

These notes relate to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10) (asp 10) which received Royal Assent on 4 July 2006

POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) ACT 2006 (ASP 10)

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Police

Chapter 1: the Scottish Police Services Authority

The Scottish Crime and Drug Enforcement Agency

Section 22 – Liability for wrongful acts of police members of the Agency

44. This section establishes that it is the Director General of the Agency who is liable in respect of any unlawful conduct by police members of the Agency. This includes both constables who are seconded to the Agency from police forces (via the Authority) and constables of the Agency who are directly recruited. This is a change from the current position in respect of constables seconded to the Operational and Intelligence Group of the SDEA as in those circumstances it is the chief constable of the seconded officer's home police force who remains liable for any wrongful acts. It will however bring the Authority/Agency model in line with the current police authority/chief constable model whereby a chief constable is liable in reparation for the acts or omissions of constables in his or her force (see section 39 of the 1967 Act).
45. Subsection (2) makes it clear that whilst vicariously liable for wrongful acts of police members the Director General of the Agency is not personally liable and provides that it will be the Authority which is responsible for paying any awards due under this section, subject to the restrictions set out. Again, this is in line with the police authority/chief constable model in section 39(2) of the 1967 Act.