Policing and Crime Act 2009

2009 CHAPTER 26

PART 1

POLICE REFORM

Police co-operation

5 Police collaboration

For section 23 of the Police Act 1996 substitute—

"**23 Police force collaboration agreements**

(1) The chief officers of two or more police forces may make an agreement about the discharge of functions by members of any of their forces.

(2) An agreement may, in particular, provide—
   (a) for the joint discharge of functions by members of police forces;
   (b) for members of a police force to discharge functions in another force's area;
   (c) for members of a police force to be provided to another force.

(3) An agreement may include provision about the discharge of functions by a police authority employee (a "civilian employee") who is under the direction and control of a chief officer who is a party to the agreement.

(4) An agreement may provide for a member of a police force, or a civilian employee, to be under the direction and control of a chief officer specified in or determined in accordance with the agreement.

(5) A chief officer may make an agreement only if the chief officer thinks that the agreement is in the interests of the efficiency or effectiveness of one or more police forces.

(6) A chief officer may make an agreement only with the approval of the police authority responsible for maintaining the chief officer's force.

(7) In this section a reference to the members of a police force includes a reference to the special constables appointed for the area for which the force is maintained.

(8) An agreement under this section is referred to in this Part as a police force collaboration agreement.

23A Police authority collaboration agreements

(1) Two or more police authorities may make an agreement about the provision of support—
   (a) for any of those police authorities;
   (b) for any of the police forces maintained by them.

(2) An agreement may, in particular, provide—
   (a) for support to be provided jointly by two or more authorities;
   (b) for support to be provided for two or more authorities or forces jointly;
   (c) for an authority to provide support to another authority or to a force maintained by another authority.

(3) In this section references to the provision of support include, in particular, the provision of—
   (a) premises;
   (b) equipment;
   (c) staff;
   (d) services;
   (e) facilities.

(4) A police authority may make an agreement which includes provision about the discharge of functions by employees who are under the direction and control of a chief officer only with the approval of that chief officer.

(5) A police authority may make an agreement only if it thinks that the agreement is in the interests of the efficiency or effectiveness of one or more police authorities or police forces.

(6) Before making an agreement a police authority must consult the chief officer of the police force maintained by the authority.

(7) An agreement under this section is referred to in this Part as a police authority collaboration agreement.

23B Collaboration agreements: payments

(1) A collaboration agreement may provide for payments between relevant police authorities.

(2) Provision under subsection (1) may, in particular—
   (a) specify the authorities by which and to which a payment is to be made or the manner in which those authorities are to be determined;

(b) specify the amount of any payment or the manner in which it is to be determined.

(3) A relevant police authority must make any payments required by provision made under subsection (1).

(4) "Relevant police authority"—

(a) in relation to a police force collaboration agreement, means a police authority maintaining a police force whose chief officer is a party to the agreement, and

(b) in relation to a police authority collaboration agreement, means a police authority which is a party to the agreement.

(5) In this Part "collaboration agreement" means—

(a) a police force collaboration agreement, or

(b) a police authority collaboration agreement.

23C Collaboration agreements: consultation and supplemental

(1) A person must consult the Secretary of State before making a collaboration agreement to which there are 6 or more other parties.

(2) A collaboration agreement must be in writing.

(3) A collaboration agreement may make different provision for different cases or circumstances.

(4) A collaboration agreement may be varied by a subsequent collaboration agreement.

(5) A collaboration agreement may be brought to an end by agreement between the parties to it; and section 23(6) or, as the case may be, section 23A(6) applies to an agreement under this subsection.

23D Collaboration agreements: accountability

(1) Where a chief officer makes a police force collaboration agreement, the police authority responsible for maintaining the force shall hold the chief officer to account for the discharge of functions by anyone who—

(a) is acting under the terms of the agreement, and

(b) while so acting, is under the direction and control of the chief officer.

(2) Before approving an agreement as mentioned in section 23(6), a police authority must notify the chief officer of the arrangements that it proposes to make for the discharge of its functions under this section in connection with the agreement.

(3) When deciding what arrangements to make, the police authority shall, in particular, consider making arrangements for those functions to be discharged jointly with another police authority responsible for maintaining a force whose chief officer is a party to the agreement.

(4) The functions conferred on a police authority under this section do not affect any other function of holding a chief officer to account.

23E Collaboration agreements: publication

(1) A person who makes a collaboration agreement must—
- (a) publish the agreement, or
- (b) publish the fact that the agreement has been made and such other details about it as the person thinks appropriate.

(2) In the case of a police force collaboration agreement, information notified to a chief officer under section 23D(2) must be published by the chief officer with the information under subsection (1).

23F Collaboration agreements: guidance

(1) The Secretary of State may give chief officers or police authorities guidance about collaboration agreements or related matters.

(2) In discharging their functions, chief officers and police authorities must have regard to the guidance.

23G Collaboration agreements: directions

(1) The Secretary of State may give chief officers or police authorities directions about collaboration agreements or related matters.

(2) A direction may be given to—
- (a) one or more chief officers;
- (b) one or more police authorities.

(3) A person to whom a direction is given must comply with it.

(4) A direction may, in particular—
- (a) require two or more persons to make, or prohibit them from making, a collaboration agreement;
- (b) require two or more persons to vary, or prohibit them from varying, a collaboration agreement;
- (c) require two or more persons to consider making a collaboration agreement of a specified description;
- (d) specify terms to be included, or not to be included, in collaboration agreements.

(5) A direction may relate to—
- (a) a particular agreement,
- (b) agreements of a particular description, or
- (c) agreements in general.

(6) Before giving a direction under this section the Secretary of State must consult the person or persons to whom it is to be given.

23H Collaboration agreements: termination by Secretary of State

(1) The Secretary of State may terminate a collaboration agreement by notice to the parties to the agreement.

(2) A notice under this section may provide for the termination of the agreement with immediate effect or at the end of a specified period.

(3) Before giving a notice under this section the Secretary of State must consult the parties to the agreement.

23I Collaboration agreements: definitions

(1) This section has effect for the purposes of sections 23 to 23H.

(2) "Police force" includes—
- (a) the British Transport Police Force, and
- (b) the Civil Nuclear Constabulary.

(3) "Chief officer" means—
- (a) in relation to the British Transport Police Force, the Chief Constable of the force,
- (b) in relation to the Civil Nuclear Constabulary, the chief constable of the Constabulary, and
- (c) in relation to any other police force, the chief officer of police of that force.

(4) "Police authority" includes—
- (a) the British Transport Police Authority, and
- (b) the Civil Nuclear Police Authority."

6 Authorisations to interfere with property etc

(1) Section 93 of the Police Act 1997 (c. 50) (rules for grant of authorisations) is amended as follows.

(2) In subsection (3) after "application made—" insert—

"(za) if the authorising officer is within subsection (5)(a) to (c)—
- (i) by a member of the officer's police force; or
- (ii) in a case where the chief officer of police of that force ("the authorising force") has made an agreement under section 23(1) of the Police Act 1996 with the chief officer of police of one or more other police forces, by a member of a collaborative force;".

(3) In subsection (3)(a), for "subsection (5)(a)" substitute "subsection (5)(d)".

(4) After subsection (3) insert—

"(3A) For the purposes of subsection (3)(za)(ii)—
- (a) a police force is a collaborative force if—
  - (i) its chief officer of police is a party to the agreement mentioned in that provision; and
  - (ii) its members are permitted by the terms of the agreement to make applications for authorisations under this section to the authorising officer of the authorising force; and
- (b) a reference to a police force is to the following—

(i) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);

(ii) the metropolitan police force; and

(iii) the City of London police force."

(5) In subsection (6)—

(a) in paragraph (a), after "subsection (5)" insert "to whom an application is made by virtue of subsection (3)(za)(i)";

(b) after paragraph (a) insert—

"(aa) in relation to a person within any of those paragraphs to whom an application is made by virtue of subsection (3)(za)(ii), means the area in England and Wales—

(i) for which any collaborative force (within the meaning of subsection (3A)) is maintained; and

(ii) which is specified in relation to members of that force in the agreement mentioned in subsection (3)(za)(ii);"; and

(c) in paragraph (b), for "that subsection" substitute "subsection (5)".

7 Authorisations for obtaining and disclosing communications data

(1) The Regulation of Investigatory Powers Act 2000 (c. 23) is amended as follows.

(2) In section 22 (obtaining and disclosing communications data) after subsection (3) insert—

"(3A) Subsection (3B) applies if—

(a) a person is the designated person by reference to an office, rank or position with a police force; and

(b) the chief officer of police of that force has made an agreement under section 23(1) of the Police Act 1996 with the chief officer of police of one or more other police forces.

(3B) The designated person may grant an authorisation for persons holding offices, ranks or positions with a collaborative force to engage in any conduct to which this Chapter applies.

(3C) For the purposes of subsection (3B) a police force is a collaborative force if—

(a) its chief officer of police is a party to the agreement mentioned in subsection (3A)(b); and

(b) the persons holding offices, ranks or positions with it are permitted by the terms of the agreement to be granted authorisations by the designated person.

(3D) A reference in subsections (3A) to (3C) to a police force is 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.

(3E) Subsection (3F) applies if—

(a) a person is the designated person by reference to an office, rank or position with a Scottish police force; and

(b) the chief constable of that force has made an agreement under section 12(1) of the Police (Scotland) Act 1967 with the chief constable of one or more other Scottish police forces.

(3F) The designated person may grant an authorisation for persons holding offices, ranks or positions with a collaborative force to engage in any conduct to which this Chapter applies.

(3G) For the purposes of subsection (3F) a Scottish police force is a collaborative force if—

(a) its chief constable is a party to the agreement mentioned in subsection (3E)(b); and

(b) the persons holding offices, ranks or positions with it are permitted by the terms of the agreement to be granted authorisations by the designated person.

(3H) A reference in subsections (3E) to (3G) to a Scottish police force is to a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967.

(3I) Subsections (3B) and (3F) are subject to subsection (5).”

(3) In section 23 (form and duration of authorisations and notices), in subsection (3) at the end insert “(subject to subsections (3A) and (3D))”.

(4) In that section, after subsection (3) insert—

“(3A) The provisions of a notice under section 22(4) may specify or otherwise identify a person for the purposes of subsection (3)(b) above if—

(a) the person giving the notice holds an office, rank or position with a police force (“notifying force”);

(b) the chief officer of police of the notifying force has made an agreement under section 23(1) of the Police Act 1996 with the chief officer of police of one or more other police forces; and

(c) the person specified in or otherwise identified in the notice holds an office, rank or position with a collaborative force.

(3B) For the purposes of subsection (3A) a police force is a collaborative force if—

(a) its chief officer of police is a party to the agreement mentioned in subsection (3A)(b); and

(b) the persons holding offices, ranks or positions with it are permitted by the terms of the agreement to be specified or otherwise identified in notices under section 22(4) given by a person holding an office, rank or position with the notifying force.

(3C) A reference in subsections (3A) and (3B) to a police force is 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.

(3D) The provisions of a notice under section 22(4) may also specify or otherwise identify a person for the purposes of subsection (3)(b) above if—

(a) the person giving the notice holds an office, rank or position with a Scottish police force ("Scottish notifying force");

(b) the chief constable of the Scottish notifying force has made an agreement under section 12(1) of the Police (Scotland) Act 1967 with the chief constable of one or more other Scottish police forces; and

(c) the person specified in or otherwise identified in the notice holds an office, rank or position with a collaborative force.

(3E) For the purposes of subsection (3D) a Scottish police force is a collaborative force if—

(a) its chief constable is a party to the agreement mentioned in subsection (3D)(b); and

(b) the persons holding offices, ranks or positions with it are permitted by the terms of the agreement to be specified or otherwise identified in notices under section 22(4) given by a person holding an office, rank or position with the Scottish notifying force.

(3F) A reference in subsections (3D) and (3E) to a Scottish police force is to a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967."

8 Authorisations of covert human intelligence sources: conditions

(1) Section 29 of the Regulation of Investigatory Powers Act 2000 (c. 23) (authorisation of covert human intelligence sources) is amended as follows.

(2) In subsection (2) for paragraph (c) substitute—

"(c) that arrangements exist for the source's case that satisfy—

(i) the requirements of subsection (4A), in the case of a source of a relevant collaborative unit;

(ii) the requirements of subsection (4B), in the case of a source of a relevant Scottish collaborative unit;

(iii) the requirements of subsection (5), in the case of any other source;

and that satisfy such other requirements as may be imposed by order made by the Secretary of State."

(3) After subsection (2) insert—

"(2A) For the purposes of subsection (2)—

(a) a relevant collaborative unit is a unit consisting of two or more police forces whose chief officers of police have made an agreement under section 23(1) of the Police Act 1996 which 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 source; and

(b) a relevant Scottish collaborative unit is a unit consisting of two or more Scottish police forces whose chief constables have made an agreement under section 12(1) of the Police (Scotland) Act 1967 which 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 source."

(4) After subsection (4) insert—

"(4A) For the purposes of this Part there are arrangements for the source's case that satisfy the requirements of this subsection if such arrangements are in force as are necessary for ensuring—

(a) that there will at all times be a qualifying person who will have day-to-day responsibility for dealing with the source, and for the source's security and welfare;

(b) that there will at all times be another qualifying person who will have general oversight of the use made of the source;

(c) that there will at all times be a qualifying person who will have responsibility for maintaining a record of the use made of the source;

(d) that the records relating to the source that are maintained by virtue of paragraph (c) will always contain particulars of all such matters (if any) as may be specified for the purposes of this paragraph in regulations made by the Secretary of State; and

(e) that records maintained by virtue of paragraph (c) that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons.

(4B) For the purposes of this Part there are arrangements for the source's case that satisfy the requirements of this subsection if such arrangements are in force as are necessary for ensuring—

(a) that there will at all times be a Scottish qualifying person who will have day-to-day responsibility for dealing with the source, and for the source's security and welfare;

(b) that there will at all times be another Scottish qualifying person who will have general oversight of the use made of the source;

(c) that there will at all times be a Scottish qualifying person who will have responsibility for maintaining a record of the use made of the source;

(d) that the records relating to the source that are maintained by virtue of paragraph (c) will always contain particulars of all such matters (if any) as may be specified for the purposes of this paragraph in regulations made by the Secretary of State; and

(e) that records maintained by virtue of paragraph (c) that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons."

(5) After subsection (7) insert—

"(7A) For the purposes of subsection (4A) a person is a qualifying person 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 (2A)(a); and

(b) persons holding offices, ranks or positions with that force are permitted by the terms of the agreement to have the responsibility

mentioned in paragraph (a) or (c) of subsection (4A) or the general oversight mentioned in paragraph (b) of that subsection (as the case may require).

(7B) For the purposes of subsection (4B), a person is a Scottish qualifying person if—

(a) the person holds an office, rank or position with a Scottish police force whose chief constable is a party to the agreement mentioned in subsection (2A)(b); and

(b) persons holding offices, ranks or positions with that force are permitted by the terms of the agreement to have the responsibility mentioned in paragraph (a) or (c) of subsection (4B) or the general oversight mentioned in paragraph (b) of that subsection (as the case may require)."

(6) After subsection (9) insert—

"(10) For the purposes of this section—

(a) references to a police force are to the following—

(i) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London);

(ii) the metropolitan police force; and

(iii) the City of London police force; and

(b) references to a Scottish police force are to a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967."

9 Authorisations for surveillance etc

(1) Section 33 of the Regulation of Investigatory Powers Act 2000 (c. 23) (rules for grant of authorisations) is amended as follows.

(2) In subsection (1), at the end insert "(subject to subsections (1ZB) and (1ZE))".

(3) After subsection (1), insert—

"(1ZA) Subsection (1ZB) applies if the chief officer of police of a police force ("the authorising force") has made an agreement under section 23(1) of the Police Act 1996 with the chief office of police of one or more other police forces.

(1ZB) A person who is a designated person for the purposes of section 28 or 29 by reference to an office, rank or position with the authorising force may grant an authorisation under that section on an application made by a member of a collaborative force.

(1ZC) For the purposes of subsection (1ZB) a police force is a collaborative force if—

(a) its chief officer of police is a party to the agreement mentioned in subsection (1ZA); and

(b) its members are permitted by the terms of the 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 by reference to an office, rank or position with the authorising force.

(1ZD) Subsection (1ZE) applies if the chief constable of a Scottish police force ("the Scottish authorising force") has made an agreement under section 12(1) of the Police (Scotland) Act 1967 with the chief constable of one or more other Scottish police forces.

(1ZE) A person who is a designated person for the purposes of section 28 or 29 by reference to an office, rank or position with the Scottish authorising force may grant an authorisation under that section on an application made by a member of a collaborative force.

(1ZF) For the purposes of subsection (1ZE) a Scottish police force is a collaborative force if—

(a) its chief constable is a party to the agreement mentioned in subsection (1ZD); and

(b) its members are permitted by the terms of the 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 by reference to an office, rank or position with the Scottish authorising force."

(4) In subsection (3), at the beginning insert "Subject to subsections (3ZB) and (3ZE),".

(5) After subsection (3) insert—

"(3ZA) Subsection (3ZB) applies if—

(a) the chief officer of police of a police force ("the surveillance authorising force") has made an agreement under section 23(1) of the Police Act 1996 with the chief office of police of one or more other police forces; and

(b) an application for an authorisation for the carrying out of intrusive surveillance is made by a member of a collaborative force.

(3ZB) A person who is a senior authorising officer by reference to the surveillance authorising force may—

(a) grant the authorisation;

(b) in a case where the authorisation is for the carrying out of intrusive surveillance in relation to any residential premises, grant the authorisation only in relation to premises in the area which is—

(i) the area of operation of a collaborative force; and

(ii) specified in relation to members of that force in the agreement mentioned in subsection (3ZA).

(3ZC) For the purposes of subsections (3ZA) and (3ZB) a police force is a collaborative force if—

(a) its chief officer of police is a party to the agreement mentioned in subsection (3ZA); and

(b) its members are permitted by the terms of the agreement to make applications for authorisations for the carrying out of intrusive surveillance to a person who is a senior authorising officer by reference to the surveillance authorising force.

(3ZD) Subsection (3ZE) applies if—

(a) the chief constable of a Scottish police force ("the Scottish surveillance authorising force") has made an agreement under

section 12(1) of the Police (Scotland) Act 1967 with the chief constable of one or more other Scottish police forces; and

(b) an application for an authorisation for the carrying out of intrusive surveillance is made by a member of a collaborative force.

(3ZE) A person who is a senior authorising officer by reference to the Scottish surveillance authorising force may—

(a) grant the authorisation;

(b) in a case where the authorisation is for the carrying out of intrusive surveillance in relation to any residential premises, grant the authorisation only in relation to premises in the area which is—

(i) the area of operation of a collaborative force; and

(ii) specified in relation to members of that force in the agreement mentioned in subsection (3ZD).

(3ZF) For the purposes of subsections (3ZD) and (3ZE) a Scottish police force is a collaborative force if—

(a) its chief constable is a party to the agreement mentioned in subsection (3ZD); and

(b) its members are permitted by the terms of the agreement to make applications for authorisations for the carrying out of intrusive surveillance to a person who is a senior authorising officer by reference to the Scottish surveillance authorising force."

(6) After subsection (5) insert—

"(5A) In subsections (1ZA) to (1ZC) and (3ZA) to (3ZC) a reference to a police force is 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.

(5B) In subsections (1ZD) to (1ZF) and (3ZD) to (3ZF) a reference to a Scottish police force is to a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967."

10 Police officers engaged on service outside their force etc

(1) After section 97 of the Police Act 1996 (c. 16) insert—

"**97A Power to amend section 97**

(1) The Secretary of State may by order amend the definition of "relevant service" in section 97(1).

(2) An order under this section may make transitional, consequential, incidental and supplemental provision or savings.

(3) The provision that may be made under subsection (2) includes provision amending any enactment.

(4) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(2) After section 11 of the Police Pensions Act 1976 (c. 35) insert—

"**11A Power to amend**

(1) The Secretary of State may by order amend section 11 for the purpose of altering the descriptions of service to which subsection (1) applies.

(2) An order under this section may make transitional, consequential, incidental and supplemental provision or savings.

(3) The provision that may be made under subsection (2) includes provision amending any enactment.

(4) An order under this section shall be made by statutory instrument.

(5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(3) In section 63(3) of the Police Act 1996 (consultation of Police Advisory Board for England and Wales)—

(a) after paragraph (c) insert "or

(d) an order under section 97A, or

(e) an order under section 11A of the Police Pensions Act 1976 (power to amend kinds of service),", and

(b) for "draft of the regulations or rules" substitute "draft of the regulations, rules or order".

11 Police equipment

(1) Section 53 of the Police Act 1996 (regulations as to standard of equipment) is amended as follows.

(2) In subsection (1A)—

(a) in paragraphs (a), (b), (c) and (e) for "all police forces in England and Wales" substitute "one or more police forces", and

(b) in paragraph (d) for "police forces in England and Wales" substitute "one or more police forces".

(3) In subsection (1B) for "generally of the police forces maintained for police areas in England and Wales" substitute "of one or more police forces".

(4) In subsection (2C) before paragraph (a) insert—

"(za) software;".

12 Police procedures and practices

(1) Section 53A of the Police Act 1996 (c. 16) (regulation of procedures and practices) is amended as follows.

(2) In subsection (1) for "all police forces in England and Wales" substitute "one or more police forces".

(3) In subsection (7)(a) after "in order to" insert "—

(i) promote the efficiency and effectiveness of a police force, or

(ii)".

13 Police facilities and services

In section 57(3) of the Police Act 1996 (regulations requiring police forces to use specified facilities or services) for "all police forces in England and Wales" substitute "one or more police forces".