

POLICE AND FIRE REFORM (SCOTLAND) ACT 2012

EXPLANATORY NOTES

THE ACT - OVERVIEW

Part 1: Police Reform

7. **Part 1** largely replaces the legislation underpinning policing in Scotland, the Police (Scotland) Act 1967, and puts in place a new modernised framework for policing. The Act also repeals Part 1, Chapter 1 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 which established the Scottish Police Services Authority (SPSA) and the Scottish Crime and Drug Enforcement Agency (SCDEA). It amends Part 1, Chapter 2 of that Act which established the Police Complaints Commissioner for Scotland to rename it and extend the provisions in that Chapter to provide for more robust scrutiny of policing. Specifically, it makes provision for:
- The establishment and way of working of the Scottish Police Authority (SPA), responsible for the governance, oversight and maintenance of the Police Service, for holding the chief constable to account, and for providing forensic services. The Act will also give the Scottish Ministers power to direct the SPA, but not the chief constable (**Chapters 1 and 3** and **schedule 1**);
 - The responsibilities of the chief constable for the direction and control and day to day administration of the Police Service of Scotland (the Police Service), the allocation and deployment of resources received from the SPA, and ensuring adequate arrangements for the policing of each local authority area. The Act also makes clear that the chief constable must account to the SPA (**Chapter 2**);
 - An updated oath, a restatement and reframing of the functions and duties of constables, and provision for the terms and conditions of service of constables and police cadets, as well as that of police staff, police custody and security offices and constables from another jurisdiction on temporary service with the Police Service (**Chapter 2** and **schedule 2**). In addition, the Act gives the Scottish Ministers power to make regulations on a range of issues concerning the governance, administration and conditions of service of constables and police cadets (**Chapter 8**);
 - A statement of the policing principles to which the Scottish Ministers, SPA and the chief constable must have regard when setting the strategic direction for the service and commanding constables, as well as detailed arrangements for the strategic police plan and annual police plan. (**Chapter 4**);
 - A statutory duty on the SPA and the chief constable to make arrangements which secure best value for the SPA and the Police Service (**Chapter 5**);
 - Reporting on and examining policing matters, including placing specific obligations on the SPA to produce an annual report. It also provides for the preparation and submission of accounts and arrangements for audit, and enables

*These notes relate to the Police and Fire Reform (Scotland) Act
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the Auditor General for Scotland to initiate examinations into the delivery of best value (**Chapter 6**);

- The chief constable to make arrangements for local policing, including establishing a new formal statutory relationship with each local authority and designating a local commander for each local authority area (**Chapter 7**);
- Arrangements for police appeals tribunals in disciplinary cases where the processes of review or appeal have been exhausted (**Chapter 9** and **schedule 3**);
- A new independent investigatory capacity outside the Police Service (the Police Investigations and Review Commissioner (PIRC)) to deal with the investigation of the most serious cases involving the police and where it is in the public interest to have an independent investigation (**Chapter 10**);
- Inspection of the SPA and the Police Service by HMICS, which will retain its existing powers and also be able to examine the delivery of best value. It also requires the Scottish Ministers to lay HMICS inspection or inquiry reports before the Scottish Parliament (**Chapter 11**);
- A requirement on the SPA and the Police Service, and on HMICS, the Auditor General and PIRC to work together (**Chapter 12**);
- The Scottish Ministers to pay a grant directly to the Scottish Police Authority (**Chapter 14**). The SPA will also be able to charge for goods and services provided by the SPA or Police Service (**Chapter 13**);
- A number of offences committed against or in relation to the police (**Chapter 15**);
- Independent Custody Visiting (**Chapter 16**); and
- The transfer of officers, staff and assets from the existing unitary authorities, joint boards and SPSA to the new service, with transitional arrangements for the period before the Police Service is established (**Chapter 17** and **schedules 4 and 5**).