of the Local Government Finance Act 1992 (major precepting authorities) after paragraph (da) insert – 10
- “(db) a fire and rescue authority created by an order under section 4A of that Act;”.

Police Act 1996 (c. 16)

- 15 In section 63 of the Police Act 1996 (Police Advisory Board for England and Wales), at the end insert – 15
- “(4) Section 4I of the Fire and Rescue Services Act 2004 also imposes a requirement on the Secretary of State to consult the Police Advisory Board for England and Wales.”

Local Government Act 1999 (c. 27)

- 16 In section 1(1) of the Local Government Act 1999 (best value authorities) after paragraph (e) insert – 20
- “(ea) a fire and rescue authority created by an order under section 4A of that Act;”.

Police Reform Act 2002 (c. 30)

- 17 In section 38 of the Police Reform Act 2002 (police powers for civilian staff) after subsection (11) insert – 25
- “(11A) In the case of a police force maintained for a police area in England in accordance with section 2 of the Police Act 1996, the following are also relevant employees for the purposes of this section – 30
- (a) any member of staff transferred to the chief constable of the police force under a scheme made under section 4G(1) of the Fire and Rescue Services Act 2004 (transfer of property, rights and liabilities to chief constable to whom fire functions may be delegated); 35
- (b) any member of staff appointed by that chief constable under section 4G(4) of that Act (appointment of staff by chief constable to whom fire functions may be delegated).”

Police Reform and Social Responsibility Act 2011 (c. 13)

- 18 The Police Reform and Social Responsibility Act 2011 is amended as follows. 40

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- 19 In section 5 (police and crime commissioner to issue police and crime plan) after subsection (5) insert –
- “(5A) Subsection (5B) applies to a police and crime commissioner for a police area –
- (a) which corresponds to the area of a fire and rescue authority created by an order under section 4A, or
 - (b) within which the area of such a fire and rescue authority falls.
- (5B) In issuing or varying a police and crime plan, the police and crime commissioner must have regard to –
- (a) the current Fire and Rescue National Framework prepared under section 21 of the Fire and Rescue Services Act 2004, and
 - (b) the last document prepared and published by the fire and rescue authority in accordance with that Framework which sets out the authority’s priorities and objectives, for the period covered by the document, in connection with the discharge of the authority’s functions.”
- 20 In section 66 (disqualification from election or holding office as police and crime commissioner: other grounds) after subsection (9) insert –
- “(10) Subsection (11) applies to the police and crime commissioner for a police area if, by virtue of an order under section 4A of the Fire and Rescue Services Act 2004, the person who is for the time being the commissioner for that area is also the fire rescue authority for an area which corresponds to or falls within the police area.
- (11) A person is disqualified from being elected as, or being, that police and crime commissioner if the person is employed by –
- (a) a fire and rescue authority within section 1(2) or (3) of the Fire and Rescue Services Act 2004,
 - (b) a fire and rescue authority constituted by a scheme under section 2 of that Act or a scheme to which section 4 of that Act relates, or
 - (c) a fire and rescue authority created by an order under section 4A of that Act.”
- 21 In Schedule 1 (police and crime commissioners) in paragraph 2 (salary etc) after sub-paragraph (3) insert –
- “(4) Where the person who is the police and crime commissioner for a police area is also a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, a determination under this paragraph in relation to that person may, in particular, take account of the fact that the person also exercises functions as that fire and rescue authority.”
- 22 (1) Schedule 6 (police and crime panels) is amended as follows.
- (2) In paragraph 4(6) (functions of panels) at the end insert “or by, or by virtue of, the Fire and Rescue Services Act 2004.”
- (3) In paragraph 22 (co-opted members of police and crime panels) –
- (a) the existing paragraph becomes sub-paragraph (1), and

- (b) at the end of that sub-paragraph insert –
- “(2) Sub-paragraph (3) applies (as well as sub-paragraph (1)) in relation to a police and crime panel for a police area which, under or by virtue of the Fire and Rescue Services Act 2004, exercises functions in relation to a fire and rescue authority. 5
- (3) A person may not be a co-opted member of the panel if the person is –
- (a) a member of staff of the fire and rescue authority, or 10
- (b) if an order under section 4F of that Act is in force in relation to that authority, a member of staff of the chief constable of the police force for the police area who has been –
- (i) transferred to the chief constable under a scheme made under subsection 4G(1) of that Act, or 15
- (ii) appointed by the chief constable under section 4G(4) of that Act”
- (4) In paragraph 27 (exercise of special functions) after sub-paragraph (2) insert – 20
- “(3) The references in sub-paragraph (2) to section 28(3) and (4) and Schedule 5 include those provisions as applied in relation to a fire and rescue authority by virtue of Schedule A2 to the Fire and Rescue Services Act 2004.” 25
- (5) After paragraph 32 insert –
- “Duty to produce panel with fire and rescue expertise*
- “32A(1) Sub-paragraph (2) applies in relation to a police and crime panel for a police area if –
- (a) a fire and rescue authority is created by an order under section 4A of the Fire and Rescue Services Act 2004, and 30
- (b) the area of the fire and rescue authority is the same as, or falls within, the police area.
- (2) Each person listed in sub-paragraph (3) –
- (a) must consider whether the person could exercise a function conferred on the person by or by virtue of this Schedule to enable the fire and rescue expertise objective to be met or to contribute to that objective being met, and 35
- (b) if the person considers that the person could exercise such a function to that end, must do so. 40
- (3) Those persons are –
- (a) the panel,
- (b) a relevant local authority, and
- (c) the Secretary of State.
- (4) The “fire and rescue expertise objective” referred to in this paragraph is the objective that members of the panel (when taken 45

	together) have the skills, knowledge and experience necessary for the panel effectively to discharge its functions in relation to the fire and rescue authority.”	
23	In Schedule 8 (appointment, suspension and removal of senior police officers) in paragraph 2 (no appointment until end of confirmation process) –	5
	(a) in sub-paragraph (1A) for “A person” substitute insert “Subject to sub-paragraph (1AA), a person”, and	
	(b) after sub-paragraph (1A) insert –	
	“(1AA) Where, under an order under section 4F of the Fire and Rescue Services Act 2004, functions of a fire and rescue authority are delegated to the chief constable of the police force for a police area, a person is eligible for appointment as that chief constable if the person –	10
	(a) has experience at a senior level in the provision of services provided under the Fire and Rescue Services Act 2004, and	15
	(b) has undertaken training in relation to policing matters of a kind that is specified by the College of Policing for the purposes of this paragraph.”	20
<i>Public Service Pensions Act 2013 (c. 25)</i>		
24	In Schedule 1 to the Public Service Pensions Act 2013 (persons in public service: definitions) in paragraph 6 (fire and rescue workers) for the “or” at end of paragraph (a) substitute –	
	“(aa) the chief constable of the police force for a police area having been –	25
	(i) transferred to the chief constable under a scheme made under section 4G(1) of the Fire and Rescue Services Act 2004, or	
	(ii) appointed by the chief constable under section 4G(4) of that Act, or”.	30

SCHEDULE 2

Section 8

THE LONDON FIRE COMMISSIONER

PART 1

	AMENDMENTS TO THE GREATER LONDON AUTHORITY ACT 1999	35
1	The Greater London Authority Act 1999 is amended as follows.	
2	In section 31(1) (limits of the Authority’s general power) for paragraph (c) substitute –	
	“(c) the London Fire Commissioner.”	
3	In section 45(7)(b) (the Mayor’s periodic report to the Assembly: advice which may need to be disclosed in certain circumstances) for “the London	40

- Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.
- 4 In section 60A(3) (confirmation hearings etc for certain appointments by the Mayor: offices to which the section applies) –
- (a) before the entry for the chairman or deputy chairman of Transport for London insert –
- “London Fire Commissioner (see section 327A);
person appointed by the Mayor under section 67(1)(b) as the Deputy Mayor for Fire;”, and
- (b) omit the entry for the chairman of the London Fire and Emergency Planning Authority. 5 10
- 5 In section 61(12)(b) (power to require attendance at Assembly meetings: advice which may need to be disclosed in certain circumstances) for paragraph (c) substitute –
- “(c) the London Fire Commissioner.”. 15
- 6 In section 67(1)(b) (power of Mayor to appoint ten members of staff in addition to the Mayor’s political advisers) for “ten” substitute “eleven”.
- 7 In section 68 (disqualification and political restriction) after subsection (3) insert –
- “(3A) Subsections (1) and (2) above do not prevent a person appointed under section 67(1)(b) as the Deputy Mayor for Fire (see section 327F) from becoming or remaining a member of the Assembly.” 20
- 8 In section 70 (terms and conditions of employment) after subsection (7) insert –
- “(7A) Subsection (3) does not prevent a person appointed under section 67(1)(b) as the Deputy Mayor for Fire (see section 327F) who is a member of the Assembly from being required to perform any work or services as an Assembly member.” 25
- 9 After Part 6 insert –

“PART 6A 30

THE LONDON FIRE COMMISSIONER

327A The London Fire Commissioner

- (1) There is to be a London Fire Commissioner.
- (2) The London Fire Commissioner is a corporation sole.
- (3) The Mayor is to appoint the London Fire Commissioner. 35
- (4) The London Fire Commissioner has –
- (a) the functions of the fire and rescue authority for Greater London under the Fire and Rescue Services Act 2004, and
- (b) the other functions conferred on the Commissioner by or by virtue of any other enactment. 40
- (5) The London Fire Commissioner must secure that the London Fire and Rescue Service is efficient and effective.

- (6) In subsection (5) “the London Fire and Rescue Service” means the personnel, services and equipment secured by the London Fire Commissioner for the purposes of the carrying out of the Commissioner’s functions under –
- (a) section 6 of the Fire and Rescue Services Act 2004 (fire safety), 5
 - (b) section 7 of that Act (fire-fighting),
 - (c) section 8 of that Act (road traffic accidents),
 - (d) any order under section 9 of that Act (emergencies) which applies to the Commissioner, or
 - (e) any other provision of or made under an enactment which confers functions on a fire and rescue authority. 10
- (7) The Mayor must hold the London Fire Commissioner to account for the exercise of the Commissioner’s functions.
- (8) Schedule 27A makes further provision about the London Fire Commissioner. 15

327B Disqualification for appointment as London Fire Commissioner

- (1) A person may not be appointed as the London Fire Commissioner unless the person has reached the age of 18.
- (2) A person is disqualified from being appointed as, or being, the London Fire Commissioner if the person is a member of the Assembly or a London borough council. 20
- (3) A person is disqualified from being appointed as, or being, the London Fire Commissioner if –
- (a) the person is the subject of –
 - (i) a debt relief restrictions order under paragraph 1 of Schedule 4ZB to the Insolvency Act 1986, 25
 - (ii) an interim debt relief restrictions order under paragraph 5 of that Schedule,
 - (iii) a bankruptcy restrictions order under paragraph 1 of Schedule 4A to that Act, or 30
 - (iv) a bankruptcy restrictions interim order under paragraph 5 of that Schedule,
 - (b) a debt relief restrictions undertaking has effect in respect of the person under paragraph 7 of Schedule 4ZB to that Act,
 - (c) the person has been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any imprisonable offence (whether or not sentenced to a term of imprisonment in respect of the offence), or 35
 - (d) the person is incapable of being elected as a member of the House of Commons, or is required to vacate a seat in the House of Commons, under Part 3 of the Representation of the People Act 1983 (consequences of corrupt or illegal practices). 40
- (4) For the purposes of subsection (3)(c) “an imprisonable offence” means an offence –
- (a) for which a person who has reached the age of 18 may be sentenced to a term of imprisonment, or 45
 - (b) for which, in the case of such a person, the sentence is fixed by law as life imprisonment.

- (5) For the purposes of subsection (3)(c) a person is to be treated as having been convicted –
 - (a) on the expiry of the ordinary period allowed for an appeal or application in respect of the conviction, or
 - (b) if an appeal or application is made in respect of the conviction, when the appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution. 5

327C Suspension and removal of London Fire Commissioner

- (1) The Mayor may with the approval of the Secretary of State suspend the London Fire Commissioner from duty. 10
- (2) If the Mayor suspends the London Fire Commissioner from duty, the Mayor must notify the Secretary of State of the suspension.
- (3) The Mayor may, subject to subsections (5) and (6), and with the approval of the Secretary of State, call upon the London Fire Commissioner to resign or retire. 15
- (4) The London Fire Commissioner must resign or retire if called upon to do so in accordance with subsection (3).
- (5) Before calling upon the London Fire Commissioner to resign or retire, the Mayor must –
 - (a) give the Commissioner a written explanation of the reasons why the Mayor is proposing to call for the Commissioner’s resignation or retirement, 20
 - (b) give the Commissioner the opportunity to make written representations about the proposal to call for the Commissioner’s resignation or retirement, and 25
 - (c) consider any written representations made by the Commissioner.
- (6) The Mayor must comply with subsection (5) before seeking the approval of the Secretary of State to call upon the London Fire Commissioner to retire or resign. 30

327D Directions etc by the Mayor

- (1) The Mayor may issue to the London Fire Commissioner –
 - (a) guidance as to the manner in which the Commissioner is to exercise the Commissioner’s functions,
 - (b) general directions as to the manner in which the Commissioner is to exercise the Commissioner’s functions, or 35
 - (c) specific directions as to the exercise of the Commissioner’s functions.
- (2) Directions issued by the Mayor under subsection (1)(c) above may include a direction not to exercise a power specified in the direction. 40
- (3) The guidance or directions which may be issued by the Mayor under subsection (1) above include guidance or directions as to the manner in which the London Fire Commissioner –
 - (a) is to perform any of the Commissioner’s duties, or 45
 - (b) is to conduct any legal proceedings.

- (4) In exercising any power conferred by this section, the Mayor must have regard to –
- (a) the Fire and Rescue National Framework, and
 - (b) fire safety enforcement guidance.
- (5) In this section – 5
- “the Fire and Rescue National Framework” means the Fire and Rescue National Framework prepared under section 21 of the Fire and Rescue Services Act 2004;
- “fire safety enforcement guidance” means guidance under article 26 (enforcement) of the Regulatory Reform (Fire Safety) Order 2005 (SI 2005/1541) given by the Secretary of State to the London Fire Commissioner in the Commissioner’s capacity as an enforcing authority for the purposes of that Order. 10
- 327E Directions to the Mayor by the Secretary of State** 15
- (1) This section applies if the Secretary of State thinks that any guidance or directions (“the inconsistent guidance or directions”) issued under section 327D by the Mayor are inconsistent with –
- (a) the Fire and Rescue National Framework, or
 - (b) fire safety enforcement guidance. 20
- (2) In order to remove the inconsistency, the Secretary of State may direct the Mayor –
- (a) to make such revisions of the inconsistent guidance or directions as may be specified by the Secretary of State in the direction, or 25
 - (b) if the inconsistency arises from a specific direction under section 327D(1)(c) above, to revoke the direction.
- (3) Any direction given by the Secretary of State under subsection (2) above must specify or otherwise identify the inconsistency in question. 30
- (4) The Mayor must comply with any direction under subsection (2) above.
- (5) In this section “the Fire and Rescue National Framework” and “fire safety enforcement guidance” have the same meanings as in section 327D. 35
- 327F The Deputy Mayor for Fire**
- (1) The Mayor may arrange for the Deputy Mayor for Fire to exercise any function of the Mayor relating to fire and rescue.
- (2) In this Part “the Deputy Mayor for Fire” means –
- (a) a person who has been appointed by the Mayor under section 67(1)(b) as the Deputy Mayor for Fire, or
 - (b) a person who has been appointed by the Mayor under section 67(1)(b) and designated by the Mayor as the Deputy Mayor for Fire. 40
- (3) In subsection (1) the reference to the functions of the Mayor relating to fire and rescue are to the Mayor’s functions under – 45

- (a) section 327A(7) (duty to hold London Fire Commissioner to account), and
 - (b) section 327D(1) (power to give guidance and directions to the London Fire Commissioner).
- (4) Section 327E applies in relation to the exercise of functions under section 327D(1) by the Deputy Mayor for Fire as it applies in relation to their exercise by the Mayor. 5

327G Scrutiny of documents prepared by London Fire Commissioner

- (1) This section applies to a document which is prepared and published by the London Fire Commissioner in accordance with the Fire and Rescue National Framework and which – 10
- (a) sets out the Commissioner’s priorities and objectives, for the period covered by the document, in connection with the discharge of the Commissioner’s functions, or
 - (b) contains a statement of the way in which the Commissioner has had regard, in the period covered by the document, to the Framework and to any document within paragraph (a) prepared by the Commissioner for that period. 15
- (2) The Commissioner must, before publishing the document or any revision to it, send a copy of the document or revision in draft to the Mayor and the Assembly. 20
- (3) The Commissioner may not publish the document or any revision to it unless –
- (a) the Assembly has had an opportunity to review the draft document or revision, and make a report on it to the Mayor, under section 327I(1), and
 - (b) the Mayor has approved the draft document or revision. 25
- (4) In this section “the Fire and Rescue National Framework” has the same meaning as in section 327D.

327H The Assembly fire and emergency committee 30

- (1) The Assembly must arrange for the functions referred to in subsection (2) to be discharged on its behalf by a particular committee of the Assembly (“the fire and emergency committee”).
- (2) Those functions (“the fire and emergency committee functions”) are – 35
- (a) the functions conferred on the Assembly by section 327I, and
 - (b) the functions conferred on the Assembly by section 60A and Schedule 4A in relation to the appointment of the London Fire Commissioner and the Deputy Mayor for Fire.
- (3) The Assembly may not arrange for the fire and emergency committee functions to be discharged on its behalf otherwise than in accordance with subsection (1). 40
- (4) The Assembly may not arrange for any of its other functions to be discharged by the fire and emergency committee.

- (5) The special scrutiny functions may only be exercised at a meeting of the whole panel; but that is without prejudice to rules of procedure about the quorum of a meeting of the whole panel.
- (6) Any provision made by or by virtue of an enactment which applies to committees of the Assembly, apart from the excluded provisions, applies to the fire and emergency committee as if the fire and emergency committee functions were to be discharged by the committee by virtue of arrangements under section 54(1)(a). 5
- (7) In subsection (6) “the excluded provisions” means— 10
- (a) section 54(5), so far as it provides for the Assembly to retain power to exercise functions delegated to a committee, and
- (b) section 55 (Assembly committees and sub-committees).
- (8) Any provision made by or by virtue of an enactment which confers, or relates to, the fire and emergency committee functions is to be read with the appropriate modifications; in particular— 15
- (a) references to the Assembly are to be read as references to the fire and emergency committee, and
- (b) references to proceedings of the Assembly are to be read as references to proceedings of the fire and emergency committee. 20
- (9) For the purposes of subsection (8), references to the fire and emergency committee include references to a sub-committee or member (if any) by whom functions are to be discharged in accordance with section 54(3).
- (10) The following provisions apply to the fire and emergency committee— 25
- (a) the number of members of the committee, and their term of office, are to be fixed by the Assembly;
- (b) persons who are not members of the Assembly may be members of the panel. 30
- (11) The following provisions apply to any sub-committee by which fire and emergency committee functions are to be discharged—
- (a) the number of members of the sub-committee, and their term of office, are to be fixed by the fire and emergency committee;
- (b) persons who are not members of the Assembly may be members of the sub-committee. 35
- (12) The fire and emergency committee functions must be exercised with a view to supporting the effective exercise of the functions of the London Fire Commissioner.
- (13) In this section “special scrutiny functions” means the functions conferred— 40
- (a) by section 327I(1), or
- (b) by section 60A and Schedule 4A in relation to the appointment of the London Fire Commissioner and the Deputy Mayor for Fire. 45

327I Functions to be discharged by the fire and emergency committee

- (1) The Assembly must—

-
- (a) review any draft document or revision given to the Assembly by the London Fire Commissioner under section 327G(2), and
- (b) make a report or recommendations on the draft document or revision to the Mayor. 5
- (2) The Assembly must keep under review the exercise of the functions of the London Fire Commissioner, insofar as the Assembly is not otherwise required to do so by the other provisions of this section or by Schedule 4A.
- (3) For the purposes of subsection (2), the powers of the Assembly include, in particular, power to investigate, and prepare reports about— 10
- (a) any actions and decisions of the London Fire Commissioner,
- (b) any actions and decisions of an officer of the London Fire Commissioner, 15
- (c) matters relating to the functions of the London Fire Commissioner, or
- (d) matters in relation to which the functions of the London Fire Commissioner are exercisable.
- (4) The Assembly may submit proposals to the London Fire Commissioner. 20
- (5) The Assembly may require a person referred to in subsection (6) —
- (a) to attend proceedings of the Assembly for the purpose of giving evidence, or
- (b) to produce to the Assembly documents in the person’s possession or under the person’s control. 25
- (6) Those persons are —
- (a) the Deputy Mayor for Fire,
- (b) the London Fire Commissioner,
- (c) any officer of the London Fire Commissioner, 30
- (d) any person who has within the 8 years prior to the date of the requirement to be imposed under subsection (5) been the Deputy Mayor for Fire or the London Fire Commissioner.
- (7) Nothing in subsection (5) requires an officer of the London Fire Commissioner to give any evidence, or produce any document, which discloses advice given to the London Fire Commissioner by that officer. 35
- (8) The following provisions apply (with appropriate modifications) to a requirement under subsection (5) as they apply to a requirement under section 61(1) — 40
- (a) section 61(14) (meaning of document etc);
- (b) section 62(3) to (6) (procedure for requiring attendance);
- (c) section 63 (restriction of information);
- (d) section 64 (failure to attend proceedings);
- (e) section 65 (openness).” 45
- 10 (1) Omit Part 7 (the London Fire and Emergency Planning Authority).

-
- (2) The repeal of section 328 in that Part by sub-paragraph (1) does not affect the continued operation of subsections (5) to (7) of that section, and subsection (9) of that section so far as applying to those subsections.
- (3) In the application of those subsections by virtue of sub-paragraph (2), references in those subsections to the Fire etc Authority are to be read as references to the London Fire Commissioner. 5
- 11 In section 419(1) (bodies to be treated as local authorities for the purposes of enactments relating to taxation) for paragraph (c) substitute –
“(c) the London Fire Commissioner.”
- 12 (1) Section 424(1) (interpretation) is amended as follows. 10
(2) Omit the definition of “the Fire etc Authority”.
(3) In the definition of “functional body” for paragraph (d) substitute –
“(d) the London Fire Commissioner.”
- 13 (1) Schedule 4A (confirmation hearings etc for certain appointments) is amended as follows. 15
(2) In paragraph 1 after sub-paragraph (7) insert –
“(8) Paragraph 9 does not apply in relation to –
(a) the appointment of a person as the London Fire Commissioner, or
(b) the appointment of a person as the Deputy Mayor for Fire under section 67(1)(b), 20
(but see section 327H).
(9) Paragraph 11 applies to –
(a) the appointment of a person as the London Fire Commissioner, and 25
(b) the appointment of a person as the Deputy Mayor for Fire under section 67(1)(b) if the candidate is not a member of the Assembly.
(10) Paragraphs 2, 4 and 5 are subject to paragraph 11.”
- (3) After paragraph 10 insert – 30
“11 (1) The Assembly may veto –
(a) the appointment of the candidate as the London Fire Commissioner, or
(b) the appointment of the candidate as the Deputy Mayor for Fire if the candidate is not a member of the Assembly. 35
(2) The exercise of that power of veto in relation to an appointment is not valid unless the Assembly –
(a) has held a confirmation meeting in relation to the appointment before the exercise of the power; and
(b) notifies the Mayor of the veto within the period of 3 weeks described in paragraph 4(3). 40
(3) If the Assembly vetoes the appointment of the candidate, the Mayor must not appoint the candidate.

- (4) References in this Schedule to the Assembly vetoing the appointment of a candidate are references to the Assembly making a decision, by the required majority, that the candidate should not be appointed –
- (a) as the London Fire Commissioner, or
 - (b) as the Deputy Mayor for Fire.
- (5) For that purpose, the Assembly makes that decision by the required majority if at least two-thirds of the votes given in making that decision are votes in favour of making that decision.”

14 After Schedule 27 insert – 10

“SCHEDULE 27A

Section 327A

THE LONDON FIRE COMMISSIONER

Appointment and tenure of office

- 1 (1) The terms and conditions on which the London Fire Commissioner is appointed are to be determined by the Mayor. 15
- (2) A person holds and vacates office as the London Fire Commissioner in accordance with the terms and conditions of the person’s appointment.
- (3) Sub-paragraph (2) is subject to section 327C (suspension and removal of London Fire Commissioner). 20

Remuneration

- 2 (1) The person who is the London Fire Commissioner is to be paid such remuneration, allowances and gratuities as may be provided for under the terms and conditions of the Commissioner’s appointment. 25
- (2) In sub-paragraph (1) “allowances”, in relation to the London Fire Commissioner, means allowances in respect of expenses incurred by the person in the performance of the Commissioner’s functions.
- (3) There is to be paid – 30
- (a) a pension to, or in respect of, a person who has been the London Fire Commissioner, or
 - (b) amounts for or towards the provision of a pension to, or in respect of, such a person,
- in accordance with the terms and conditions of the Commissioner’s appointment. 35
- (4) Payments under this paragraph are to be made by the London Fire Commissioner.
- (5) In determining the London Fire Commissioner’s terms and conditions relating to these matters, the Mayor must have regard to the financial resources of the Commissioner. 40

The Deputy London Fire Commissioner

- 3 (1) The London Fire Commissioner may exercise the power in section 112 of the Local Government Act 1972 (appointment of staff) to appoint a Deputy London Fire Commissioner.
- (2) The Deputy London Fire Commissioner may exercise any or all of the powers and duties of the London Fire Commissioner – 5
- (a) during any absence, incapacity or suspension from duty of the Commissioner,
- (b) during any vacancy in the office of Commissioner, or
- (c) at any other time, with the consent of the Commissioner. 10
- (3) The Deputy London Fire Commissioner may not act under subparagraph (2)(a) or (b) for a continuous period of three months without the consent of the Mayor.

Damages and costs in legal proceedings

- 4 (1) The following amounts must be paid by the London Fire Commissioner – 15
- (a) any damages or costs awarded against the Commissioner in any proceedings brought against the Commissioner in respect of the acts or omissions of an officer employed by the Commissioner; 20
- (b) any costs incurred by the Commissioner in any such proceedings so far as not recovered by the Commissioner in the proceedings;
- (c) any sum required in connection with the settlement of any claim made against the Commissioner in respect of the acts or omissions of an officer employed by the Commissioner, if the settlement is approved by the Mayor. 25
- (2) The London Fire Commissioner may, in such cases and to such extent as appears to the Commissioner to be appropriate, pay – 30
- (a) any damages or costs awarded against an officer employed by the Commissioner in proceedings for any unlawful conduct of that officer,
- (b) any costs incurred and not recovered by such an officer in such proceedings, and
- (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.” 35

15 Omit Schedule 28 (the London Fire and Emergency Planning Authority).

16 Omit Schedule 29 (amendments relating to the London Fire and Emergency Planning Authority). 40

PART 2

AMENDMENTS TO OTHER ACTS

Essex County Council Act 1952 (c. 1)

- 17 In section 80 of the Essex County Council Act 1952 (precautions against fire) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”. 5

Landlord and Tenant Act 1954 (c. 56)

- 18 In section 69(1) of the Landlord and Tenant Act 1954 (interpretation) in the definition of “local authority” for “, the London Fire and Emergency Planning Authority” substitute “, the London Fire Commissioner”. 10

Local Government Records Act 1962 (c. 56)

- 19 The Local Government Records Act 1962 is amended as follows.
- 20 In section 2 (acquisition and deposit of records) in subsection (6) (bodies to which section 2 applies) for “to the London Fire and Emergency Planning Authority,” substitute “to the London Fire Commissioner,”. 15
- 21 In section 8(1) (interpretation) in the definition of “local authority” for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner,”.

London Government Act 1963 (c. 33)

- 22 The London Government Act 1963 is amended as follows. 20
- 23 In section 5(3) (delegation of functions in Greater London) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.
- 24 In section 75 (compensation for injury to or death of officers) in subsection (5) (application to London Fire and Emergency Planning Authority) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”. 25

Local Government Act 1966 (c. 42)

- 25 In section 11 of the Local Government Act 1966 (grants for certain expenditure due to ethnic minority population) in subsection (2) (bodies to which the section applies) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”. 30

Leasehold Reform Act 1967 (c. 88)

- 26 The Leasehold Reform Act 1967 is amended as follows.
- 27 In section 28 (retention or resumption of land required for public purposes) in subsection (5)(a) (application to local authorities) for “, the London Fire and Emergency Planning Authority,” substitute “, the London Fire Commissioner,”. 35

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- 28 In Schedule 4A (exclusion of certain shared ownership leases) in paragraph 2(2) (leases granted by certain local authorities: bodies to which the exclusion applies) for paragraph (bb) substitute –
“(bb) the London Fire Commissioner;”.
- Local Government Grants (Social Need) Act 1969 (c. 2)* 5
- 29 In section 1 of the Local Government Grants (Social Need) Act 1969 (grants for special social needs) in subsection (3) (meaning of “local authority”) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.
- Employers’ Liability (Compulsory Insurance) Act 1969 (c. 57)* 10
- 30 In section 3(2)(b) of the Employers’ Liability (Compulsory Insurance) Act 1969 (employers exempted from insurance: employers to which the exemption applies) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner;”.
- Greater London Council (General Powers) Act 1969 (c. lii)* 15
- 31 In section 30(ii) of the Greater London Council (General Powers) Act 1969 (savings for London Fire and Emergency Planning Authority) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.
- Local Authority (Goods and Services) Act 1970 (c. 39)* 20
- 32 In section 1 of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities) in subsection (4) (interpretation) in the definition of “local authority” for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.
- Pensions (Increase) Act 1971 (c. 56)* 25
- 33 In Schedule 3 to the Pensions (Increase) Act 1971 (further administrative, incidental and consequential provisions) in paragraph 6(1)(a) (meaning of “local authority”) for sub-paragraph (ib) substitute –
“(ib) the London Fire Commissioner;”.
- Local Government Act 1972 (c. 70)* 30
- 34 The Local Government Act 1972 is amended as follows.
- 35 In section 70 (restriction on promotion of Bills for changing local government areas etc) for subsection (2) substitute –
“(2) Subsection (1) above shall have effect as if the reference to a joint authority included a reference to the London Fire Commissioner.” 35
- 36 (1) Section 100J (application of provisions about access to meetings and documents) is amended as follows.
- (2) In subsection (1) (bodies to which provisions about access to meetings and documents apply) omit paragraph (bb).

-
- (3) In subsection (2) omit “, (bb)”.
- (4) In subsection (3) omit “(bb),”.
- (5) Omit subsection (4A).
- 37 (1) Section 101 (arrangements for discharge of functions by local authorities) is amended as follows. 5
- (2) In subsection (13) omit “the London Fire and Emergency Planning Authority”.
- (3) After subsection (13) insert –
- “(13A) In this section “local authority” includes the London Fire Commissioner; but nothing in this section authorises functions of the Commissioner to be discharged by a committee or sub-committee of the Commissioner.” 10
- 38 In section 104 (disqualification for membership of committee and joint committees) omit subsection (5) (application to the London Fire and Emergency Planning Authority). 15
- 39 In section 138 (powers of principal councils with respect to emergencies or disasters) in subsection (5) (power of London Fire and Emergency Planning Authority to incur expenditure in connection with planning by principal councils) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”. 20
- 40 In section 138C(1) (other authorities to which provisions about prayer and other religious observance apply) for paragraph (d) substitute –
- “(d) the London Fire Commissioner;”.
- 41 In section 142 (provision of information etc relating to matters affecting local government) for subsection (4) substitute – 25
- “(4) This section shall have effect as if any reference to a local authority included a reference to the London Fire Commissioner.”
- 42 (1) Section 146A (application of miscellaneous provisions about local authorities to other authorities) is amended as follows.
- (2) In subsection (1) – 30
- (a) for “or (1ZE)” substitute “, (1ZE) or (1ZF)”, and
- (b) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.
- (3) In subsection (1ZC) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”. 35
- (4) After subsection (1ZE) insert –
- “(1ZF) The London Fire Commissioner is not to be treated as a local authority for the purposes of section 135.”
- 43 In section 175 (allowances for attending conferences and meetings) in subsection (3B) (application to the London Fire and Emergency Planning Authority etc) for “the London Fire and Emergency Planning Authority, an economic prosperity board, a combined authority or” substitute “an economic prosperity board, a combined authority or”. 40

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- 44 In section 176 (payment of expenses of official and courtesy visits) in subsection (3) (application to the London Fire and Emergency Planning Authority etc) –
- (a) after “board,” insert “and”, and
 - (b) omit “and the London Fire and Emergency Planning Authority”. 5
- 45 In section 222 (power of local authority to prosecute or defend legal proceedings) in subsection (2) (application to the London Fire and Emergency Planning Authority etc) for “and the London Fire and Emergency Planning Authority” substitute “and the London Fire Commissioner”. 10
- 46 For section 244A substitute –
- “244A Application of this Part to the London Fire Commissioner**
- This Part shall have effect as if any reference to a joint authority included a reference to the London Fire Commissioner.”
- Employment Agencies Act 1973 (c. 35)* 15
- 47 In section 13(7) of the Employment Agencies Act 1973 (persons to whom the Act does not apply) for paragraph (fh) substitute –
- “(fh) the exercise by the London Fire Commissioner of any of the Commissioner’s functions;”.
- Local Government Act 1974 (c. 7)* 20
- 48 In section 25(1) of the Local Government Act 1974 (authorities subject to investigation) for paragraph (cza) substitute –
- “(cza) the London Fire Commissioner;”.
- Health and Safety at Work etc Act 1974 (c. 37)*
- 49 In section 28(6) of the Health and Safety at Works Act 1974 (restrictions on disclosure of information: meaning of local authority) for “and the London Fire and Emergency Planning Authority” substitute “and the London Fire Commissioner”. 25
- Local Government (Miscellaneous Provisions) Act 1976 (c. 57)*
- 50 In section 44(1) of the Local Government (Miscellaneous Provisions) Act 1976 (interpretation of Part 1) in the definition of “local authority” –
- (a) in paragraph (a) for “and the London Fire and Emergency Planning Authority” substitute “and the London Fire Commissioner”, and
 - (b) in paragraph (c) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”. 35
- Rent (Agriculture) Act 1976 (c. 80)*
- 51 In section 5(3) of the Rent (Agriculture) Act 1976 (tenancies which are not statutory tenancies) for paragraph (bbb) substitute –
- “(bbb) the London Fire Commissioner;”.

Rent Act 1977 (c. 42)

- 52 In section 14(1) of the Rent Act 1977 (tenancies which are not protected tenancies) for paragraph (cc) substitute –
“(cc) the London Fire Commissioner;”.

London Hydraulic Power Act 1977 (c. xi)

5

- 53 In section 3(3)(b) of the London Hydraulic Power Act 1977 (notice of intention to use new pipeline) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

Protection from Eviction Act 1977 (c. 43)

- 54 In section 3A(8)(a) (excluded tenancies and licences: licences to occupy local authority etc hostels) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner;”.

Local Government, Planning and Land Act 1980 (c. 65)

- 55 The Local Government, Planning and Land Act 1980 is amended as follows.

- 56 In section 2 (duty of authorities to publish information) in subsection (1) (authorities to which the duty applies) for paragraph (kb) substitute –
“(kb) the London Fire Commissioner;”.

- 57 In section 98 (disposal of land at direction of Secretary of State) in subsection (8A) (authorities to which provisions as to associated bodies apply) for paragraph (f) substitute –
“(f) the London Fire Commissioner.”

- 58 In section 99 (disposal of land at direction of Secretary of State - supplementary) in subsection (4) (authorities who may make representations about directions) for paragraph (dbb) substitute –
“(dbb) the London Fire Commissioner;”

- 59 In section 100 (interpretation and extent of Part 10) in subsection (1)(a) (meaning of “subsidiary”) for “, the London Fire and Emergency Planning Authority” substitute “, the London Fire Commissioner”.

- 60 In Schedule 16 (bodies to whom Part 10 applies) for paragraph 5BB substitute –
“5BB The London Fire Commissioner.”

Acquisition of Land Act 1981 (c. 67)

- 61 The Acquisition of Land Act 1981 is amended as follows.

- 62 In section 7(1) (interpretation) in the definition of “local authority” for paragraph (a1) substitute –
“(a1) the London Fire Commissioner;”.

- 63 In section 17(4) (local authority and statutory undertaker’s land: interpretation) in paragraph (a) of the definition of “local authority” for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner;”.

Local Government (Miscellaneous Provisions) Act 1982 (c. 30)

- 64 The Local Government (Miscellaneous Provisions) Act 1982 is amended as follows.
- 65 In section 33 (enforceability by local authorities of certain covenants relating to land) in subsection (9)(a) (meaning of “principal council”) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner,”. 5
- 66 In section 41 (lost and uncollected property) in subsection (13) (interpretation) in the definition of “local authority” for paragraph (f) substitute – 10
“(f) the London Fire Commissioner;”.
- 67 In section 45 (arrangements under Employment and Training Act 1973) in subsection (2) (local authorities to which section applies) for paragraph (d) substitute – 15
“(d) the London Fire Commissioner.”

County Courts Act 1984 (c. 28)

- 68 In section 60(3) of the County Courts Act 1984 (right of audience of local authority: interpretation) in the definition of “local authority” for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner,”. 20

Local Government Act 1985 (c. 51)

- 69 The Local Government Act 1985 is amended as follows.
- 70 In section 72 (accounts and audit) for subsection (5) substitute – 25
“(5) Any reference in this section to a new authority includes a reference to the London Fire Commissioner.”
- 71 In Schedule 11 (police and fire services) in paragraph 2(4) (references to the Metropolitan Board of Works in the Metropolitan Fire Brigade Act 1985 to be construed as references to the London Fire and Emergency Planning Authority) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”. 30

Housing Act 1985 (c. 68)

- 72 In section 4(1)(e) of the Housing Act 1985 (other descriptions of authority: local authorities) for “and the London Fire and Emergency Planning Authority” in both places substitute “and the London Fire Commissioner”.

Housing Associations Act 1985 (c.69) 35

- 73 In section 106(1) of the Housing Associations Act 1985 (minor definitions - general) in the definition of “local authority” – 40
(a) for “and the London Fire and Emergency Planning Authority” substitute “and the London Fire Commissioner”, and
(b) for “the London Fire and Emergency Planning Authority” (in the second place) substitute “the London Fire Commissioner”.

Landlord and Tenant Act 1985 (c.70)

- 74 In section 38 of the Landlord and Tenant Act 1985 (minor definitions) in the definition of “local authority” for “and the London Fire and Emergency Planning Authority” substitute “and the London Fire Commissioner”.

Local Government Act 1986 (c. 10)

5

- 75 The Local Government Act 1986 is amended as follows.

- 76 In section 6(2)(a) (meaning of “local authority” for the purposes of Part 2) for the entry relating to the London Fire and Emergency Planning Authority substitute –

“the London Fire Commissioner.”

10

- 77 In section 9(1)(a) of the Local Government Act 1986 (meaning of “local authority” for the purposes of Part 3) for the entry relating to the London Fire and Emergency Planning Authority substitute –

“the London Fire Commissioner.”

Landlord and Tenant Act 1987 (c.31)

15

- 78 In section 58(1) of the Landlord and Tenant Act 1987 (exempt landlords) in paragraph (a) (local authorities) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner.”

Local Government Act 1988 (c. 9)

- 79 In Schedule 2 to the Local Government Act 1988 (public supply or works contracts: the local authorities) for the entry relating to the London Fire and Emergency Planning Authority substitute –

“The London Fire Commissioner.”

20

Housing Act 1988 (c. 50)

- 80 The Housing Act 1988 is amended as follows.

25

- 81 In section 74(8) (transfer of land etc to housing action trusts: meaning of “local authority”) for paragraph (g) substitute –

“(g) the London Fire Commissioner.”

- 82 In Part 1 of Schedule 1 (tenancies which cannot be assured tenancies) in paragraph 12(2) (local authority tenancies: meaning of “local authority”) for paragraph (ee) substitute –

“(ee) the London Fire Commissioner;”.

30

Road Traffic Act 1988 (c. 52)

- 83 In section 144(2)(a)(i) of the Road Traffic Act 1988 (exceptions from the requirement for third party insurance) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner.”

35

Local Government and Housing Act 1989 (c. 42)

- 84 The Local Government and Housing Act 1989 is amended as follows.

-
- 85 (1) Section 4 (designation and reports of head of paid service) is amended as follows.
- (2) In subsection (4) after paragraph (a) (but before the “or” at the end of that paragraph) insert –
- “(aa) in the case of the London Fire Commissioner, to the Commissioner;”.
- (3) After subsection (5) insert –
- “(5A) It shall be the duty of the London Fire Commissioner to consider any report under this section by the head of the Commissioner’s paid service and to do so no later than three months after the Commissioner is sent a copy of the report.”
- (4) In subsection (6)(a) for “and an elected local policing body” substitute “, an elected local policing body and the London Fire Commissioner”.
- 86 (1) Section 5 (designation and reports of monitoring officer) is amended as follows.
- (2) In subsection (3) after the second paragraph (a) (but before the “or” at the end of that paragraph) insert –
- “(aa) in the case of the London Fire Commissioner, to the Commissioner;”.
- (3) In subsection (5)(a) after sub-paragraph (i) (but before the “or” at the end of that sub-paragraph) insert –
- “(ia) in the case of the London Fire Commissioner, no later than three months after the Commissioner is sent a copy of the report;”.
- (4) In subsection (8) in paragraph (a) of the definition of “relevant authority” for “and an elected local policing body” substitute “, an elected local policing body and the London Fire Commissioner”.
- 87 (1) Section 21 (interpretation of Part 1) is amended as follows.
- (2) In subsection (1)(i) omit “or the London Fire and Emergency Planning Authority”.
- (3) After subsection (1) insert –
- (1A) In the following provisions of this Part references to a local authority include the London Fire Commissioner –
- (a) section 1 (disqualification and political restriction of certain officers and staff),
- (b) section 2 (politically restricted posts),
- (c) section 3A (grant and supervision of exemptions from political restriction: England), and
- (d) section 7 (all staff to be appointed on merit).”
- (1B) In the application of section 1(1) to the London Fire Commissioner by virtue of subsection (1A) the reference to being or remaining a member of a local authority is to be read as a reference to becoming or remaining the London Fire Commissioner.”
- 88 In section 152(2) (meaning of “relevant authority” for the purposes of

sections 150 and 151) for paragraph (n) substitute –
“(n) the London Fire Commissioner.”

- 89 In section 155(2) (expenditure financial assistance to local authorities: expenditure treated as incurred by Greater London Authority) for paragraph (a) substitute – 5
“(a) the London Fire Commissioner.”

Town and Country Planning Act 1990 (c. 8)

- 90 The Town and Country Planning Act 1990 is amended as follows.
- 91 In section 252 (procedures for highways orders) in the definition of “local authority” in subsection (12) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner,” 10
- 92 In section 336(1) (interpretation) in the definition of “local authority” for paragraph (ab) substitute –
“(ab) the London Fire Commissioner;”.
- 93 In Schedule 14 (procedure for footpaths and bridleways orders) in paragraph 1(3) (meaning of “council” in provisions about notices) for “, the London Fire and Emergency Planning Authority,” substitute “, the London Fire Commissioner,”. 15

London Local Authorities Act 1991 (c. xiii)

- 94 The London Local Authorities Act 1991 is amended as follows. 20
- 95 In section 7 (licensing of special treatment premises: duty to notify London Fire and Emergency Planning Authority of application) for “the London Fire and Emergency Planning Authority” in each place substitute “the London Fire Commissioner”.
- 96 In section 15(1) (powers of entry) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”. 25

Local Government (Overseas Assistance) Act 1993 (c. 25)

- 97 In section 1 of the Local Government (Overseas Assistance) Act 1993 (power to provide advice and assistance) in subsection (10) (other bodies) for paragraph (dd) substitute – 30
“(dd) the London Fire Commissioner;”

London Local Authorities Act 1995 (c. x)

- 98 In section 2 of the London Local Authorities Act 1995 (interpretation) in paragraph (b) of the definition of “the fire and rescue authority” for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”. 35

Housing Grants, Construction and Regeneration Act 1996 (c. 53)

- 99 In section 3(2) (persons ineligible for grant) for paragraph (k) substitute –
“(k) the London Fire Commissioner.”

Channel Tunnel Rail Link Act 1996 (c. 61)

- 100 In Schedule 3 to the Channel Tunnel Rail Link Act 1996 (highways) in paragraph 2(11) (definition of local authority) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”. 5

Crime and Disorder Act 1998 (c. 37)

- 101 The Crime and Disorder Act 1998 is amended as follows.
- 102 In section 5(5) (authorities responsible for strategies: interpretation) in the definition of “fire and rescue authority” for paragraph (c) substitute – 10
“ (c) the London Fire Commissioner.”
- 103 In section 17(2) (duty to consider crime and disorder implications: authorities to which duty applies) for the entry relating to the London Fire and Emergency Planning Authority substitute –
“the London Fire Commissioner;”.
- 104 In section 115(2) (disclosure of information: meaning of relevant authority) for paragraph (h) substitute – 15
“(h) the London Fire Commissioner;”.

Local Government Act 1999 (c. 27)

- 105 In section 1(1) (best value authorities) for paragraph (f) substitute – 20
“(f) the London Fire Commissioner;”.

Freedom of Information Act 2000 (c. 36)

- 106 In Part 2 of Schedule 1 to the Freedom of Information Act 2000 (public authorities: local government) for paragraph 20 substitute –
“20 The London Fire Commissioner.”

Courts Act 2003 (c. 39) 25

- 107 (1) Section 41 of the Courts Act 2003 (disqualification of lay justices who are members of local authorities) is amended as follows.
- (2) In subsection (6) for paragraph (d) substitute –
“(d) the London Fire Commissioner;”.
- (3) After subsection (6) insert – 30
“(7) In the application of this section to the London Fire Commissioner, the reference in subsection (1) to a member of the local authority is to the person who is for the time being the Commissioner.”

Fire and Rescue Services Act 2004 (c. 21)

- 108 The Fire and Rescue Services Act 2004 is amended as follows. 35
- 109 In section 1(2) (fire and rescue authorities in England) in paragraph (c) for “London Fire and Emergency Planning Authority” substitute “London Fire Commissioner”.

-
- 110 In section 5A(3) (powers of certain fire and rescue authorities: authorities to which the section applies) for paragraph (b) substitute –
“(b) the London Fire Commissioner.”
- 111 In section 5B (boundaries of power under section 5A) after subsection (5) insert – 5
“(5A) Section 5A(1) does not authorise the London Fire Commissioner to enter into a contract to which this subsection applies without the consent of the Mayor of London.
(5B) Subsection (5A) applies to a contract if –
(a) the Mayor of London has notified the London Fire Commissioner that the Commissioner requires the Mayor’s consent before entering into a contract of a kind specified in the notification, and 10
(b) the contract is of that kind.”
- Local Government and Public Involvement in Health Act 2007 (c. 28)* 15
- 112 In section 104 (partner authorities) in subsection (5) (meaning of “fire and rescue authority”) for paragraph (c) substitute –
“(c) the London Fire Commissioner.”
- Crossrail Act 2008 (c. 18)*
- 113 In Schedule 3 to the Crossrail Act 2008 (stopping-up of highways) in paragraph 2(11) (local authorities which must be notified of proposed stopping-up) for paragraph (c) substitute – 20
“(c) the London Fire Commissioner.”
- Equality Act 2010 (c. 15)*
- 114 In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities) for the entry relating to the London Fire and Emergency Planning Authority substitute – 25
“the London Fire Commissioner;”.
- Localism Act 2011 (c. 20)*
- 115 The Localism Act 2011 is amended as follows. 30
- 116 In section 27 (duty to promote and maintain high standards of conduct) in subsection (6) (meaning of “relevant authority”) for paragraph (g) substitute –
“(g) the London Fire Commissioner.”
- 117 In section 43(1) (meaning of “relevant authority”) for purposes of Chapter 8 of Part 1 for paragraph (g) substitute – 35
“(g) the London Fire Commissioner.”
- Police Reform and Social Responsibility Act 2011 (c. 13)*
- 118 In section 66 of the Police Reform and Social Responsibility Act 2011 (disqualification from election or holding office as police and crime 40

commissioner: other grounds) after subsection (9) insert –

- “(10) A person is disqualified from being elected as, or being, police and crime commissioner if the person –
- (a) is the London Fire Commissioner, or
 - (b) is a member of the staff of the London Fire Commissioner.”

5

Energy Act 2013 (c. 32)

- 119 In Part 3 of Schedule 9 to the Energy Act 2013 (protected information: permitted disclosures and restrictions on use) in paragraph 14(3) (local authorities and water authorities: interpretation) in the definition of “local authority” for paragraph (e) substitute –
- “(e) the London Fire Commissioner.”

10

Local Audit and Accountability Act 2014 (c. 2)

- 120 In section 40 of the Local Audit and Accountability Act 2014 (access to local government meetings and documents) in subsection (6) (bodies to which provisions apply) for paragraph (f) substitute –
- “(f) the London Fire Commissioner.”

15

Consequential repeals

- 121 In consequence of the amendments made by this Schedule the following provisions are repealed –
- (a) sections 25, 26 and 27 of the Greater London Authority Act 2007;
 - (b) paragraph 8(6) of Schedule 3 to the Local Government and Public Involvement in Health Act 2007.

20

SCHEDULE 3

Section 11

AMENDMENTS CONSEQUENTIAL ON THE AMENDED DEFINITION OF POLICE COMPLAINT

- 1 The Police Reform Act 2002 is amended as follows. 25
- 2 In section 10 (general functions of the Independent Police Complaints Commission), in subsection (2) –
- (a) in paragraph (a), for “made about the conduct of persons serving with the police” substitute “(within the meaning given by section 12)”;
 - (b) in paragraph (b), for “such persons” substitute “persons serving with the police”.
- 3 In section 21 (duty to provide information for other persons), in subsection (2), in the words before paragraph (a), for “complaint or” substitute “complaint that relates to conduct of a person serving with the police or a”. 35
- 4 In section 23 (regulations), in subsection (2)(a), in the words before subparagraph (i), for “against any person” substitute “that relates to conduct of a person serving with the police”.
- 5 (1) Section 29 (interpretation of Part 2) is amended as follows.

- (2) In subsection (1), in the definition of “appropriate authority” –
- (a) omit “and” at the end of paragraph (a);
 - (b) after paragraph (a) insert –
 - “(aa) in relation to any other complaint, means the chief officer of the police force; and”;
- (3) In subsection (1), in the definition of “person complained against”, after “a complaint” insert “that relates to conduct of a person serving with the police”.
- (4) In subsection (2), for paragraphs (a) and (b) substitute –
- “(a) to the person by whom the complaint or purported complaint was made, or
 - (b) to the person on whose behalf the complaint or purported complaint was made;”.
- (5) In subsection (4)(b), for sub-paragraph (ii) substitute –
- “(ii) at the time when he is supposed to have witnessed the conduct, or to have seen or heard the conduct or its effects,”.
- (6) After subsection (4) insert –
- “(4A) In this Part references, in relation to anything purporting to be a complaint other than a complaint about any conduct, to a member of the public include references to any person falling within subsection (3)(a) to (d) other than a person who is –
 - (a) a member of the police force with which dissatisfaction is expressed,
 - (b) a civilian employee of that police force,
 - (c) a special constable who is under the direction and control of the chief officer of that police force, or
 - (d) where dissatisfaction is expressed with the City of London police force, an employee of the Common Council of the City of London who is under the direction and control of the chief officer of that force.”
- 6 (1) Part 1 of Schedule 3 (handling of complaints) is amended as follows.
- (2) In paragraph 1(6), omit “any conduct that is”.
 - (3) In paragraph 4(1)(a), after “conduct” insert “or other matter”.
 - (4) In paragraph 4(6)(b), at the end insert “(if any)”.
 - (5) In paragraph 5(3)(b), at the end insert “(if any)”.
- 7 (1) Part 3 of Schedule 3 (investigations and subsequent proceedings) is amended as follows.
- (2) In paragraph 23(2A), after “a person” insert “(if any)”.
 - (3) In paragraph 24(2A), after “a person” insert “(if any)”.
 - (4) In paragraph 25(10)(d), at the end insert “(if any)”.
 - (5) In paragraph 26(5)(d), at the end insert “(if any)”.

SCHEDULE 4

Section 13

COMPLAINTS, CONDUCT MATTERS AND DSI MATTERS: PROCEDURE

PART 1

RECORDING AND REFERENCE OF COMPLAINTS

- | | | |
|---|--|----|
| 1 | Part 1 of Schedule 3 to the Police Reform Act 2002 (handling of complaints) is amended as follows. | 5 |
| 2 | (1) Paragraph 2 (initial handling and recording of complaints) is amended as follows. | |
| | (2) In sub-paragraph (6), in the words following paragraph (c), for “record the complaint” substitute “contact the complainant and seek the complainant’s views on how the complaint should be handled”. | 10 |
| | (3) After sub-paragraph (6) insert – | |
| | “(6A) A local policing body or chief officer that is subject to the duty in sub-paragraph (6) in relation to a complaint must record the complaint if – | 15 |
| | (a) at any time the complainant indicates a wish for the complaint to be recorded, or | |
| | (b) the local policing body or chief officer determines that the complaint is to be handled in accordance with this Schedule. | 20 |
| | (6B) The local policing body or chief officer must determine that a complaint is to be handled in accordance with this Schedule if – | |
| | (a) the complaint is one alleging that the conduct or other matter complained of has resulted in death or serious injury, | 25 |
| | (b) the complaint is one alleging that there has been conduct by a person serving with the police which (if proved) might constitute the commission of a criminal offence or justify the bringing of disciplinary proceedings, | |
| | (c) the conduct or other matter complained of (if proved) might have involved the infringement of a person’s rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998), or | 30 |
| | (d) the complaint is of a description specified for the purposes of paragraph 4(1)(b) in regulations made by the Secretary of State. | 35 |
| | (6C) Where a local policing body or chief officer determines (for the purposes of sub-paragraph (6A)) that a complaint is to be handled otherwise than in accordance with this Schedule, the local policing body or chief officer must handle the complaint in such other manner as the local policing body or chief officer considers appropriate with a view to resolving the complaint to the complainant’s satisfaction. | 40 |
| | (The duty in this sub-paragraph ceases to apply if the complaint is recorded in accordance with sub-paragraph (6A)(a).) | 45 |

- (6D) Where a local policing body or chief officer records a complaint under sub-paragraph (6A), or determines that a complaint is to be handled otherwise than in accordance with this Schedule, the local policing body or chief officer must notify the complainant of the recording of the complaint or (as the case may be) of the determination.” 5
- (4) For sub-paragraph (7) substitute –
“(7) Nothing in this paragraph shall require the taking of any action in relation to a complaint if the complaint has been withdrawn.”
- (5) Omit sub-paragraph (8). 10
- (6) At the end insert –
“(9) If a local policing body or chief officer decides that it or (as the case may be) he is not required to comply with any of sub-paragraphs (2), (3) and (6) to (6C) on the basis of a determination that what purports to be a complaint is not a complaint, the local policing body or chief officer must notify the complainant of the determination and the grounds on which it was made. 15
(10) If a local policing body or chief officer determines that part of what has been received (whether directly or by virtue of a notification under this paragraph) is a complaint and part is not, the local policing body or chief officer must proceed under this paragraph as if those two parts had been separately received.” 20
- 3 Omit paragraph 3 (failures to notify or record a complaint) and the italic heading before that paragraph.
- 4 (1) Paragraph 4 (reference of complaints to the Commission) is amended as follows. 25
(2) After sub-paragraph (6) insert –
“(6A) A local policing body which refers a complaint to the Commission under sub-paragraph (3) shall also give a notification of the making of the reference to the appropriate authority.” 30
(3) Omit sub-paragraph (8).
(4) At the end insert –
“(9) The appropriate authority must record any complaint that is referred to the Commission under this paragraph that has not already been recorded.” 35

PART 2

HANDLING OF COMPLAINTS

- 5 Part 1 of Schedule 3 to the Police Reform Act 2002 (handling of complaints) is further amended as follows.
- 6 (1) Paragraph 6 (handling of complaints by the appropriate authority) is amended as follows. 40

-
- (2) In sub-paragraph (2), omit the “or” at the end of paragraph (a) and omit paragraph (b).
- (3) After sub-paragraph (2) insert –
- “(2A) The appropriate authority must handle the complaint in such reasonable and proportionate manner as the authority determines. 5
- (2B) An appropriate authority may handle a complaint in accordance with sub-paragraph (2A) by (amongst other things) –
- (a) making arrangements for the complaint to be investigated by the authority on its own behalf;
- (b) notifying the complainant that no further action is to be taken in relation to the complaint. 10
- (2C) Where the complaint is one to which sub-paragraph (2D) or (2E) applies (but subject to any provision made under sub-paragraph (2F)), the appropriate authority must comply with its duty under sub-paragraph (2A) by making arrangements for the complaint to be investigated by the authority on its own behalf. 15
- (2D) This sub-paragraph applies to a complaint if at any time it appears to the appropriate authority from the complaint, or from the appropriate authority’s handling of the complaint to that point, that there is an indication that – 20
- (a) a person serving with the police may have committed a criminal offence or behaved in a manner that would justify the bringing of disciplinary proceedings, or
- (b) there may have been the infringement of a person’s rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998). 25
- (2E) This sub-paragraph applies to a complaint if –
- (a) the complaint is for the time being referred back to the appropriate authority under paragraph 5(2)(b), and
- (b) the Commission notifies the appropriate authority that it requires the authority to handle the complaint by making arrangements for the complaint to be investigated by the authority on its own behalf. 30
- (2F) The Secretary of State may by regulations provide for the duty in sub-paragraph (2C) to be subject to exceptions in so far as that duty relates to complaints to which sub-paragraph (2D) applies. 35
- (2G) A statement made by any person for the purposes of the handling of any complaint in accordance with sub-paragraph (2A) otherwise than by the appropriate authority making arrangements for the complaint to be investigated by the authority on its own behalf is not admissible in any subsequent criminal, civil or disciplinary proceedings except to the extent that it consists of an admission relating to a matter that has not been subjected to such handling.” 40
- (4) Omit sub-paragraphs (3) to (11). 45
- 7 Omit paragraph 7 (disapplication of requirements of Schedule) and the italic heading before that paragraph.

- 8 Omit paragraph 8 (local resolution of complaints) and the italic heading before that paragraph.

PART 3

INVESTIGATIONS AND SUBSEQUENT PROCEEDINGS

- 9 Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc) is further amended as follows. 5
- 10 (1) Paragraph 5 (duties of Commission on references under paragraph 4: complaints) is amended as follows.
- (2) In sub-paragraph (1) –
- (a) at the beginning insert “Subject to sub-paragraph (4),”; 10
- (b) for “every” substitute “a”.
- (3) In sub-paragraph (2), for the words from “, it may” to the end of the sub-paragraph substitute “ –
- (a) in a case where the complaint is already being investigated by the appropriate authority on its own behalf (and notwithstanding the Commission’s determination), the Commission must refer the complaint back to the appropriate authority for the investigation to be completed, and 15
- (b) in any other case, the Commission may, if it thinks fit, refer the complaint back to the appropriate authority to be dealt with by that authority in accordance with paragraph 6.” 20
- (4) After sub-paragraph (3) insert –
- “(4) The Secretary of State may by regulations provide that the Commission must investigate in accordance with paragraph 19 complaints referred to it that relate to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis. 25
- (5) Regulations under sub-paragraph (4) may provide that the duty on the Commission applies only in relation to complaints relating to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis that are of a description specified in the regulations.” 30
- 11 In paragraph 6 (handling of complaints by the appropriate authority), in sub-paragraph (2)(a), for “5” substitute “5(2)(b)”.
- 12 (1) Paragraph 14 (duties of Commission on references under paragraph 13: recordable conduct matters) is amended as follows. 35
- (2) In sub-paragraph (1) –
- (a) at the beginning insert “Subject to sub-paragraph (4),”; 40
- (b) for “every” substitute “a”.
- (3) In sub-paragraph (2), for the words from “, it may” to the end of the sub-paragraph substitute “ –
- (a) in a case where the recordable conduct matter is already being investigated by the appropriate authority on its own behalf (and notwithstanding the Commission’s determination), the Commission

- must refer the matter back to the appropriate authority for the investigation to be completed, and
- (b) in any other case, the Commission may, if it thinks fit, refer the matter back to the appropriate authority to be dealt with by that authority in such manner (if any) as that authority may determine.” 5
- (4) After sub-paragraph (3) insert –
- “(4) The Secretary of State may by regulations provide that the Commission must investigate in accordance with paragraph 19 recordable conduct matters referred to it that relate to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis. 10
- (5) Regulations under sub-paragraph (4) may provide that the duty on the Commission applies only in relation to recordable conduct matters relating to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis that are of a description specified in the regulations.” 15
- 13 (1) Paragraph 14D (duties of Commission on references under paragraph 14C: DSI matters) is amended as follows.
- (2) In sub-paragraph (1)–
- (a) at the beginning insert “Subject to sub-paragraph (3),”; 20
- (b) for “every” substitute “a”.
- (3) In sub-paragraph (2), for the words from “, it may” to the end of the sub-paragraph substitute “–
- (a) in a case where the DSI matter is already being investigated by the appropriate authority on its own behalf (and notwithstanding the Commission’s determination), the Commission must refer the matter back to the appropriate authority for the investigation to be completed, and 25
- (b) in any other case, the Commission may, if it thinks fit, refer the matter back to the appropriate authority to be dealt with by that authority in such manner (if any) as that authority may determine.” 30
- (4) After sub-paragraph (2) insert –
- “(3) The Secretary of State may by regulations provide that the Commission must investigate in accordance with paragraph 19 DSI matters referred to it in relation to which the relevant officer is a chief officer or the Deputy Commissioner of Police of the Metropolis. 35
- (4) Regulations under sub-paragraph (3) may provide that the duty on the Commission applies only in relation to DSI matters in relation to which the relevant officer is a chief officer or the Deputy Commissioner of Police of the Metropolis that are of a description specified in the regulations.” 40
- 14 (1) Paragraph 15 (power of the Commission to determine the form of an investigation) is amended as follows.
- (2) In sub-paragraph (1)(b), after “determines” insert “under paragraph 5(1), 14(1) or 14D(1)”. 45

- (3) After sub-paragraph (1) insert –
- “(1A) This paragraph also applies where the Commission determines under paragraph 6A(5)(a) that it is necessary for a complaint to be investigated.”
- (4) Omit sub-paragraph (3). 5
- (5) In sub-paragraph (4) –
- (a) omit paragraph (b);
- (b) in paragraph (c), for “management” substitute “direction”.
- (6) After sub-paragraph (4) insert –
- “(4A) In making a determination under sub-paragraph (2) the Commission must first determine whether, having regard to the seriousness of the case and the public interest, it is appropriate for the investigation to take the form of an investigation by the appropriate authority on its own behalf and if it is the Commission must determine that the investigation is to take that form. 10 15
- (4B) Where, in accordance with sub-paragraph (4A), the Commission determines that it is not appropriate for the investigation to take the form of an investigation by the appropriate authority on its own behalf, the Commission must determine that the investigation is to take the form of an investigation by the Commission unless sub-paragraph (4C) applies. 20
- (4C) This sub-paragraph applies where the Commission determines that it would be more appropriate for the investigation to take the form of an investigation by the appropriate authority under the direction of the Commission, in which case the Commission must determine that the investigation is to take that form.” 25
- (7) For sub-paragraph (5) substitute –
- “(5) Where the Commission determines that an investigation is to take the form of an investigation by the appropriate authority under the direction of the Commission, the Commission must keep under review whether sub-paragraph (4C) continues to apply in relation to the investigation. 30
- (5A) If, on such a review, the Commission determines that sub-paragraph (4C) no longer applies in relation to an investigation, the Commission must make a further determination under this paragraph (to replace the earlier one) that the investigation is instead to take the form of an investigation by the Commission. 35
- (5B) Subject to sub-paragraph (5A), if at any time the Commission determines that, were it to apply sub-paragraphs (4A) to (4C) again, the form of the investigation would be different, the Commission may make a further determination under this paragraph (to replace the earlier one) such that the investigation takes that different form.” 40
- (8) In sub-paragraph (8), at the end insert “and of its reasons for making the determination”. 45

- (9) After sub-paragraph (8) insert –
- “(9) The Commission shall also notify the following of any determination that it makes under this paragraph in relation to a particular complaint, recordable conduct matter or DSI matter and of its reasons for making the determination – 5
- (a) every person entitled to be kept properly informed in relation to the complaint or matter under section 21;
- (b) where the determination is made in relation to a complaint, the complainant.
- (10) The duty imposed by sub-paragraph (9) on the Commission in relation to a complaint, recordable conduct matter or DSI matter shall have effect subject to such exceptions as may be provided for by regulations made by the Secretary of State. 10
- (11) Subsections (6) to (8) of section 20 apply for the purposes of sub-paragraph (10) as they apply for the purposes of that section.” 15
- 15 (1) Paragraph 16 (investigations by the appropriate authority on its own behalf) is amended as follows.
- (2) Before sub-paragraph (1) insert –
- “(A1) This paragraph applies if the appropriate authority, acting in accordance with paragraph 6(2A) or in response to a recommendation under paragraph 6A(6)(b), is to make arrangements for a complaint to be investigated by the appropriate authority on its own behalf.” 20
- (3) In sub-paragraph (1) –
- (a) in the words before paragraph (a), after “paragraph” insert “also”; 25
- (b) omit paragraph (a) and the “or” following it.
- 16 Omit paragraph 17 (investigations supervised by the Commission) and the italic heading before that paragraph.
- 17 In the italic heading before paragraph 18, for “managed” substitute “directed”. 30
- 18 (1) Paragraph 18 (investigations managed by the Commission) is amended as follows.
- (2) In sub-paragraph (1), for “manage” substitute “direct”.
- (3) For sub-paragraph (2) substitute –
- “(2) On being given notice of that determination, the appropriate authority shall, if it has not already done so, appoint – 35
- (a) a person serving with the police (whether under the direction and control of the chief officer of police of the relevant force or of the chief officer of another force), or
- (b) a National Crime Agency officer, 40
- to investigate the complaint or matter.
- (2A) The Commission may require that no appointment is made under sub-paragraph (2) unless it has given notice to the appropriate authority that it approves the person whom that authority proposes to appoint. 45

- (2B) Where at any time the Commission is not satisfied with the person investigating, the Commission may require the appropriate authority, as soon as reasonably practicable after being required to do so –
- (a) to select another person falling within sub-paragraph (2)(a) or (b) to investigate the complaint or matter, and 5
 - (b) to notify the Commission of the person selected.
- (2C) Sub-paragraph (2B) applies whether the person investigating was appointed –
- (a) before the appropriate authority was given notice of the Commission’s determination that it should direct the investigation by the appropriate authority, 10
 - (b) under sub-paragraph (2) (including where the appointment was approved by the Commission in accordance with sub-paragraph (2A)), or 15
 - (c) under sub-paragraph (2D)(a).
- (2D) Where a selection made in pursuance of a requirement under sub-paragraph (2B) has been notified to the Commission –
- (a) the appropriate authority shall appoint that person to investigate the complaint or matter if, but only if, the Commission notifies the authority that it approves the appointment of that person; 20
 - (b) if the Commission notifies the authority that it does not approve the appointment of that person, the appropriate authority must make another selection in accordance with sub-paragraph (2B). 25
- (2E) A person appointed under this paragraph to investigate any complaint or conduct matter –
- (a) in the case of an investigation relating to any conduct of a chief officer, must not be a person under that chief officer’s direction and control, and 30
 - (b) in the case of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph. 35
- (2F) A person appointed under this paragraph to investigate any DSI matter –
- (a) in relation to which the relevant officer is a chief officer, must not be a person under that chief officer’s direction and control, and 40
 - (b) in relation to which the relevant officer is the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.” 45

- (6) Regulations under sub-paragraph (5) may (amongst other things) make provision –
- (a) as to the procedure to be followed in connection with any interview of the person concerned, including provision requiring the person concerned to attend an interview; 5
 - (b) requiring the person investigating to supply information to the appropriate authority.
- (7) In this paragraph “the person concerned” –
- (a) in relation to an investigation of a complaint, means the person in respect of whom it appears to the person investigating that there is the indication mentioned in sub-paragraph (2)(b) or (as the case may be) the person in respect of whom the Commission determines that there is the indication mentioned in sub-paragraph (3)(b); 10
 - (b) in relation to an investigation of a recordable conduct matter, means the person to whose conduct the investigation relates.” 15
- 21 (1) Paragraph 19F (interview of persons serving with the police etc during certain investigations) is amended as follows.
- (2) In sub-paragraph (2) – 20
- (a) in paragraph (a), for “, and” substitute “other than, in the case of an investigation to which paragraph 19A applies, a serving officer who is the person concerned in relation to the investigation (within the meaning of paragraph 19A).”; 25
 - (b) omit paragraph (b). 25
- (3) In sub-paragraph (7) –
- (a) omit the “or” at the end of paragraph (a);
 - (b) after paragraph (a) insert – 30
 - “(aa) a body required by section 26BA to enter into an agreement with the Commission, or”.
- 22 For paragraphs 20A to 20I (accelerated procedure in special cases) substitute –
- “20A(1) This paragraph applies where –
- (a) at any time before the completion of an investigation of a complaint or recordable conduct matter, the person investigating believes that the appropriate authority would, on consideration of the matter, be likely to consider that the conditions in sub-paragraph (2) are satisfied, or 35
 - (b) at any time before the completion of an investigation of a complaint or recordable conduct matter being carried out by a person appointed under paragraph 18, the Commission determines that the appropriate authority would, on consideration of the matter, be likely to consider that the conditions in sub-paragraph (2) are satisfied. 40
- (2) The conditions in this sub-paragraph are that – 45
- (a) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance

-
- of probabilities that conduct to which the investigation relates constitutes gross misconduct, and
- (b) it is in the public interest for the person whose conduct it is to cease to be a member of a police force, or to be a special constable, without delay. 5
- (3) Where this paragraph applies the person investigating, the appropriate authority and the Commission must proceed in accordance with regulations made by the Secretary of State.
- (4) Regulations under sub-paragraph (3) may (amongst other things) make provision – 10
- (a) for the person investigating to continue the investigation (whether to its full extent or to such lesser extent as is provided) or to stop investigating;
- (b) for the person investigating to submit a report on the investigation to a point before its completion (not being a report under paragraph 22); 15
- (c) for the conduct to which the investigation relates to be certified for the purposes of paragraph 20(1)(a).”
- 23 Omit paragraph 21 (power to discontinue an investigation) and the italic heading before that paragraph. 20
- 24 (1) Paragraph 21A (procedure where conduct matter is revealed during investigation of DSI matter) is amended as follows.
- (2) After sub-paragraph (2) insert –
- “(2A) If during the course of an investigation of a DSI matter being carried out by a person appointed under paragraph 18 the Commission determines (without there having been a submission under sub-paragraph (1)) that there is an indication that a person serving with the police (“the person whose conduct is in question”) may have – 25
- (a) committed a criminal offence, or 30
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings,
- it shall notify the appropriate authority in relation to the DSI matter and (if different) the appropriate authority in relation to the person whose conduct is in question of its determination.” 35
- (3) In sub-paragraph (5)(a), after “(2)” insert “or (2A)”.
- 25 (1) Paragraph 23 (action by the Commission in response to an investigation report under paragraph 22) is amended as follows.
- (2) After sub-paragraph (5) insert –
- “(5A) On receipt of the report, the Commission shall also – 40
- (a) seek the views of the appropriate authority on –
- (i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer, and 45
- (ii) whether or not any such person’s performance is unsatisfactory,

- (b) having considered the views (if any) of the appropriate authority, make a determination as to –
 - (i) the matters described in paragraph (a)(i) and (ii), and
 - (ii) whether or not disciplinary proceedings should be brought against any person to whose conduct the investigation related and, if so, what form the disciplinary proceedings should take, 5
 - (c) if it considers it appropriate to do so, make a determination as to the other matters (if any) that are dealt with in the report (not being matters relating to the commission of a criminal offence by, or the conduct or performance of, a person to whose conduct the investigation related), 10
 - (d) notify the appropriate authority of its determination under paragraph (b) and any determination under paragraph (c), 15
 - (e) where the Commission determines that disciplinary proceedings of a form specified in the determination should be brought against a person, direct the appropriate authority to bring those proceedings, and
 - (f) direct the appropriate authority to determine what action (if any) the appropriate authority will in its discretion take, not being action involving the bringing of disciplinary proceedings, in respect of the matters dealt with in the report and having regard to the Commission’s determination under paragraph (b) and any determination under paragraph (c). 20 25
- (5B) The appropriate authority must comply with a direction given under sub-paragraph (5A)(e) and must secure that the proceedings, once brought, are proceeded with to a proper conclusion. 30
- (5C) The Commission may at any time withdraw a direction given under sub-paragraph (5A)(e); and sub-paragraph (5B) shall not impose any obligation in relation to any time after the withdrawal of the direction.
- (5D) The appropriate authority must keep the Commission informed of the action it takes in response to a direction given under sub-paragraph (5A)(e). 35
- (5E) The appropriate authority must comply with the direction given under sub-paragraph (5A)(f) and must notify the Commission of the determination it makes. 40
- (5F) On receipt of the report, where it is a report of an investigation of a complaint, the Commission may also make a recommendation under paragraph 28ZA.”
- (3) Omit sub-paragraphs (6) to (8).
- 26 In paragraph 24A (final reports on investigations: other DSI matters), at the end insert – 45
 - “(5) On receipt of the report, the Commission shall also, if it considers it appropriate to do so, make a determination as to the other matters (if any) that are dealt with in the report (not being matters

relating to the commission of a criminal offence by, or the conduct or performance of, a person serving with the police).”

PART 4

REVIEWS

- | | | |
|----|---|----|
| 27 | Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc) is further amended as follows. | 5 |
| 28 | In paragraph 4 (reference of complaints to the Commission), after sub-paragraph (5) insert – | |
| | “(5A) The power of an appropriate authority to refer a complaint to the Commission under sub-paragraph (2) is also exercisable after a complaint has been handled in accordance with this Schedule if a recommendation is made under paragraph 6A(6)(a) or 25(4E)(b) (recommendation on a review).” | 10 |
| 29 | After paragraph 6 insert – | |
| | <i>“Reviews relating to complaints dealt with other than by investigation</i> | 15 |
| | 6A (1) This paragraph applies where a complaint is handled by the appropriate authority in accordance with paragraph 6(2A) otherwise than by the authority making arrangements for the complaint to be investigated by the authority on its own behalf. | |
| | (2) The complainant has the right to apply to the relevant review body for a review of the outcome of the complaint. | 20 |
| | (3) The relevant review body must notify the following of an application for a review under sub-paragraph (2) – | |
| | (a) the appropriate authority, | |
| | (b) every person entitled to be kept properly informed in relation to the complaint under section 21, and | 25 |
| | (c) the person complained against (if any). | |
| | (4) On a review applied for under sub-paragraph (2), the relevant review body must determine whether the outcome is a reasonable and proportionate outcome. | 30 |
| | (5) Where the Commission is the relevant review body and the Commission finds that the outcome is not a reasonable and proportionate outcome, the Commission may – | |
| | (a) determine that it is necessary for the complaint to be investigated; | 35 |
| | (b) make a recommendation under paragraph 28ZA. | |
| | (6) Where a local policing body is the relevant review body and the local policing body finds that the outcome is not a reasonable and proportionate outcome, the local policing body may – | |
| | (a) where the complaint has not previously been referred to the Commission under paragraph 4, make a recommendation to the appropriate authority that it refer the complaint to the Commission under sub-paragraph (2) of that paragraph; | 40 |

-
- (b) make a recommendation to the appropriate authority that it make arrangements for the complaint to be investigated by the authority on its own behalf;
- (c) make a recommendation under paragraph 28ZA.
- (7) The relevant review body must give notification of the outcome of a review under this paragraph – 5
- (a) to the appropriate authority,
- (b) to the complainant,
- (c) to every person entitled to be kept properly informed in relation to the complaint under section 21, and 10
- (d) except in a case where it appears to the relevant review body that to do so might prejudice any investigation of the complaint, to the person complained against (if any).
- (8) In this paragraph references to the outcome of a complaint do not include the outcome of any criminal or disciplinary proceedings brought in relation to any matter which was the subject of the complaint.” 15
- 30 Omit paragraph 8A (appeals relating to complaints dealt with other than by investigation) and the italic heading before that paragraph.
- 31 In the italic heading before paragraph 25, for “Appeals” substitute “Reviews”. 20
- 32 (1) Paragraph 25 (appeals with respect to an investigation) is amended as follows.
- (2) After sub-paragraph (1) insert –
- “(1A) But this paragraph does not apply where the person investigating submitted a report on the investigation under provision made by virtue of paragraph 20A(4)(b) and did not (as a result of provision made by virtue of paragraph 20A(4)(a)) submit a further report under paragraph 22(2). 25
- (1B) Where this paragraph applies, the complainant has the right to apply to the relevant review body for a review of the outcome of the complaint. 30
- (1C) The relevant review body must notify the following of an application for a review under sub-paragraph (1B) – 35
- (a) the appropriate authority,
- (b) every person entitled to be kept properly informed in relation to the complaint under section 21, and
- (c) the person complained against (if any).”
- (3) Omit sub-paragraphs (2) to (3).
- (4) For sub-paragraph (4) substitute – 40
- “(4) Where the relevant review body so requires on the making of an application for a review under sub-paragraph (1B), the appropriate authority must provide the relevant review body with –
- (a) a copy of the report of the investigation, and 45

- (b) such information concerning the authority’s determinations under paragraph 24 as is described in a notification given by the relevant review body to the authority.”
- (5) After sub-paragraph (4) insert – 5
- “(4A) On a review applied for under sub-paragraph (1B), the relevant review body must determine whether the outcome of the complaint is a reasonable and proportionate outcome.
- (4B) In making a determination under sub-paragraph (4A), the relevant review body may review the findings of the investigation. 10
- (4C) Where the Commission is the relevant review body and the Commission finds that the outcome is not a reasonable and proportionate outcome, the Commission may –
- (a) substitute its own findings for the findings of the investigation; 15
- (b) direct that the complaint be re-investigated;
- (c) make a recommendation to the appropriate authority in respect of any person serving with the police –
- (i) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to the person’s conduct to which the investigation related; 20
- (ii) that the person’s performance is, or is not, unsatisfactory;
- (iii) that disciplinary proceedings of the form specified in the recommendation are brought against the person in respect of the person’s conduct, efficiency or effectiveness to which the investigation related; 25
- (iv) that any disciplinary proceedings brought against that person are modified so as to deal with such aspects of that conduct, efficiency or effectiveness as may be so specified; 30
- (d) make a recommendation under paragraph 28ZA.
- (4D) Where the Commission makes a recommendation under sub-paragraph (4C)(c) – 35
- (a) the appropriate authority must notify the Commission whether it accepts the recommendation and (if it does) set out in the notification the steps that it is proposing to take to give effect to it, and 40
- (b) paragraphs 27(4) to (8) and (9)(b) and 28 apply in relation to the recommendation as if it had been made under paragraph 27.
- (4E) Where a local policing body is the relevant review body and the local policing body finds that the outcome is not a reasonable and proportionate outcome, the local policing body may – 45
- (a) make a recommendation to the appropriate authority that the complaint be re-investigated by the authority on its own behalf;

- (b) where the complaint has not previously been referred to the Commission under paragraph 4, make a recommendation to the appropriate authority that it refer the complaint to the Commission under sub-paragraph (2) of that paragraph; 5
- (c) make a recommendation to the appropriate authority in respect of any person serving with the police –
 - (i) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to the person’s conduct to which the investigation related; 10
 - (ii) that the person’s performance is, or is not, unsatisfactory;
 - (iii) that disciplinary proceedings of the form specified in the recommendation are brought against the person in respect of the person’s conduct, efficiency or effectiveness to which the investigation related; 15
 - (iv) that any disciplinary proceedings brought against that person are modified so as to deal with such aspects of that conduct, efficiency or effectiveness as may be so specified; 20
- (d) make a recommendation under paragraph 28ZA.
- (4F) Sub-paragraph (4G) applies where, on a review applied for under sub-paragraph (1B), the relevant review body determines that the report of the investigation indicates that a criminal offence may have been committed by a person (if any) to whose conduct the investigation related and that – 25
 - (a) the circumstances are such that, in the opinion of the relevant review body, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or 30
 - (b) any matters dealt with in the report fall within any category of matters prescribed for the purposes of paragraph 24(2B)(b). 35
- (4G) Where this sub-paragraph applies –
 - (a) if the Commission is the relevant review body, the Commission must notify the Director of Public Prosecutions of the determination under sub-paragraph (4F) and send the Director a copy of the report; 40
 - (b) if a local policing body is the relevant review body, the local policing body must make a recommendation to the appropriate authority that the appropriate authority –
 - (i) notify the Director of Public Prosecutions of the determination under sub-paragraph (4F), and 45
 - (ii) send the Director a copy of the report.
- (4H) Where this paragraph applies because the person investigating submitted a report on the investigation under provision made by virtue of paragraph 20A(4)(b) (“the first report”) and a further report under paragraph 22(2), the references in sub-paragraphs 50

- (4B) and (4C)(a) to the findings of the investigation do not include a reference to findings on the first report.”
- (6) Omit sub-paragraphs (5) to (9A).
- (7) In sub-paragraph (10) –
- (a) in the words before paragraph (a) – 5
 - (i) for “appeal” substitute “review”;
 - (ii) for “any determination” substitute “the outcome of a review”;
 - (b) in paragraph (a), omit “(unless it is the relevant appeal body)”;
 - (c) in paragraph (d) – 10
 - (i) for “appeal” substitute “review”;
 - (ii) omit “proposed review or”.
- (8) Omit sub-paragraph (11).
- (9) In sub-paragraph (13) –
- (a) in paragraph (a), for “appeals under this paragraph are to be brought” substitute “applications under sub-paragraph (1B) are to be made”; 15
 - (b) in paragraph (b), for “appeal must be brought” substitute “application must be made”;
 - (c) for paragraph (c) substitute – 20
 - “(c) for the procedure to be followed by the relevant review body when carrying out a review applied for under sub-paragraph (1B).”
- (10) After sub-paragraph (13) insert –
- “(14) In this paragraph references in relation to an investigation to the outcome of the complaint do not include the outcome of any criminal or disciplinary proceedings brought in relation to any matter which was the subject of the investigation.” 25
- 33 For the italic heading before paragraph 26, substitute “Re-investigations following a review”.
- 34 (1) Paragraph 26 (reviews and re-investigations following an appeal) is amended as follows. 30
- (2) Omit sub-paragraph (1).
 - (3) In sub-paragraph (2), omit “or sub-paragraph (1)”.
 - (4) In sub-paragraph (3), for “(3)” substitute “(4)”.
 - (5) After sub-paragraph (3) insert – 35
 - “(3A) Where, following a recommendation under paragraph 25(4E)(a) in relation to a complaint, the appropriate authority determines that it is appropriate for it to re-investigate the complaint on its own behalf, sub-paragraphs (3) to (5) of paragraph 16 shall apply in relation to the re-investigation as they apply in relation to an investigation to which paragraph 16 applies.” 40
 - (6) In sub-paragraph (4) –
 - (a) for “25(8)” substitute “25(4C)(b)”;
 - (b) omit “or sub-paragraph (1) of this paragraph”;

- (c) before “as they apply” insert “and any re-investigation of the type described in sub-paragraph (3A) of this paragraph”.
- (7) Omit sub-paragraph (6).
- 35 In the italic heading before paragraph 30 –
- (a) for “Appeals” substitute “Reviews”; 5
- (b) for “appeal” substitute “review”.
- 36 (1) Paragraph 30 (appeals: the relevant appeal body) is amended as follows.
- (2) In sub-paragraph (1) –
- (a) in the words before paragraph (a) –
- (i) for “appeal”, in the first place it occurs, substitute “review”; 10
- (ii) for “an appeal” substitute “a review”;
- (b) in paragraph (a), after “in a case where” insert “a local policing body is the appropriate authority in relation to the relevant complaint or”;
- (c) for paragraph (b) substitute –
- “(b) the local policing body which is the relevant local 15
policing body in relation to the relevant complaint,
in any other case.”
- (3) For sub-paragraph (2) substitute –
- “(2) In this paragraph and paragraphs 31 and 32 –
- “relevant complaint”, in relation to a review, means the 20
complaint to which the review relates;
- “relevant local policing body”, in relation to a relevant
complaint where a chief officer is the appropriate authority
in relation to the complaint, means the local policing body 25
for the area of the police force of which the chief officer is
a member;
- “review” means a review applied for under paragraph 6A(2)
or 25(1B).”
- 37 For paragraph 31 (appeal made to the Commission in error) substitute –
- “31 (1) This paragraph applies in a case where – 30
- (a) an application for a review is made to the Commission,
and
- (b) a local policing body is the relevant review body in relation
to the review.
- (2) The Commission must – 35
- (a) forward the application to the local policing body, and
- (b) notify the person who applied for the review –
- (i) that the local policing body is the relevant review
body, and
- (ii) the application has been forwarded. 40
- (3) The application is to be taken to have been –
- (a) made to the local policing body, and
- (b) so made at the time when it is forwarded to the local
policing body.”
- 38 For paragraph 32 (appeal made to appropriate authority in error) 45

- substitute—
- “32 (1) This paragraph applies in a case where—
- (a) an application for a review is made to a local policing body, and
 - (b) the Commission is the relevant review body in relation to the review. 5
- (2) The local policing body must—
- (a) forward the application to the Commission, and
 - (b) notify the person who applied for the review— 10
 - (i) that the Commission is the relevant review body, and
 - (ii) the application has been forwarded.
- (3) The application 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.” 15
- 39 In section 15 of the Police Reform Act 2002 (general duties of local policing bodies, chief officers and inspectors)—
- (a) in subsection (4) (duty to provide the Commission with assistance), at the end insert “or any review under paragraph 6A or 25 of Schedule 3”; 20
 - (b) in subsection (6)—
 - (i) in paragraph (a), after “investigation” insert “or review (as the case may be)”; 25
 - (ii) omit the “and” at the end of paragraph (a);
 - (iii) in paragraph (b), at the beginning insert “in the case of an investigation,”;
 - (iv) at the end of paragraph (b) insert “and
 - (c) in the case of a review applied for under paragraph 25(1B) of Schedule 3 in respect of an investigation, irrespective of who had the person appointed to carry out the investigation under his direction and control;”. 30
- 40 In section 18 of the Police Reform Act 2002 (inspections of police premises on behalf of the Commission), in subsection (2), after paragraph (b) insert— 35
- “(c) the purposes of any review by the Commission under paragraph 6A or 25 of Schedule 3.”

PART 5

- RECOMMENDATIONS BY THE COMMISSION AND LOCAL POLICING BODIES 40
- 41 In Part 3 of Schedule 3 to the Police Reform Act 2002, after paragraph 28

insert –

“Recommendations by the Commission or a local policing body

- 28ZA(1) A recommendation under this paragraph (for the purposes of paragraphs 6A, 23 and 25) is a recommendation of a kind described in regulations made by the Secretary of State which is made with a view to remedying the dissatisfaction expressed by the complainant concerned. 5
- (2) A recommendation of a kind described in regulations under subsection (1) may (amongst other things) be a recommendation that compensation be paid. 10
- (3) The reference in subsection (1) to the complainant concerned –
- (a) in relation to a recommendation made by virtue of paragraph 6A(5)(b) or (6)(c), is a reference to the complainant who applied under paragraph 6A(2) for the review; 15
 - (b) in relation to a recommendation made by virtue of paragraph 23(5F), is a reference to the complainant whose complaint, having been investigated, resulted in the submission of the report under paragraph 22(3) or (5);
 - (c) in relation to a recommendation made by virtue of paragraph 25(4C)(d) or (4E)(d), is a reference to the complainant who applied under paragraph 25(1B) for the review. 20
- (4) The Secretary of State may by regulations make further provision about recommendations under this paragraph. 25
- (5) The regulations may (amongst other things) –
- (a) specify the persons to whom recommendations under this paragraph may be made;
 - (b) authorise the person making a recommendation under this paragraph (whether the Commission or a local policing body) to require a response to the recommendation; 30
 - (c) require the person making a recommendation under this paragraph to send a copy of the recommendation, and any response to it, to any prescribed person or person of a prescribed description.” 35
- 42 In consequence of the insertion of paragraph 28ZA, in paragraph 28A of Schedule 3 to the Police Reform Act 2002, at the end of sub-paragraph (3) insert “, other than a recommendation of a kind described in regulations made under paragraph 28ZA(1)”.

PART 6 40

CONSEQUENTIAL AMENDMENTS

- 43 In the Police Reform Act 2002 –
- (a) in section 18(2)(b) –
 - (i) omit “supervision or”;
 - (ii) for “management” substitute “direction”; 45

	(xvii) omit paragraph 27(1)(b) and (3);	
	(xviii) in paragraph 27(9)(a), for “(1)(b) or (c)” substitute “(1)(c)”;	
	(xix) in paragraph 28A(1)(a) –	
	(a) omit “supervised or”;	
	(b) for “managed” substitute “directed”;	5
	(xx) in paragraph 28A(2), in the words before paragraph (a), for “an appeal” substitute “a review”;	
	(xxi) in paragraph 28A(2)(a) –	
	(a) for “8A” substitute “6A”;	
	(b) for “appeal” substitute “review”;	10
	(xxii) in paragraph 28A(2)(b) and (3), for “appeal” substitute “review”;	
	(xxiii) in paragraph 28A(4)(b), for “an appeal” substitute “a review”;	
	(xxiv) in paragraph 29, omit the definition of “direction and control matter”.	15
44	In the Serious Organised Crime and Police Act 2005 –	
	(a) in Schedule 11, omit paragraphs 3 and 4;	
	(b) in Schedule 12, omit paragraphs 15, 16(3) and 19.	
45	In the Police and Justice Act 2006, in Part 7 of Schedule 1, omit paragraph 89(4).	20
46	In the Criminal Justice and Immigration Act 2008, in Schedule 23, omit paragraphs 5 to 10, 14(5), 13(5) and (6), 17 and 18(3).	
47	In the Police Reform and Social Responsibility Act 2011 –	
	(a) in Schedule 14, omit paragraphs 8(5), 9(2), 10, 13, 14(2), (4) and (5), 16, 17, 18, 19 and 20(3) to (11) and (13);	25
	(b) in Schedule 16, omit paragraph 300(4).	
48	In the Police (Complaints and Conduct), omit section 1(3).	
49	In the Crime and Courts Act 2013, in Part 2 of Schedule 6, omit paragraph 17(3).	
50	In the Anti-social Behaviour, Crime and Policing Act 2014, in Part 3 of Schedule 11, omit paragraph 95(2) to (5).	30

SCHEDULE 5

Section 21

SCHEDULE TO BE INSERTED AS SCHEDULE 3A TO THE POLICE REFORM ACT 2002

“WHISTLE-BLOWING INVESTIGATIONS: PROCEDURE

	<i>Designation of persons to take part in investigation</i>	35
1	(1) Paragraph 19(1), (2) and (4) to (8) of Schedule 3 (investigations under that Schedule by the Commission itself), and any order made under paragraph 19(4) of that Schedule, apply where the Commission decides to carry out an investigation under section 29E(2) as they apply where the Commission has determined to	40

investigate, or is required to investigate, a complaint, recordable conduct matter or DSI matter under that Schedule.

- (2) In the case of an investigation under section 29E(2) relating to any conduct of the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis, the person designated under paragraph 19(1) of Schedule 3 (as applied by sub-paragraph (1)) must be the person nominated by the Secretary of State for that purpose. 5

Protection of anonymity

- 2 (1) The person in charge of an investigation under section 29E(2), and any other person designated for the purposes of the investigation by virtue of paragraph 1, may not disclose the identity of the whistle-blower or information that might (whether alone or with other information) tend to reveal that identity. 10
- (2) Sub-paragraph (1) does not apply to the extent that— 15
- (a) the whistle-blower consents to the disclosure of his or her identity or (as the case may be) to the disclosure of information that might tend to reveal it, or
- (b) the disclosure is authorised by regulations made by the Secretary of State under section 29I. 20
- (3) The person in charge of an investigation under section 29E(2) must take all reasonable steps to ensure that, where the identity of the whistle-blower, or information that might tend to reveal that identity, is disclosed for the purposes of the investigation (whether with the consent of the whistle-blower or in accordance with regulations under section 29I), it is not further disclosed without the consent of the person in charge. 25
- (4) For the purpose of the duty under sub-paragraph (3), the person in charge may impose such requirements on persons to whom the identity of the whistle-blower, or information that might tend to reveal that identity, is disclosed as are specified in regulations made by the Secretary of State for the purpose of this paragraph. 30

Powers to obtain information etc

- 3 Paragraphs 19ZA to 19ZD of Schedule 3 apply in relation to an investigation under section 29E(2) as they apply in relation to an investigation under paragraph 19 of that Schedule. 35

Procedure where conduct matter is revealed during investigation

- 4 (1) If, during the course of an investigation under section 29E(2), it appears to the person in charge that there is an indication that a person serving with the police (“the person whose conduct is in question”) may have— 40
- (a) committed a criminal offence, or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings,
- the person in charge must make a submission to that effect to the Commission. 45

- (2) If, after considering the submission, the Commission determines that there is such an indication, it must –
- (a) notify the appropriate authority in relation to the person whose conduct is in question of its determination, and
 - (b) send to it a copy of the submission under sub-paragraph (1). 5
- (3) Where the appropriate authority in relation to the person whose conduct is in question is notified under sub-paragraph (2), it must record the matter under paragraph 11 of Schedule 3 to this Act as a conduct matter. 10
- (4) Where a matter is, in accordance with sub-paragraph (3), recorded under paragraph 11 of Schedule 3 as a conduct matter –
- (a) the person in charge of the investigation under section 29E(2) must (subject to any determination made by the Commission under paragraph 15(5) of Schedule 3) continue the investigation as if appointed or designated to investigate the conduct matter, and 15
 - (b) the other provisions of Schedule 3 apply in relation to that matter accordingly (subject to regulations under sub-paragraph (5)). 20
- (5) The Secretary of State may by regulations make provision modifying Schedule 3 in relation to an investigation of a matter that, in accordance with sub-paragraph (3), is recorded under paragraph 11 of that Schedule as a conduct matter but only for the purpose of making provision for the protection of the anonymity of whistle-blowers. 25

Conclusion of investigation

- 5 (1) When an investigation under section 29E(2) is concluded, the person in charge of the investigation must submit a report on it to the Commission. 30
- (2) The Commission –
- (a) must send a copy of the report to the whistle-blower, and
 - (b) may, with the consent of the whistle-blower, send a copy of the report to the appropriate authority.
- (3) The Secretary of State may by regulations make provision for circumstances in which the duty under sub-paragraph (2)(a) does not apply. 35

Power of Commission to make recommendations

- 6 (1) On receipt of a report under paragraph 5, the Commission may make a recommendation in relation to any matter dealt with in it. 40
- (2) The Secretary of State may by regulations make further provision about recommendations under this paragraph.
- (3) The regulations may (amongst other things) –
- (a) describe the kinds of recommendations that the Commission may make under this paragraph; 45

- (b) specify the persons to whom the recommendations may be made;
- (c) authorise the Commission to require a response to a recommendation made under this paragraph.”

SCHEDULE 6

Section 23

5

PART TO BE INSERTED AS PART 4A OF THE POLICE ACT 1996

“PART 4A

POLICE BARRED LIST AND POLICE ADVISORY LIST

*Police barred list***88A Duty to report dismissals etc to College of Policing** 10

- (1) The relevant authority must report a person to the College of Policing where –
 - (a) the person ceases to be a member of a police force or a special constable by virtue of being dismissed at proceedings conducted under regulations made in pursuance of section 50(3) or 51(2A); 15
 - (b) the person is a former member of a police force or a former special constable and there is a finding in relation to the person in disciplinary proceedings that the person would have been dismissed if the person had still been a member of a police force or a special constable; 20
 - (c) the person ceases to be a member of the civilian staff of a police force by virtue of being dismissed and the reason, or one of the reasons, for the dismissal relates to conduct, efficiency or effectiveness; 25
 - (d) the person is a former member of the civilian staff of a police force and there is a finding in relation to the person in disciplinary proceedings that the person would have been dismissed if the person had still been such a member.
- (2) A report under subsection (1) – 30
 - (a) must be made within such period as is specified in regulations made by the Secretary of State;
 - (b) must include such information as is so specified.
- (3) In this section “relevant authority” means –
 - (a) in relation to a person falling within subsection (1)(a), other than a person who was a chief officer of police immediately before being dismissed, the chief officer of police of the police force of which the person was a member, or for which the person was appointed as a special constable, at that time; 35
 - (b) in relation to a person falling within subsection (1)(a) who was a chief officer of police immediately before being 40

- dismissed, the local policing body for the police force of which the person was a member at that time;
- (c) in relation to a person falling within subsection (1)(b), other than a former chief officer of police, the chief officer of police of the police force of which the person was last a member or for which the person was last appointed as a special constable; 5
- (d) in relation to a person falling within subsection (1)(b) who is a former chief officer of police, the local policing body for the police force of which the person was last a member; 10
- (e) in relation to a person falling within subsection (1)(c), the chief officer of police by whom the person was dismissed;
- (f) in relation to a person falling within subsection (1)(d), the chief officer of police of the police force of which the person was last a member of its civilian staff. 15
- (4) In this section “disciplinary proceedings” means –
- (a) in relation to a former member of a police force or a former special constable, proceedings conducted under regulations made in pursuance of section 50(3A) or 51(2B);
- (b) in relation to a former member of the civilian staff of a police force, any proceedings that are identified as disciplinary proceedings in relation to such a person by regulations made by the Secretary of State. 20
- (5) For the purposes of this section, a person is a member of the civilian staff of a police force if the person is the chief finance officer of the force, or another member of staff of the force, appointed under Schedule 2 or 4 to the Police Reform and Social Responsibility Act 2011. 25
- (6) A person is dismissed for the purposes of subsection (1)(c) if the circumstances in which the person ceases to be a member of the civilian staff of a police force amount to dismissal within the meaning of Part 10 of the Employment Rights Act 1996 (see section 95 of that Act). 30
- (7) Regulations under this section may make different provision for different cases and circumstances. 35
- (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.
- 88B Duty to maintain police barred list**
- (1) The College of Policing must maintain a list of persons who are reported to the College under section 88A. 40
- (2) The list maintained under subsection (1) is to be known as the police barred list.
- (3) The police barred list must include such information in relation to a person reported to the College of Policing under section 88A as is specified in regulations made by the Secretary of State. 45
- (4) Regulations under this section –

- (a) may make different provision for different cases and circumstances;
- (b) may confer a discretion on the College of Policing.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 5
- 88C Effect of inclusion in police barred list**
- (1) A person who is included in the police barred list is a barred person for the purposes of this section and sections 88D and 88E.
- (2) Before employing or appointing any person, a person mentioned in subsection (5) must check with the College of Policing whether the proposed employee or proposed appointee (as the case may be) is a barred person. 10
- (3) A person mentioned in subsection (5) may not employ a barred person or otherwise appoint a barred person to any position. 15
- (4) For the purposes of subsections (2) and (3) a person who is to be seconded to work for a person mentioned in subsection (5), and who will not be employed by that person, is to be regarded as being appointed by that person.
- (5) The persons referred to in subsections (2) to (4) are – 20
- (a) a chief officer of police;
- (b) a local policing body;
- (c) the chief inspector of constabulary;
- (d) the Independent Police Complaints Commission;
- (e) a person specified in regulations made by the Secretary of State. 25
- (6) A person may be specified in regulations under subsection (5)(e) only if the person has relevant public functions.
- (7) In this section and sections 88D and 88E “relevant public functions” means functions of a public nature exercisable in, or in relation to, England and Wales that relate to policing or law enforcement. 30
- (8) A statutory instrument containing regulations under subsection (5)(e) is subject to annulment in pursuance of a resolution of either House of Parliament.
- 88D Application of section 88C to persons with mixed functions** 35
- (1) If a person to be specified in regulations under section 88C(5)(e) has both relevant public functions and other functions, the person may be so specified as follows (but not otherwise) –
- (a) in relation to the exercise of the person’s relevant public functions, or 40
- (b) in relation to the exercise of such of those relevant public functions as are of a description specified in the regulations.
- (2) In this section –
- (a) a person who is specified in regulations under section 88C(5)(e) is referred to as a specified person, and 45

- (b) in relation to that person, the functions in relation to the exercise of which the person is specified are referred to as specified functions.
- (3) In relation to a specified person –
 - (a) the duties in section 88C(2) and (3) apply only to the extent that the proposed employee or proposed appointee (as the case may be) will be involved in the exercise of specified functions; 5
 - (b) the additional duties in subsections (3) and (4) of this section apply where the specified person is proposing to arrange for an existing employee or existing appointee to become involved in the exercise of specified functions (not having previously been so involved). 10
- (4) Before making the arrangement, the specified person must check with the College of Policing whether the existing employee or existing appointee (as the case may be) is a barred person. 15
- (5) The specified person may not arrange for an existing employee or existing appointee who is a barred person to become involved in the exercise of specified functions.
- (6) For the purposes of subsections (3) to (5) a person who is seconded to work for a specified person is to be regarded as an existing appointee of that person (if not an existing employee of that person). 20

88E Prohibition on contractors using barred persons

- (1) A person mentioned in section 88C(5) may not enter into a contract for the provision of services if the terms of the contract would permit a barred person to be involved in the exercise of relevant public functions. 25
- (2) A local policing body may not enter into a contract for the provision of services to a chief officer of police if the terms of the contract would permit a barred person to be involved in the exercise of relevant public functions. 30
- (3) Subsection (1) applies in relation to a person specified in regulations under section 88C(5)(e) as described in section 88D(1)(b) as if the reference in subsection (1) to relevant public functions were a reference to those relevant public functions in relation to the exercise of which the person is specified. 35

88F Removal from police barred list

- (1) This section applies where a relevant authority reports a person to the College of Policing under section 88A and –
 - (a) in relation to a person reported by virtue of section 88A(1)(a), the person is reinstated as a member of a police force or a special constable (as the case may be) at proceedings conducted under rules made under section 85; 40
 - (b) in relation to a person reported by virtue of section 88A(1)(b), the finding that the person would have been dismissed is set aside at proceedings conducted under rules made under section 85; 45

- (c) in relation to a person reported by virtue of section 88A(1)(c), the dismissal is found to have been an unfair dismissal –
 - (i) following a complaint under section 111 of the Employment Rights Act 1996, and
 - (ii) whether by an employment tribunal or on appeal; 5
 - (d) in relation to a person reported by virtue of section 88A(1)(d), the finding that the person would have been dismissed is set aside at proceedings that are identified as appeal proceedings by regulations made by the Secretary of State.
 - (2) Where this section applies, the relevant authority must make a further report to the College of Policing in relation to the person. 10
 - (3) A report under subsection (2) –
 - (a) must be made within such period as is specified in regulations made by the Secretary of State;
 - (b) must include such information as is so specified. 15
 - (4) On receipt of a report under subsection (2) in relation to a person the College of Policing must remove the person from the police barred list.
 - (5) The Secretary of State may by regulations make provision in connection with the removal of a person from the police barred list otherwise than under subsection (4). 20
 - (6) Regulations under subsection (5) may confer functions on the College of Policing including functions which involve the exercise of a discretion.
 - (7) “Relevant authority” has the same meaning in this section as it has in section 88A. 25
 - (8) Regulations under this section may make different provision for different cases and circumstances.
 - (9) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 30

88G Publication of information in police barred list

- (1) This section applies to a person who –
 - (a) is included in the police barred list, and
 - (b) is of a description specified in regulations made by the Secretary of State. 35
- (2) The College of Policing must (in accordance with subsection (3)) publish such information included in the police barred list in relation to a person to whom this section applies as is specified in regulations made by the Secretary of State. 40
- (3) Information published under subsection (2) must –
 - (a) be published in such manner as the College of Policing considers appropriate,
 - (b) be published within such period following its inclusion in the police barred list as is specified in regulations made by the Secretary of State, 45

- (c) remain published by the College for a period of 5 years beginning with the date on which it is first published, and
 - (d) cease to be published by the College at the end of that period.
- (4) The Secretary of State may by regulations provide for the duty in subsection (2) to be subject to exceptions. 5
- (5) Regulations under subsection (4) may (amongst other things) make provision which has the effect that—
 - (a) information is never published;
 - (b) information ceases to be published by the College of Policing before the end of the period referred to in subsection (3)(c). 10
- (6) Regulations which make provision of the type described in subsection (5)(b) may confer functions on the College of Policing including functions which involve the exercise of a discretion.
- (7) Regulations under this section may make different provision for different cases and circumstances. 15
- (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

88H Power to disclose information in police barred list

The College of Policing may, if it considers it to be in the public interest to do so, disclose to any person information included in the police barred list which relates to a particular person who is included in the police barred list. 20

Police advisory list

88I Duty to report resignations and retirements to College of Policing 25

- (1) The relevant authority must report a person to the College of Policing where—
 - (a) the person ceases to be a person serving with the police by resigning or retiring after a relevant allegation about the person comes to the attention of the relevant authority; 30
 - (b) the person is a former member of a police force or a former special constable and a relevant allegation about the person comes to the attention of the relevant authority after the person having ceased to be a member of a police force or a special constable (as the case may be) by resigning or retiring. 35
- (2) But the duty in subsection (1)(b) applies only if the period between the person resigning or retiring and the allegation coming to the attention of the relevant authority does not exceed the relevant period.
- (3) A report under subsection (1)— 40
 - (a) must be made within such period as is specified in regulations made by the Secretary of State;
 - (b) must include such information as is so specified.
- (4) In this section “relevant authority” means—

- (a) in relation to a person who was a member of a police force, other than a chief officer of police, immediately before resigning or retiring, the chief officer of police of that police force;
 - (b) in relation to a person who was a chief officer of police immediately before resigning or retiring, the local policing body for the police force of which the person was a member at that time; 5
 - (c) in relation to a person who was a special constable immediately before resigning or retiring, the chief officer of police of the police force for which the person was appointed as a special constable immediately before resigning or retiring; 10
 - (d) in relation to a person who was a member of the civilian staff of a police force immediately before resigning or retiring, the chief officer of police of that police force. 15
- (5) For the purposes of this section a person is serving with the police if the person is –
- (a) a member of a police force,
 - (b) a special constable, or 20
 - (c) a member of the civilian staff of a police force (within the meaning of section 88A).
- (6) For the purposes of this section an allegation about a person is a relevant allegation if –
- (a) it relates to the conduct, efficiency or effectiveness of the person, and 25
 - (b) the allegation (if proved) is of a type that might have resulted in the person being dismissed as described in section 88A(1)(a) or (c) if the person had not resigned or retired.
- (7) In this section the “relevant period” means –
- (a) in relation to a person who was a member of a police force immediately before resigning or retiring, the period specified in regulations made by the Secretary of State for the purposes of section 50(3A)(c)(ii); 30
 - (b) in relation to a person who was a special constable immediately before resigning or retiring, the period specified in regulations made by the Secretary of State for the purposes of section 51(2B)(c)(ii). 35
- (8) Regulations under this section may make different provision for different cases and circumstances. 40
- (9) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

88J Duty to maintain police advisory list

- (1) The College of Policing must maintain a list of persons who are reported to the College under section 88I. 45
- (2) The list maintained under subsection (1) is to be known as the police advisory list.

- (3) The police advisory list must include such information in relation to a person reported to the College of Policing under section 88I as is specified in regulations made by the Secretary of State.
- (4) Regulations under this section –
 - (a) may make different provision for different cases and circumstances; 5
 - (b) may confer a discretion on the College of Policing.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament. 10

88K Effect of inclusion in police advisory list

- (1) Before employing or appointing any person, a person mentioned in subsection (3) must check with the College of Policing whether the proposed employee or proposed appointee (as the case may be) is included in the police advisory list. 15
- (2) For the purposes of subsection (1) a person who is to be seconded to work for a person mentioned in subsection (3), and who will not be employed by that person, is to be regarded as being appointed by that person.
- (3) The persons referred to in subsections (1) and (2) are – 20
 - (a) a chief officer of police;
 - (b) a local policing body;
 - (c) the chief inspector of constabulary;
 - (d) the Independent Police Complaints Commission;
 - (e) a person specified in regulations made by the Secretary of State for the purposes of section 88C(5)(e). 25
- (4) In this section –
 - (a) a person who is specified in regulations under section 88C(5)(e) is referred to as a specified person, and
 - (b) in relation to that person, the functions in relation to the exercise of which the person is specified are referred to as specified functions. 30
- (5) In relation to a specified person –
 - (a) the duty in subsection (1) applies only to the extent that the proposed employee or proposed appointee (as the case may be) will be involved in the exercise of specified functions; 35
 - (b) the additional duty in subsection (6) applies where the specified person is proposing to arrange for an existing employee or existing appointee to become involved in the exercise of specified functions (not having previously been so involved). 40
- (6) Before making the arrangement, the specified person must check with the College of Policing whether the existing employee or existing appointee (as the case may be) is included in the police advisory list. 45

- (7) For the purposes of subsections (5) and (6) a person who is seconded to work for a specified person is to be regarded as an existing appointee of that person (if not an existing employee of that person).

88L Removal from police advisory list

- (1) Subsection (2) applies where a relevant authority reports a person to the College of Policing under section 88I(1)(a) or (b) and – 5
- (a) it is determined that no disciplinary proceedings will be brought against the person,
 - (b) the disciplinary proceedings brought against the person are withdrawn, or 10
 - (c) the disciplinary proceedings brought against the person are concluded without there being a finding that the person would have been dismissed if the person had still been a person serving with the police.
- (2) Where this subsection applies, the relevant authority must make a further report to the College of Policing in relation to the person. 15
- (3) A report under subsection (2) –
- (a) must be made within such period as is specified in regulations made by the Secretary of State;
 - (b) must include such information as is so specified. 20
- (4) On receipt of a report under subsection (2) in relation to a person the College of Policing must remove the person from the police advisory list.
- (5) The College of Policing must remove a person from the police advisory list if the person becomes included in the police barred list by virtue of section 88A(1)(b) or (d). 25
- (6) The Secretary of State may by regulations make provision in connection with the removal from the police advisory list (otherwise than under subsection (4) or (5)) of a person who, immediately before resigning or retiring, was a member of a police force or a special constable. 30
- (7) The Secretary of State must by regulations make provision in connection with the removal from the police advisory list (otherwise than under subsection (4) or (5)) of a person who, immediately before resigning or retiring, was a member of the civilian staff of a police force. 35
- (8) Regulations under subsection (6) or (7) may confer functions on the College of Policing including functions which involve the exercise of a discretion.
- (9) In this section – 40
- “disciplinary proceedings” has the same meaning as in section 88A;
 - “member of the civilian staff of a police force” has the same meaning as in section 88A;
 - “person serving with the police” has the same meaning as in section 88I; 45
 - “relevant authority” has the same meaning as in section 88I.

- (10) Regulations under this section may make different provision for different cases and circumstances.
- (11) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

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88M Power to disclose information in police advisory list

The College of Policing may, if it considers it to be in the public interest to do so, disclose to any person information included in the police advisory list which relates to a particular person who is included in the police advisory list.”

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SCHEDULE 7

Section 28

SCHEDULE TO BE INSERTED AS SCHEDULE 3B TO THE POLICE REFORM ACT 2002

“DESIGNATIONS UNDER SECTION 38

PART 1

EXCLUDED POWERS AND DUTIES OF CONSTABLES

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- 1 Any power or duty of a constable to make an arrest.
- 2 Any power or duty of a constable to stop and search an individual or a vehicle or other thing.
- 3 The power of a constable, under section 36(4) of the Police and Criminal Evidence Act 1984, to perform the functions of a custody officer at a designated police station if a custody officer is not readily available to perform them.
- 4 Any power that is exercisable only by a constable of a particular rank.
- 5 Any power of a constable under –
(a) the Terrorism Act 2000;
(b) the Terrorism Act 2006;
(c) the Counter-Terrorism Act 2008;
(d) the Terrorism Prevention and Investigation Measures Act 2011;
(e) the Counter-Terrorism and Security Act 2015.
- 6 Any power of a constable under the Official Secrets Acts 1911 to 1989.
- 7 The power of a constable to make an application on behalf of the Commissioner of Police of the Metropolis under section 6 of the Regulation of Investigatory Powers Act 2000 (applications for interception warrants).

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PART 2

APPLICATION OF LEGISLATION

- 8 (1) Where a power or duty of a constable is conferred or imposed on a person designated under section 38 –
- (a) a reference to a constable (however expressed) in legislation relating to the power or duty includes a reference to the person designated under section 38; 5
 - (b) a reference in legislation to anything done in the exercise or purported exercise of the power, or in the performance or purported performance of the duty, includes a reference to anything done in the exercise or purported exercise of the power, or the performance or purported performance of the duty, by the person designated under section 38. 10
- (2) The Secretary of State may by regulations make provision for legislation relating to a power or duty of a constable specified in the regulations to apply in relation to a person designated under section 38 in a way that modifies or supplements the effect of subparagraph (1). 15
- (3) In this paragraph, “legislation” means any provision of –
- (a) an Act; 20
 - (b) subordinate legislation within the meaning of the Interpretation Act 1978;
 - (c) a Measure or Act of the National Assembly for Wales or an instrument made under a Measure or Act of that Assembly.” 25

SCHEDULE 8

Section 28

SCHEDULE TO BE INSERTED AS SCHEDULE 3C TO THE POLICE REFORM ACT 2002

“DESIGNATIONS UNDER SECTION 38: ADDITIONAL POWERS AND DUTIES

Introduction

- 1 (1) The designation of a person under section 38 as a community support officer or a community support volunteer may provide for any of paragraphs 2 to 11 to apply to the community support officer or the community support volunteer. 30
- (2) The designation may provide for any such paragraph to apply –
- (a) to its full extent, or 35
 - (b) only in cases or circumstances described in the designation.
- (3) Where the designation provides for any of those paragraphs to apply –
- (a) the community support officer or community support volunteer has any power or duty described in the paragraph as a power or duty of a community support 40

- officer or community support volunteer (subject to provision included in the designation under subparagraph (2)(b) or section 38(7A)), and
- (b) any provision made by the paragraph in connection with the exercise of the power or the performance of the duty applies in relation to the exercise of the power or the performance of the duty by the community support officer or community support volunteer. 5
- (4) In this Schedule –
- “CSO” means a person designated by a chief officer of police as a community support officer under section 38; 10
- “CSV” means a person designated by a chief officer of police as a community support volunteer under section 38;
- “the relevant police area”, in relation to a CSO or CSV, means the police area for which the police force in question is maintained. 15
- (5) Expressions used in this Schedule and in the 1984 Act have the same meanings in this Schedule as in that Act.

Powers to issue fixed penalty notices

- 2 (1) A CSO or CSV has the power of an authorised officer of a litter authority to give a notice under section 88 of the Environmental Protection Act 1990 (fixed penalty notices in respect of litter) in relation to an individual whom the CSO or CSV has reason to believe has committed an offence under section 87 of that Act at a place within the relevant police area. 20 25
- (2) A CSO or CSV has the power of an authorised officer of a local authority to give a notice under section 43(1) of the Anti-social Behaviour Act 2003 (penalty notices in respect of graffiti or fly-posting) in relation to an individual whom the CSO or CSV has reason to believe has committed an offence that is a relevant offence for the purposes of section 43(1) at a place within the relevant police area. 30
- (3) A CSO or CSV designated under section 38 by the Commissioner of Police of the Metropolis has the power of an authorised officer of a borough council to give a notice under section 15 of the London Local Authorities Act 2004 in relation to an individual whom the CSO or CSV has reason to believe has committed an offence under section 38(1) of the London Local Authorities Act 1990. 35
- (4) A CSO or CSV designated under section 38 by the Commissioner of Police for the City of London has the power of an authorised officer of a borough council to give a notice under section 15 of the London Local Authorities Act 2004 in relation to an individual whom the CSO or CSV has reason to believe has committed an offence under section 27(1) of the City of Westminster Act 1999 (unlicensed street trading). 40 45
- (5) A CSO or CSV has the power of an authorised officer of an authority to give a notice under section 237A of the Local

- Government Act 1972 or under section 12 of the Local Government Byelaws (Wales) Act 2012 (fixed penalty notices in relation to offences against certain byelaws) in relation to an individual whom the CSO or CSV has reason to believe has committed an offence against a listed byelaw at a place within the relevant police area. 5
- (6) A byelaw is a “listed byelaw” for the purposes of sub-paragraph (5) if, at the time the CSO or CSV gives the notice –
- (a) it is a byelaw to which section 237A of the Local Government Act 1972 or to which section 12 of the Local Government Byelaws (Wales) Act 2012 (fixed penalty notices in relation to offences against certain byelaws) applies, and 10
- (b) the chief officer of police for the relevant police area and the authority that made the byelaw have agreed to include it in a list of byelaws kept for the purposes of sub-paragraph (5). 15
- (7) The chief officer of police for the relevant police area must publish the list of byelaws kept for the purposes of sub-paragraph (5) in such a way as to bring it to the attention of members of the public in localities where the byelaws in the list apply. 20
- (8) The list of byelaws kept for the purposes of sub-paragraph (5) may be amended from time to time by agreement between the chief officer of police and the authority, by adding byelaws to it or removing byelaws from it. 25
- (9) Where the list of byelaws is amended, the amended list must be published by the chief officer as mentioned in sub-paragraph (7).

Powers to require names and addresses

- 3 (1) A CSO or CSV may require a person to give his or her name and address if the CSO or CSV has reason to believe that – 30
- (a) the person has committed a relevant offence in the relevant police area, or
- (b) the person has committed a relevant licensing offence (whether or not in the relevant police area).
- (2) In the case of a relevant offence that is an offence under a relevant byelaw, the power to impose a requirement under sub-paragraph (1) is exercisable only in a place to which the byelaw relates. 35
- (3) A person who fails to comply with a requirement under sub-paragraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale. 40
- (4) In this paragraph, “relevant offence” means any of the following offences –
- (a) an offence in respect of which the CSO or CSV is authorised to give a penalty notice (whether in consequence of paragraph 2 of this Schedule or in consequence of provision included in his or her designation in reliance on section 38(6B)(a)); 45

- (b) an offence under section 3 or 4 of the Vagrancy Act 1824;
 - (c) an offence committed in a specified park which by virtue of section 2 of the Parks Regulation (Amendment) Act 1926 is an offence against the Parks Regulation Act 1872;
 - (d) an offence under section 39 of the Anti-social Behaviour, Crime and Policing Act 2014; 5
 - (e) an offence under a listed byelaw;
 - (f) an offence the commission of which appears to the CSO or CSV to have caused –
 - (i) injury, alarm or distress to any other person, or 10
 - (ii) the loss of, or any damage to, any other person’s property.
- (5) In this paragraph, “relevant licensing offence” means an offence under any of the following provisions of the Licensing Act 2003--
- (a) section 141 (otherwise than by virtue of subsection (2)(c) or (3) of that section); 15
 - (b) section 142;
 - (c) section 146(1);
 - (d) section 149(1)(a), (3)(a) or (4)(a);
 - (e) section 150(1) 20
 - (f) section 150(2) (otherwise than by virtue of subsection (3)(b) of that section);
 - (g) section 152(1) (excluding paragraph (b)).
- (6) A byelaw is a “listed byelaw” for the purposes of sub-paragraph (4)(e) if, at the time the CSO or CSV requires a person to give his or her name and address – 25
- (a) it is a byelaw which has been made by a relevant body with authority to make byelaws for any place within the relevant police area, and
 - (b) it is included in the list of byelaws published for the purposes of this paragraph by the chief officer of police for the relevant police area. 30
- (7) A byelaw may be included in the list of byelaws published for the purposes of this paragraph only if the chief officer of police and the relevant body which made the byelaw agree that it should be included. 35
- (8) The chief officer of police for the relevant police area must publish the list in such a way as to bring it to the attention of members of the public in localities where the byelaws in the list apply.
- (9) The list of byelaws published for the purposes of this paragraph may be amended from time to time by agreement between the chief officer of police and the relevant body, by adding byelaws to it or removing byelaws from it. 40
- (10) Where the list of byelaws is amended, the amended list must be published by the chief officer as mentioned in sub-paragraph (8). 45
- (11) In sub-paragraphs (6), (7) and (9), “relevant body” means –
- (a) in England, a county council, a district council, a London borough council or a parish council;

- (b) in Wales, a county council, a county borough council or a community council;
 - (c) the Greater London Authority;
 - (d) Transport for London;
 - (e) an Integrated Transport Authority for an integrated transport area in England; 5
 - (f) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;
 - (g) a body specified in regulations made by the Secretary of State. 10
- (12) Regulations under sub-paragraph (11)(g) may provide, in relation to any body specified in the regulations, that the agreement mentioned in sub-paragraph (7) or (9) is to be made between the chief officer and the Secretary of State (rather than between the chief officer and the relevant body). 15
- (13) In its application in relation to an offence in respect of which the CSO or CSV is authorised to give a penalty notice under section 444A of the Education Act 1996 (penalty notice in respect of failure to secure regular attendance at school of registered pupil), sub-paragraph (1)(a) of this paragraph has effect as if the words “in the relevant police area” were omitted. 20
- (14) In this paragraph, “specified park” has the same meaning as in section 162 of the Serious Organised Crime and Police Act 2005.

Powers to search for and seize alcohol and tobacco 25

- 4 (1) A CSO or CSV may search a person for alcohol or a container of alcohol if –
- (a) the CSO or CSV has (in consequence of provision included in his or her designation in reliance on section 38(6B)(a)) imposed a requirement on a person to surrender alcohol or a container for alcohol under section 12(2) of the Criminal Justice and Police Act 2001 or under section 1 of the Confiscation of Alcohol (Young Persons) Act 1997, 30
 - (b) the person has failed to comply with the requirement, and
 - (c) the CSO or CSV reasonably believes that the person has alcohol or a container for alcohol in his or her possession. 35
- (2) A CSO or CSV may search a person for tobacco or cigarette papers where –
- (a) the CSO or CSV has (in consequence of provision included in his or her designation in reliance on section 38(6B)(a)) sought to seize the tobacco or cigarette papers under section 7(3) of the Children and Young Persons Act 1933 (seizure of tobacco from young persons), 40
 - (b) the person from whom the CSO or CSV sought to seize the item has failed to surrender it, and 45
 - (c) the CSO or CSV reasonably believes that the person has it in his or her possession.
- (3) The power to search under sub-paragraph (1) or (2) –

- (a) is to do so only to the extent that is reasonably required for the purpose of discovering whatever the CSO or CSV is searching for, and
- (b) does not authorise the CSO or CSV to require a person to remove any of his or her clothing in public other than an outer coat, jacket or gloves. 5
- (4) A person who without reasonable excuse fails to consent to being searched in the exercise of a power under this paragraph is guilty of an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale. 10
- (5) A CSO or CSV who proposes to exercise a power to search a person under sub-paragraph (1) or (2) must inform him or her that failing without reasonable excuse to consent to being searched is an offence.
- (6) If the person in question fails to consent to being searched, the CSO or CSV may require him or her to give the CSO or CSV his or her name and address. 15
- (7) If on searching the person the CSO or CSV discovers what he or she is searching for, the CSO or CSV may seize it and dispose of it.
- Powers to seize and detain: controlled drugs* 20
- 5 (1) A CSO or CSV may exercise the powers conferred by sub-paragraph (2) or (3) in the relevant police area.
- (2) If the CSO or CSV –
- (a) finds a controlled drug in a person’s possession (whether or not the CSO or CSV finds it in the course of searching the person in the exercise of a power or duty conferred or imposed by his or her designation under section 38), and 25
- (b) reasonably believes that it is unlawful for the person to be in possession of it,
- the CSO or CSV may seize it and retain it. 30
- (3) If the CSO or CSV –
- (a) either –
- (i) finds a controlled drug in a person’s possession (as mentioned in sub-paragraph (2)(a)), or
- (ii) reasonably believes that a person is unlawfully in possession of a controlled drug, and 35
- (b) reasonably believes that it is unlawful for the person to be in possession of it,
- the CSO or CSV may require the person to give the CSO or CSV his or her name and address. 40
- (4) If, in exercise of the power conferred by sub-paragraph (2), the CSO or CSV seizes and retains a controlled drug, the CSO or CSV must –
- (a) if the person from whom it was seized maintains that he or she was lawfully in possession of it, tell the person where inquiries about its recovery may be made, and 45

- (b) comply with a constable's instructions about what to do with it.
- (5) A person who fails to comply with a requirement imposed under sub-paragraph (3) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale. 5
- (6) In this paragraph, "controlled drug" has the same meaning as in the Misuse of Drugs Act 1971.

Powers to seize and detain: psychoactive substances

- 6 (1) A CSO or CSV may exercise the powers conferred by sub-paragraph (2) or (3) in the relevant police area. 10
- (2) If the CSO or CSV –
- (a) finds a psychoactive substance in a person's possession (whether or not the CSO or CSV finds it in the course of searching the person in the exercise of a power or duty conferred or imposed by his or her designation under section 38), and 15
- (b) reasonably believes that it is unlawful for the person to be in possession of it,
- the CSO or CSV may seize it and retain it.
- (3) If the CSO or CSV – 20
- (a) either –
- (i) finds a psychoactive substance in a person's possession (as mentioned in sub-paragraph (2)(a)), or
- (ii) reasonably believes that a person is unlawfully in possession of a psychoactive substance, and 25
- (b) reasonably believes that it is unlawful for the person to be in possession of it,
- the CSO or CSV may require the person to give the CSO or CSV his or her name and address. 30
- (4) If, in exercise of the power conferred by sub-paragraph (2), the CSO or CSV seizes and retains a psychoactive substance, the CSO or CSV must –
- (a) if the person from whom it was seized maintains that he or she was lawfully in possession of it – 35
- (i) tell the person where inquiries about its recovery may be made, and
- (ii) explain the effect of sections 49 to 51 and 53 of the Psychoactive Substances Act 2016 (retention and disposal of items), and 40
- (b) comply with a constable's instructions about what to do with it.
- (5) Any substance seized in exercise of the power conferred by sub-paragraph (2) is to be treated for the purposes of sections 49 to 53 of the Psychoactive Substances Act 2016 as if it had been seized by a police or customs officer under section 36 of that Act. 45

Section 50 of that Act applies in relation to any such substance as if the reference in subsection (1)(b) to the police or customs officer who seized it were a reference to the CSO or CSV who seized it.

- (6) A person who fails to comply with a requirement imposed under sub-paragraph (3) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale. 5
- (7) In this paragraph, “police or customs officer” and “psychoactive substance” have the same meaning as in the Psychoactive Substances Act 2016.

Powers to detain pending arrival of a constable etc 10

- 7 (1) A CSO or CSV may require a person to wait with the CSO or CSV, for a period not exceeding 30 minutes, for the arrival of a constable where—
- (a) the CSO or CSV has required the person to give his or her name and address (whether in consequence of paragraph 3, 4(6), 5(3) or 6(3) or in consequence of provision included in his or her designation in reliance on section 38(6B)(a)), and 15
- (b) either—
- (i) the person has failed to comply with the requirement, or 20
- (ii) the CSO or CSV has reasonable grounds for suspecting that the other person has given a name or address that is false or inaccurate.
- (2) Sub-paragraph (1) does not apply if the requirement to give a name and address was imposed in connection with a relevant licensing offence mentioned in paragraph 3(5)(a), (c) or (f) which the CSO or CSV believes to have been committed on licensed premises (within the meaning of the Licensing Act 2003). 25
- (3) A CSO or CSV may require a person to wait with the CSO or CSV, for a period not exceeding 30 minutes, for the arrival of a constable where— 30
- (a) the CSO or CSV has reason to believe that the person is committing an offence under section 3 or 4 of the Vagrancy Act 1824, 35
- (b) the CSO or CSV requires that other person to stop doing whatever gives rise to that belief, and
- (c) the person fails to stop as required.
- (4) A person who has been required under sub-paragraph (1) or (3) to wait with a CSO or CSV may, if requested to do so, elect that (instead of waiting) he or she will accompany the CSO or CSV to a police station in the relevant police area. 40
- (5) Where the person does not elect to accompany the CSO or CSV to the police station, and the constable arrives within the period of 30 minutes, the CSO or CSV is under a duty to remain with the person and the constable until the CSO or CSV has transferred control of the person to the constable. 45

- (6) Where the person does elect to accompany the CSO or CSV to the police station –
- (a) the CSO or CSV is under a duty to remain at the police station until the CSO or CSV has transferred control of the person to the custody officer there, 5
 - (b) until control is transferred, the CSO or CSV is treated for all purposes as having the person in his or her lawful custody, and
 - (c) for so long as the CSO or CSV remains at the police station or in its immediate vicinity (whether before control of the person is transferred or afterwards), the CSO or CSV is under a duty to prevent the person’s escape and to assist in keeping the person under control. 10
- (7) A person who –
- (a) makes off while subject to a requirement under sub-paragraph (1) or (3), or 15
 - (b) makes off while accompanying a CSO or CSV to a police station in accordance with an election under sub-paragraph (4),
- is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale. 20

Powers to search etc individuals detained under paragraph 7

- 8 (1) A CSO or CSV may exercise the powers set out in sub-paragraphs (2) and (3) in relation to a person whom the CSO or CSV has required to wait for the arrival of a constable under paragraph 7(1) or (3) (whether or not that person makes an election under paragraph 7(4)). 25
- (2) If the CSO or CSV has reasonable grounds for believing that the person may present a danger to himself or herself or to others, the CSO or CSV may search the person. 30
- (3) If the CSO or CSV has reasonable grounds for believing that the person may have concealed on him or her anything which might be used to assist in escaping from lawful custody, the CSO or CSV may search the person for that thing.
- (4) The power conferred by sub-paragraph (2) or (3) – 35
- (a) does not authorise a CSO or CSV to require a person to remove any of his or her clothing in public other than an outer coat, jacket or gloves;
 - (b) does authorise a search of a person’s mouth.
- (5) A CSO or CSV searching a person under sub-paragraph (2) may seize and retain anything that is found, if the CSO or CSV has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or herself or to any other person. 40
- (6) A CSO or CSV searching a person under sub-paragraph (3) may seize and retain anything that is found, other than an item subject to legal privilege, if the CSO or CSV has reasonable grounds for 45

believing that the person might use it to assist in escaping from lawful custody.

- (7) If a CSO or CSV seizes or retains anything under sub-paragraph (5) or (6), the CSO or CSV must –
- (a) tell the person from whom it was seized where inquiries about its recovery may be made, and 5
 - (b) comply with a constable’s instructions about what to do with it.

Persons detained under paragraph 7: park trading offences

- 9 (1) If a CSO or CSV reasonably suspects that a person required to wait for the arrival of a constable under paragraph 7(1) has committed a park trading offence, the CSO or CSV may take possession of anything of a non-perishable nature which – 10
- (a) the person has in his or her possession or under his control, and 15
 - (b) the CSO or CSV reasonably believes to have been used in the commission of the offence.
- (2) The CSO or CSV may retain possession of the thing in question for a period not exceeding 30 minutes unless the person makes an election under paragraph 7(4), in which case the CSO or CSV may retain possession of the thing in question until he or she is able to transfer control of it to a constable. 20
- (3) In this paragraph “park trading offence” means an offence committed in a specified park which is a park trading offence for the purposes of the Royal Parks (Trading) Act 2000. 25
- (4) In sub-paragraph (3), “specified park” has the same meaning as in section 162 of the Serious Organised Crime and Police Act 2005.

Road traffic

- 10 A CSO or CSV has in the relevant police area the powers conferred on persons designated by regulations under section 99 of the Road Traffic Regulation Act 1984 (removal of abandoned vehicles). 30

Power to use reasonable force

- 11 A CSO or CSV has power to use reasonable force –
- (a) to prevent a person whom the CSO or CSV has required under paragraph 7(1) or (3) to wait for a constable from making off, or to keep the person under control, at any time while the person is subject to the requirement; 35
 - (b) where such a person elects under paragraph 7(4) to accompany a CSO or CSV to a police station, to prevent the person from making off, or to keep the person under control, while the person is accompanying the CSO or CSV to the police station; 40
 - (c) where a CSO or CSV is fulfilling a duty imposed under paragraph 7(5) or (6), to prevent the person from making off (or escaping) and to keep him or her under control; 45

- (d) where a CSO or CSV is exercising a power conferred by paragraph 8.”

SCHEDULE 9

Section 33

POWERS OF CIVILIAN STAFF AND VOLUNTEERS: FURTHER AMENDMENTS

PART 1

5

AMENDMENTS OF THE POLICE REFORM ACT 2002

- 1 (1) Section 38B (police powers for civilian employees under collaboration agreements) is amended as follows.
- (2) In subsection (1)(a), after “civilian employee of” insert “, or a police volunteer with”.
- (3) In subsection (2), for “one or more of the descriptions specified in section 38(2)” substitute “either or both of the descriptions specified in section 38(1) (if C is a civilian employee of the assisting force) or section 38(1A) (if C is a police volunteer with the assisting force)”.
- (4) In subsection (3), for “section 38(2)” substitute “section 38(1) or (as the case may be) section 38(1A)”.
- (5) In subsection (10) –
- (a) for “civilian employees of the assisting force” substitute “persons designated under section 38 by the chief officer of police of the assisting force”;
- (b) for “section 23B” substitute “section 23AA”.
- 2 (1) Section 42 (supplementary provisions relating to designations and accreditations) is amended as follows.
- (2) Omit subsections (A1) to (C1) and (1A).
- (3) In subsection (2A), for “investigating officer”, in each place where it occurs, substitute “policing support officer or policing support volunteer”.
- (4) In subsection (2B), for ““investigating officer” means a person designated as an investigating officer” substitute ““policing support officer” and “policing support volunteer” mean (respectively) a person designated as a policing support officer or (as the case may be) a policing support volunteer”.
- (5) After subsection (7A) insert –
- “(7B) For the purposes of determining liability for the unlawful conduct of police volunteers designated under section 38, conduct by such a volunteer in reliance or purported reliance on a designation under that section is to be taken to be conduct by that person in the course of employment by the chief officer of police by whom the designation is made; and, in the case of a tort, that chief officer is to be treated as a joint tortfeasor accordingly.
- (7C) For the purposes of determining liability for the unlawful conduct of police volunteers designated under section 38, conduct by such a

- volunteer in reliance or purported reliance on a designation under section 38B is to be taken to be conduct by that person in the course of employment by the chief officer of police by whom the designation under section 38 is made; and, in the case of a tort, that chief officer is to be treated as a joint tortfeasor accordingly.” 5
- 3 Omit section 45 (code of practice relating to chief officers’ powers under Chapter 1).
- 4 In section 105 (powers of Secretary of State to make orders and regulations), in subsection (3)(b) –
- (a) for “any order that is” substitute “any order or regulations that are”; 10
 - (b) after “section 19(3),” insert “38(9C),”;
 - (c) omit “, 38A(4)”;
 - (d) omit “or paragraph 15A(2) of Schedule 4”.
- 5 (1) Schedule 4 is amended as follows.
- (2) For the heading to the Schedule substitute “Powers exercisable by contracted-out staff”. 15
- (3) Omit Parts 1 and 2.
- (4) In Part 5, in paragraph 36 –
- (a) in sub-paragraph (1)(a), for “section 38 or 39” substitute “section 39”;
 - (b) omit sub-paragraphs (2) and (2A); 20
 - (c) in sub-paragraph (3), for “section 38 or 39” substitute “section 39”;
 - (d) omit paragraph (3A).
- PART 2
- OTHER AMENDMENTS
- 6 (1) Schedule 1 to the Representation of the People Act 1983 (parliamentary election rules) is amended as follows. 25
- (2) In paragraph 31(2) –
- (a) after “community support officer” insert “or community support volunteer”;
 - (b) in the words in brackets, after “employees” insert “or volunteers”. 30
- (3) In paragraph 32(5) –
- (a) after “community support officer” insert “or community support volunteer”;
 - (b) in the words in brackets, after “employees” insert “or volunteers”.
- 7 (1) The Police and Criminal Evidence Act 1984 is amended as follows. 35
- (2) In section 55 (intimate searches), in subsection (17), in the definition of “appropriate officer”, omit paragraph (b).
- (3) In section 64A (photographing of suspects etc), in subsection (1B) –
- (a) in paragraph (c), for “with a community support officer under paragraph 2(3) or (3B) of Schedule 4” substitute “with a community support officer or a community support volunteer under paragraph 7 of Schedule 3B”; 40

- (b) for paragraph (e) substitute –
- “(e) given a fixed penalty notice by a community support officer or community support volunteer who is authorised to give the notice by virtue of his or her designation under section 38 of the Police Reform Act 2002;”.
- (4) In section 67 (codes of practice - supplementary), in subsection (9A), in the words in brackets, after “civilian staff” insert “and volunteers”.
- 8 In the Road Traffic Act 1988, in section 144 (exceptions from requirement of third-party insurance or security), in subsection (2)(b), after “in its capacity as a police authority,” insert “by a police volunteer designated under section 38 of the Police Reform Act 2002;”.
- 9 In the Road Traffic Offenders Act 1988, in section 79 (statements by constables), in subsection (2), after “civilian police employee” insert “, or by a police volunteer designated under section 38 of the Police Reform Act 2002;”.
- 10 (1) The Police Act 1996 is amended as follows.
- (2) In section 23AA (force collaboration provision about civilian employees) –
- (a) in subsection (1), for “designated civilian employees of one police force” substitute “persons designated under section 38 of the Police Reform Act 2002 (“designated persons”) by the chief officer of one police force”;
- (b) in subsection (2) for “designated civilian employees” (in both places where it occurs) substitute “designated persons”;
- (c) in subsection (3) –
- (i) for “designated civilian employees” substitute “designated persons”
- (ii) for “those employees” substitute “those persons”;
- (d) in subsection (4), for “designated civilian employees” substitute “designated persons”;
- (e) in subsection (5) –
- (i) in the opening words, for “civilian employees of the assisting force” substitute “persons designated under section 38 of the Police Reform Act 2002 by the chief officer of the assisting force”;
- (ii) in each of paragraphs (a) to (c), for “civilian employees” substitute “designated persons”;
- (f) in subsection (6), omit the definition of “designated”.
- (3) In section 23I(7) (collaboration agreements: definition) –
- (a) omit the “and” at the end of paragraph (a);
- (b) at the end of paragraph (b), insert “and
- (c) references to persons who are under the direction and control of the chief officer of police by virtue of being volunteers with the force.”
- 11 In the Crime and Disorder Act 1998, in section 66H (interpretation of Chapter 1), in paragraph (c), for “an investigating officer” (in the second place it occurs) substitute “a policing support officer or a policing support volunteer”.

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- 12 In the Representation of the People Act 2000, in Schedule 4 (absent voters in Great Britain), in paragraph 2(5ZA) –
- (a) after “community support officer” insert “or community support volunteer”;
 - (b) in the words in brackets, after “employees” insert “or volunteers”. 5
- 13 In the Terrorism Act 2000, in section 47AE (effect of code), in subsection (5), omit “paragraph 15 of Schedule 4 to the Police Reform Act 2002 or”.
- 14 In the Private Security Industry Act 2001, in Schedule 2 (activities liable to control under the Act), in paragraph 2, for sub-paragraph (7)(f) substitute –
- “(f) activities of a person designated under section 38 of the Police Reform Act 2002 (police powers for civilian staff and volunteers) which are carried out by virtue of the designation;”. 10
- 15 In the Anti-social Behaviour Act 2003 omit the following –
- (a) section 23(3) and (4); 15
 - (b) section 46(1);
 - (c) section 89(3) and (4).
- 16 (1) The Criminal Justice Act 2003 is amended as follows.
- (2) In section 27 (interpretation), in the definition of “investigating officer”, for “an investigating officer” (in the second place it occurs) substitute “a policing support officer or a policing support volunteer”. 20
 - (3) In Schedule 1, omit paragraphs 17 to 19.
- 17 (1) Section 28 of the Railways and Transport Safety Act 2003 (exercise of powers by civilians) is amended as follows.
- (2) In subsection (1) – 25
 - (a) in paragraph (a), in the words in brackets, at the end insert “and volunteers”;
 - (b) omit paragraph (aa);
 - (c) omit paragraph (d);
 - (d) omit the “and” after paragraph (f); 30
 - (e) after paragraph (f) insert –
 - “(fa) Schedule 3B (designations under section 38),
 - (fb) Schedule 3C (designations under section 38: additional powers and duties), and”;
 - (f) in paragraph (g), in the words in brackets, for “civilians” substitute “contracted-out staff”. 35
 - (3) In subsection (2) –
 - (a) omit paragraph (e);
 - (b) in paragraph (f), for “Schedule 4” substitute “Schedules 3C and 4”.
- 18 In the Serious Organised Crime and Police Act 2005 – 40
- (a) omit section 122(3);
 - (b) in Schedule 8, omit paragraphs 1 to 15;
 - (c) in Schedule 9, omit paragraphs 2 to 6;
 - (d) in Schedule 13, omit paragraph 13.

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| 19 | In the Violent Crime Reduction Act 2006, omit section 24(6). | |
| 20 | In the Education and Inspections Act 2006, omit the following –
(a) section 107(2) and (3);
(b) section 108(7). | |
| 21 | (1) The Police and Justice Act 2006 is amended as follows. | 5 |
| | (2) Omit sections 7 and 8. | |
| | (3) In section 9, omit “makes amendments consequential on section 7 (standard powers and duties of community support officers), and”. | |
| | (4) In Schedule 5, omit paragraphs 2(3) and (4), 3 and 5(2) to (9). | |
| | (5) In Schedule 14, omit paragraph 48. | 10 |
| 22 | In the Local Government and Public Involvement in Health Act 2007 –
(a) omit section 133(2);
(b) in Schedule 6, omit paragraph 4(1). | |
| 23 | In the UK Borders Act 2007, omit section 47. | |
| 24 | In the Local Transport Act 2008, in Schedule 4, omit paragraph 65. | 15 |
| 25 | In the Local Democracy, Economic Development and Construction Act 2009, in Schedule 6, omit paragraph 116. | |
| 26 | In the Policing and Crime Act 2009, in Schedule 7, omit paragraph 125(3)(b). | |
| 27 | In the Police Reform and Social Responsibility Act 2011, in Schedule 16, omit paragraphs 292(3), 293, 298 and 303. | 20 |
| 28 | In the Protection of Freedoms Act 2012, in Schedule 9, omit paragraph 30. | |
| 29 | In the Legal Aid, Sentencing and Punishment of Offenders Act 2012, in Schedule 23, omit paragraph 14(3). | |
| 30 | In the Local Government Byelaws (Wales) Act 2012 (anaw 2), omit section 17(2). | 25 |
| 31 | In the Anti-social Behaviour, Crime and Policing Act 2014, omit the following –
(a) section 40;
(b) section 53(5) and (6);
(c) section 69;
(d) section 152 and Schedule 10;
(e) in Schedule 11, paragraph 32. | 30 |
| 32 | In the Psychoactive Substances Act 2016, in Schedule 5, omit paragraph 3. | |

PART 3

MINOR CORRECTING AMENDMENTS

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|----|---|--|
| 33 | (1) The Police Reform Act 2002 is amended as follows. | |
|----|---|--|

- (2) In section 50 (persons acting in an anti-social manner), in subsection (1), for “has been acting, or is acting, in an anti-social manner” substitute “has engaged, or is engaging, in anti-social behaviour”.
- (3) In consequence of the amendment made by sub-paragraph (2), in the heading of the section, for “acting in an anti-social manner” substitute “engaging in anti-social behaviour”. 5
- (4) In Schedule 5, in paragraph 3, the existing text becomes sub-paragraph (1).
- (5) In that sub-paragraph, for the words from “to have been acting” to “(anti-social behaviour orders))” substitute “to have been engaging, or to be engaging, in anti-social behaviour”. 10
- (6) After that sub-paragraph insert –
 “(2) In sub-paragraph (1), “anti-social behaviour” has the meaning given by section 2 of the Anti-social Behaviour, Crime and Policing Act 2014 (ignoring subsection (2) of that section).”
- (7) In consequence of the amendment made by sub-paragraph (5), in the italic heading before paragraph 3, for “acting in an anti-social manner” substitute “engaging in anti-social behaviour”. 15

SCHEDULE 10

Section 34

ABOLITION OF OFFICE OF TRAFFIC WARDEN

- Chronically Sick and Disabled Persons Act 1970 (c.44)* 20
- 1 In section 21 of the Chronically Sick and Disabled Persons Act 1970 (badges for display on motor vehicles used by disabled persons), in subsection (4BB), omit paragraph (a).
- Aviation Security Act 1982 (c.36)*
- 2 In section 29 of the Aviation Security Act 1982 (control of road traffic at relevant aerodromes), in subsection (2) –
 - (a) at the beginning insert “In the application of this Part to Scotland and Northern Ireland,”;
 - (b) in paragraph (a), for the words from “the chief officer of police” to “(in any other case)” substitute “the police authority”. 30
- Road Traffic Offenders Act 1988 (c.53)*
- 3 In Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences), in Part 1, in the fifth column of the entry relating to section 35 of the Road Traffic Act 1988, for “traffic officer or traffic warden” substitute “or traffic officer”. 35
- Greater London Authority Act 1999 (c.29)*
- 4 In the Greater London Authority Act 1999, omit section 290 (exercise by traffic wardens of functions of parking attendants).

Police Reform Act 2002 (c.30)

- 5 In the Police Reform Act 2002, omit section 44 (removal of restriction on powers conferred on traffic wardens).

Police Reform and Social Responsibility Act 2011 (c.13)

- 6 In Schedule 16 to the Police Reform and Social Responsibility Act 2011 (minor and consequential amendments), omit paragraphs 166(2) and 167(3). 5

SCHEDULE 11

Section 39

REMOVAL OF REFERENCES TO ACPO

Replacement of definition of ACPO with definition of NPCC

- 1 (1) Section 101(1) of the Police Act 1996 is amended as follows. 10
 (2) Omit the definition of “the Association of Chief Police Officers”.
 (3) After the definition of “national or international functions” insert—
 “the National Police Chiefs’ Council” means the body called
 the National Police Chiefs’ Council which was established in
 accordance with a collaboration agreement under section 15
 22A above entered into on 1 April 2015;”.

Repeal of references to ACPO

- 2 (1) The Police Reform Act 2002 is amended as follows.
 (2) Omit section 96.
 (3) In section 106 omit the definition of “the Association of Chief Police Officers”. 20
- 3 (1) The Police and Justice Act 2006 is amended as follows.
 (2) In the heading of section 6 for “and ACPO” substitute “and body representing chief officers of police”.
 (3) Schedule 4 is amended as follows— 25
 (a) omit paragraph 2;
 (b) omit paragraph 6;
 (c) omit paragraph 8;
 (d) omit paragraph 17;
 (e) omit paragraph 18. 30

Substitution of references to NPCC for references to ACPO

- 4 In each of the provisions listed in paragraph 5 for “the Association of Chief Police Officers of England, Wales and Northern Ireland” substitute “the National Police Chiefs’ Council”.
 5 The provisions mentioned in paragraph 4 are— 35
 (a) section 67(4)(b) of the Police and Criminal Evidence Act 1984;

- (b) section 21A(4)(za) of the Criminal Procedure and Investigations Act 1996;
 - (c) section 6(2)(b) of the Police and Justice Act 2006.
- 6 In each of the provisions listed in paragraph 7 for “the Association of Chief Police Officers” substitute “the National Police Chiefs’ Council”. 5
- 7 The provisions mentioned in paragraph 6 are –
- (a) section 42B(2)(b) of the Firearms Act 1968;
 - (b) section 18B(2)(b) of the Firearms (Amendment) Act 1988;
 - (c) sections 40B(2)(b), 42A(2)(b), 53(2)(b), 53B(3)(c), 53B(6)(b) and 57(4)(b) of the Police Act 1996; 10
 - (d) section 35A(2)(b) of the Firearms (Amendment) Act 1997;
 - (e) sections 22(3)(b), 24(c), 38A(3)(b), 43(9)(a), 45(3)(f) and 51(7)(b) of the Police Reform Act 2002;
 - (f) section 70(2)(j) of the Courts Act 2003;
 - (g) section 31(3)(a) of the Crime and Security Act 2010; 15
 - (h) sections 29(5)(b) and 33(8)(b) of the Protection of Freedoms Act 2012.

SCHEDULE 12

Section 102(5)

AMENDMENTS WHERE NCA IS PARTY TO POLICE COLLABORATION AGREEMENT

Police Act 1997

- 1 (1) Section 93 of the Police Act 1997 (authorisations to interfere with property etc) is amended as follows. 20
- (2) In subsection (1B), after “National Crime Agency officer” insert “giving an authorisation on an application made by virtue of subsection (3)(b)(i)”.
- (3) In subsection (3) –
- (a) omit “or” at the end of paragraph (za)(i); 25
 - (b) in paragraph (za)(ii) for “section 23(1)” substitute “section 22A”;
 - (c) at the end of paragraph (za)(ii) insert “or
(iii) in a case where the chief officer of police of the authorising force has made an agreement under that section with the Director General of the National Crime Agency, by a National Crime Agency officer (but see subsection (3AA));”; 30
- (d) in paragraph (b) –
- (i) for “subsection (5)(f), by” substitute “subsection (5)(f) – 35
(i) by”;
 - (ii) at the end insert “or
(ii) in a case where the Director General of the National Crime Agency has made an agreement under section 22A of the Police Act 1996 with the chief officer of police of one or more police forces, by a member of a collaborative force;”. 40

- (4) After subsection (3A) insert –
- “(3AA) A National Crime Agency officer may make an application by virtue of subsection (3)(za)(iii) only if permitted by the terms of the agreement mentioned in that provision to make applications for authorisations under this section to the authorising officer of the authorising force. 5
- (3AB) For the purposes of subsection (3)(b), a police force is a collaborative force if –
- (a) its chief officer of police is a party to the agreement mentioned in that provision, and 10
- (b) its members are permitted by the terms of the agreement to make applications for authorisations under this section to the authorising officer mentioned in that provision.
- Paragraph (b) of subsection (3A) applies for the purposes of this subsection.” 15
- (5) In subsection (6) –
- (a) after paragraph (aa) insert –
- “(ab) in relation to a person within any of those paragraphs to whom an application is made by virtue of subsection (3)(za)(iii), means the area in England and Wales for which – 20
- (i) the person’s police force is maintained, or
- (ii) any other police force whose chief officer of police is a party to the agreement mentioned in subsection (3)(za)(iii) is maintained, 25
- and which is specified in relation to NCA officers in the agreement mentioned in that provision;”;
- (b) after paragraph (cb) insert –
- “(cba) in relation to a person within subsection (5)(f) to whom an application is made by virtue of subsection (3)(b)(ii), means the area in England and Wales – 30
- (i) for which any collaborative force (within the meaning of subsection (3AB)) is maintained, and
- (ii) which is specified in relation to members of that force in the agreement mentioned in subsection (3)(b)(ii);” 35

Regulation of Investigatory Powers Act 2000

- 2 The Regulation of Investigatory Powers Act 2000 is amended as follows.
- 3 (1) Section 29 (authorisation of covert human intelligence sources) is amended as follows. 40
- (2) For subsection (2A) substitute –
- “(2A) For the meaning of “relevant collaborative unit” in subsection (2)(c)(i), see section 29A.”
- (3) In subsection (4A), at the end of paragraph (a) insert “(see section 29A for the meaning of “qualifying person”)”. 45

- (4) Omit subsection (7A).
 - (5) Omit subsection (10).
- 4 After section 29 insert –
- “29A Section 29: supplementary provision in relation to relevant collaborative units”** 5
- (1) For the purposes of section 29(2)(c)(i), a “relevant collaborative unit” is a unit that falls within subsection (2) or (3).
 - (2) A unit falls within this subsection if –
 - (a) it consists of two or more police forces whose chief officers of police have made an agreement under section 22A of the Police Act 1996, and 10
 - (b) the agreement relates to the discharge by persons holding offices, ranks or positions with any of the forces of functions in connection with the conduct or use of the covert human intelligence source concerned. 15
 - (3) A unit falls within this subsection if –
 - (a) it consists of one or more police forces and the National Crime Agency,
 - (b) it is in place by virtue of an agreement made under section 22A of the Police Act 1996, and 20
 - (c) the agreement relates to the discharge by persons holding offices, ranks or positions within any such force, or by persons who are National Crime Agency officers, of functions in connection with the conduct or use of the covert human intelligence source concerned. 25
 - (4) In the case of a relevant collaborative unit that falls within subsection (2), a person is a “qualifying person” for the purposes of section 29(4A) if –
 - (a) the person holds an office, rank or position with a police force whose chief officer of police is a party to the agreement mentioned in subsection (2)(a) above, and 30
 - (b) the person is permitted by the terms of the agreement to have the responsibility mentioned in section 29(4A)(a) or (c) or the general oversight mentioned in section 29(4A)(b).
 - (5) In the case of a relevant collaborative unit that falls within subsection (3), a person is a qualifying person for the purposes of section 29(4A) if – 35
 - (a) the person –
 - (i) is a National Crime Agency officer, or
 - (ii) holds an office, rank or position with a police force whose chief officer of police is a party to the agreement mentioned in subsection (3)(b) above, and 40
 - (b) the person is permitted by the terms of the agreement to have the responsibility mentioned in section 29(4A)(a) or (c) or the general oversight mentioned in section 29(4A)(b). 45
 - (6) For the purposes of this section references to a police force are to the following –

-
- (a) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London),
- (b) the metropolitan police force, and
- (c) the City of London police force.”
- 5 (1) Section 33 (rules for grant of authorisations) is amended as follows. 5
- (2) In subsection (1), after “(1ZB)” insert “and section 33A”.
- (3) In subsection (1ZA), for “23(1)” substitute “22A”.
- (4) In subsection (1A), at the end insert “(subject to section 33A)”.
- (5) In subsection (3), after “(3ZB)” insert “and section 33A”.
- (6) In subsection (3ZA), in paragraph (a) for “23(1)” substitute “22A”. 10
- (7) In subsection (3A), at the end insert “(subject to section 33A)”.
- 6 After section 33 insert –
- “33A Section 33: further provision in cases where NCA is party to collaboration agreement**
- (1) This section applies where the Director General of the National Crime Agency has made a collaboration agreement with the chief officer of police of one or more police forces (a “collaborative police force”). 15
- (2) A person who is a designated person for the purposes of section 28 or 29 by reference to an office, rank or position with a collaborative police force may grant an authorisation under that section on an application made by an National Crime Agency officer. 20
- (3) A person who is a designated person for the purposes of section 28 or 29 by reference to their position as a National Crime Agency officer may grant an authorisation under that section on an application made by a member of a collaborative police force. 25
- (4) Authorisations may be granted to persons by virtue of subsection (2) or (3) only if such persons are permitted under the terms of the collaboration agreement to make applications for authorisations under section 28 or 29 to a person who is a designated person for the purposes of that section – 30
- (a) in the case of authorisations granted by virtue of subsection (2), by reference to an office, rank or position with the collaborative police force concerned, or
- (b) in the case of authorisations granted by virtue of subsection (3), by reference to the person’s position as a National Crime Agency officer. 35
- (5) A person who is a senior authorising officer by reference to a collaborative police force may grant an authorisation for the carrying out of intrusive surveillance on an application made by a National Crime Agency officer. 40
- (6) The Director General of the National Crime Agency, or a person designated for the purposes of section 32(6)(k) by that Director General, may grant an authorisation for the carrying out of intrusive

- surveillance on an application made by a member of a collaborative police force.
- (7) Authorisations may be granted to persons by virtue of subsection (5) or (6) only if such persons are permitted under the terms of the collaboration agreement to make applications for authorisations for the carrying out of intrusive surveillance to a person who – 5
- (a) in the case of authorisations granted by virtue of subsection (5), is a senior authorising officer by reference to the collaborative police force concerned, or
 - (b) in the case of authorisations granted by virtue of subsection (6), is the Director General of the National Crime Agency or a person designated for the purposes of section 32(6)(k) by that Director General. 10
- (8) In the case of an application made by virtue of subsection (5) or (6) for the carrying out of intrusive surveillance in relation to any residential premises, authorisation may be granted only in relation to premises in the area which is – 15
- (a) the area of operation of a collaborative police force, and
 - (b) specified in relation to members of that force in the collaboration agreement. 20
- (9) For the purposes of this section the area of operation of a collaborative police force is the area for which that force is maintained.
- (10) In this section – 25
- “collaboration agreement” means an agreement made under section 22A of the Police Act 1996;
 - “collaborative police force” has the meaning given by subsection (1);
 - “police force” has the meaning given by section 33(5A).”

Policing and Crime Bill

A

B I L L

To make provision for collaboration between the emergency services; to make provision about the handling of police complaints and other matters relating to police conduct and to make further provision about the Independent Police Complaints Commission; to make provision for super-complaints about policing; to make provision for the investigation of concerns about policing raised by whistle-blowers; to make provision about police discipline; to make provision about police inspection; to make provision about the powers of police civilian staff and police volunteers; to remove the powers of the police to appoint traffic wardens; to enable provision to be made to alter police ranks; to make provision about the Police Federation; to make provision in connection with the replacement of the Association of Chief Police Officers with the National Police Chiefs' Council; to make provision about the system for bail after arrest but before charge; to make provision to enable greater use of modern technology at police stations; to make other amendments to the Police and Criminal Evidence Act 1984; to amend the powers of the police under the Mental Health Act 1983; to extend the powers of the police in relation to maritime enforcement; to make provision about deputy police and crime commissioners; to make provision to enable changes to the names of police areas; to make provision about the regulation of firearms; to make provision about the licensing of alcohol; to make provision about the implementation and enforcement of financial sanctions; to amend the Police Act 1996 to make further provision about police collaboration; to make provision about the powers of the National Crime Agency; to make provision for requiring arrested persons to provide details of nationality; to make provision for requiring defendants in criminal proceedings to provide details of nationality and other information; to make provision to combat the sexual exploitation of children; and for connected purposes.

*Presented by Secretary Theresa May,
supported by the Prime Minister,
Mr Chancellor of the Exchequer,
Secretary Michael Gove,
Secretary Jeremy Hunt,
Secretary Greg Clark,
the Attorney General
and Mike Penning.*

*Ordered, by The House of Commons,
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