

POLICE AND FIRE SERVICES (FINANCE) (SCOTLAND) ACT 2001

EXPLANATORY NOTES

THE ACT

Section 1

3. [Section 1](#) of this Act amends sections 19 and 32 of the [Police \(Scotland\) Act 1967 \(c.77\)](#) (the “1967 Act”) to make provision for the carry-forward of unspent police funds by joint police boards and by unitary police authorities. There are currently six joint police boards in Scotland: Central Scotland Joint Police Board, Grampian Joint Police Board, Lothian and Borders Joint Police Board, Northern Joint Police Board, Strathclyde Joint Police Board and Tayside Joint Police Board, the boards being established for each of the six combined police areas. Those combined police areas were created in 1996 by amalgamation schemes contained in orders made under section 21B of the 1967 Act (as inserted by section 34 of the Local Government etc. (Scotland) Act 1994). Each joint police board is made up of a number of police authorities, known as constituent authorities. In addition, there are two unitary police authorities: Fife and Dumfries and Galloway.
4. Each year a joint police board estimates how much money it will need to provide a police service for the combined police area and requisitions funds from each of its constituent authorities based on estimated police expenditure within that authority. Prior to this Act, at the end of the financial year, joint police boards were obliged to return to their constituent authorities any money which they had requisitioned but either not spent or not earmarked for a specific and known liability.
5. Prior to this Act, section 19(2)(d) of the 1967 Act required amalgamation schemes to make provision with regard to the payment by constituent authorities of expenditure incurred by the joint police board. The effect of this was that amalgamation schemes could not make provision with regard to the carry-forward of unspent requisitions since, in terms of the 1967 Act, amalgamation schemes could make provision only with regard to expenditure incurred and not that which it was estimated would be incurred. Therefore, section 1(1)(a)(i) of this Act amends section 19(2)(d) of the 1967 Act to require amalgamation schemes to make provision with regard to the payment by the constituent authorities, in such proportions as may be specified, of the amounts which the joint police board estimates will be incurred.
6. [Section 1\(1\)\(a\)\(ii\)](#) amends section 19(2) of the 1967 Act, by inserting new paragraph (e), to require amalgamation schemes to make provision for arrangements for the carry-forward of balances of unspent constituent authority requisitions from one year to the next. Such balances represent the difference between the board’s estimated expenditure and its actual expenditure (after taking into account receipts and police grant – see paragraph 7 for an explanation of police grant), where the actual expenditure is less than the estimate.

*These notes relate to the Police and Fire Services (Finance) (Scotland)
Act 2001 (asp 15) which received Royal Assent on 5 December 2001*

7. As well as money requisitioned from constituent authorities, joint police boards and unitary police authorities receive, under section 32 of the 1967 Act, police grant direct from the Scottish Ministers, normally covering 51 per cent of net eligible police expenditure up to a cash limit set for each joint police board. Section 19(3) of the 1967 Act makes it clear that the expenditure referred to in subsection (2)(d) of that section is a reference to the expenditure which is not provided for by grant made to the joint police board under section 32 of the 1967 Act – i.e. it is constituent authority requisitions and not police grant. Section 1(1)(b) of this Act makes two amendments of section 19(3) in consequence of the amendment of section 19(2)(d) made by section 1(1)(a)(i) of this Act, to substitute, for references to expenditure incurred, references to estimated expenditure.
8. [Section 1\(1\)\(c\)](#) inserts new subsections (3A) to (3F) into section 19 of the 1967 Act. These provide for limitations on the carry-forward of balances by joint police boards. New subsection (3A) limits any carry-forward to 3 per cent of the total of the money paid to the joint police board by its constituent authorities in that year. The carry-forward limit of 3 per cent can be varied by means of a statutory instrument subject to negative resolution in terms of new subsections (3D)(a) and (3E). Subsection (3A) also provides that, in certain circumstances, money may be carried forward only with the consent of the Scottish Ministers. New subsection (3B) sets out those circumstances. Essentially, where the amount of unspent requisitioned money and police grant which a joint board wishes to carry forward, when added to existing accumulated reserves of unspent requisitioned money and police grant, exceeds the “maximum sum”, that money can be carried forward only with the consent of the Scottish Ministers. New subsection (3C) defines the maximum sum as meaning 5 per cent of the total amount of requisitions and grant made to the board in that year. In terms of new subsections (3D)(b) and (3E), the 5 per cent figure in subsection (3C) can be varied by means of a statutory instrument subject to negative resolution procedure.
9. New subsection (3F) provides that once consent has been given to carry forward a working balance from one year to the next, that balance can be carried forward indefinitely without further reference to the Scottish Ministers. In subsequent years, additional monies can be added to the amount being carried forward, thus allowing the accumulation of working balances over time. Ministers’ consent will still be required in the circumstances set out in subsection (3B). Consent will not be required to carry forward money from the current year unless that would, when taken together with existing balances, exceed the maximum sum.
10. As mentioned above at paragraph 7, joint police boards and unitary police authorities receive police grant direct from the Scottish Ministers, normally amounting to 51 per cent of net eligible police expenditure. Section 1(2)(b) of this Act inserts new subsections (10A) to (10K) into section 32 of the 1967 Act. Those new subsections set out the conditions under which police grant can be carried forward by unitary police authorities and joint police boards. These conditions are broadly the same as those that apply to the carry-forward of requisitions by joint police boards. New subsection (10A) gives unitary police authorities and joint police boards the power to carry-forward unspent police grant. New subsection (10B) limits any carry-forward by police authorities or joint police boards to 3 per cent of the total grant paid to the authority or board, as the case may be, in respect of that financial year. The carry forward limit of 3 per cent can be varied by means of a statutory instrument subject to negative resolution in terms of subsections (10G)(a) and (10H).
11. Further, subsection (10C) provides that, in certain circumstances, unspent grant may be carried forward only with the consent of the Scottish Ministers. In the case of police authorities, those circumstances are, in terms of subsection (10D), where the police grant to be carried forward, plus accumulated police grant brought forward from previous years and remaining unspent, would exceed the “maximum sum”. The maximum sum is defined in subsection (10F)(a) as being 5 per cent of the total amount of grant paid to the police authority in respect of that year. In the case of joint police

boards, the circumstances in which the consent of the Scottish Ministers to a carry forward is required are, in terms of subsection (10E), where the amount of unspent requisitioned money and police grant to be carried forward, when added to existing accumulated reserves of unspent requisitioned money and police grant, would exceed the “maximum sum”. Subsection (10F)(b) defines the maximum sum as being 5 per cent of the requisitions and grants paid to joint boards in respect of that year. In the case of both police authorities and joint police boards, the 5 per cent figures can be varied by means of statutory instrument subject to negative resolution in terms of subsections (10G)(b) and (10H).

12. [Section 1\(2\)\(b\)](#) of this Act also inserts a new subsection (10J) into section 32 of the 1967 Act which makes equivalent provision in relation to police grant as is made in relation to local authority requisitions by new section 19(3F) of the 1967 Act (as inserted by section 1(1)(c) of this Act (see paragraph 9 above)).
13. Finally, section 1(2)(b) of this Act inserts a new subsection (10K) into section 32 of the 1967 Act. This provision sets out the relationship between the payment of police grant and the carry-forward of police grant. Under section 32(10) of the 1967 Act, an order can be made which re-determines the amount of police grant paid to a joint police board or unitary police authority so that it conforms to the actual expenditure. This usually happens after the end of the year in which the grant is paid because the Board’s final outturn is then known. The difference between police grant paid to the board or authority and the re-determined amount of grant is returned to the Scottish Ministers. The new subsection (10K) makes it clear that the amount of unspent police grant that is to be returned to the Scottish Executive is the balance of the unspent police grant less any amount of police grant that is being carried forward.

Section 2

14. [Section 2](#) of this Act amends section 36 of the [Fire Services Act 1947 \(c.41\)](#) (the “1947 Act”) to make provision for the carry-forward of working balances by joint fire boards. The six existing joint fire boards – Central Scotland Fire Board, Grampian Fire Board, Highland and Islands Fire Board, Lothian and Borders Fire Board, Strathclyde Fire Board and Tayside Fire Board – were constituted by Administration Scheme Orders made under section 147 of the Local Government (Scotland) Act 1973 (as substituted by section 36 of the Local Government etc. (Scotland) Act 1994). Further provision in respect of administration schemes is made in subsections (3A) to (9) of section 36 of the 1947 Act. The fire authorities which are the constituent authorities of each joint fire board are specified in the administration scheme under which that board is constituted.
15. Like the joint police boards, the joint fire boards requisition funds from their constituent authorities on the basis of estimated revenue expenditure requirements in the year ahead. That is, however, their principal source of revenue funding: unlike police boards, fire boards do not receive grant direct from the Scottish Ministers.
16. Prior to this Act, paragraphs (d) and (e) of section 36(4) of the 1947 Act required an administration scheme to make provision with regard to the payment out of a fund constituted in accordance with the scheme of the expenses incurred by the joint board, and the payment into that fund of contributions by the constituent fire authorities. Unlike the case of joint police boards, where section 19(2)(d) of the 1967 Act precluded the carry-forward of unspent requisitions because constituent authorities could make payments to joint police boards only in respect of expenses which had been incurred, paragraphs (d) and (e) of section 36(4) of the 1947 Act were drafted in slightly different terms. It was considered that the terms of paragraph (e) of that subsection could allow payment by constituent authorities to joint fire boards to cover estimated expenditure. However, the amendments made to section 36(4) by section 2(a) of this Act ensure that amalgamation orders must make provision for this. To this end, section 2(a) replaces paragraph (e) of section 36(4) with a new version which, when read with the new subsection (4A) (which is inserted by section 2(b) of this Act), makes it clear that the

*These notes relate to the Police and Fire Services (Finance) (Scotland)
Act 2001 (asp 15) which received Royal Assent on 5 December 2001*

payment by fire authorities into the fund is in respect of estimated expenditure in the administration of the combined fire brigade.

17. Section 2 of this Act further amends section 36 of the 1947 Act so as to require administration schemes to make provision with regard to arrangements for the carry-forward of balances of unspent constituent authority requisitions from one year to the next. Again, such balances would represent the difference between a board's estimated expenditure and its actual expenditure, where the latter is less than the former. Section 2(a) inserts a new paragraph (f) in section 36(4) of the 1947 Act to achieve this.
18. Section 2(b) inserts new subsections (4B) to (4F) into section 36 of the 1947 Act, providing for the limitations on the carry-forward of balances. The limitations are similar to those described in paragraph 8 above in relation to joint police boards.
19. [Section 2\(b\)](#) also inserts a new subsection (4G) into section 36 of the 1947 Act. This is equivalent to the provision made in respect of the police by new section 19(3F) of the 1967 Act, inserted by section 1(1)(c) of this Act (see paragraph 9 above).
20. In section 36 of the 1947 Act, subsection (7) enables fire authorities to amend or revoke an administration scheme submitted by them and approved by the Scottish Ministers, subject to the like approval. Subsection (8) enables the Scottish Ministers to vary or revoke an administration scheme or to make a new administration scheme. Paragraphs (c) and (d) of section 2 of this Act amend subsections (7) and (8) of section 36 to provide that, in both cases, the powers to amend, revoke and replace schemes apply to the existing schemes made under section 147 of the Local Government (Scotland) Act 1973 as well as to any schemes made under section 36.