

POLICY NOTE

THE POLICE AND FIRE REFORM (SCOTLAND) ACT 2012 (CONSEQUENTIAL MODIFICATIONS AND SAVINGS) ORDER 2013

SSI 2013/xxx

The above instrument was made in exercise of the powers conferred by section 126(1) of the Police and Fire Reform (Scotland) Act 2012. The instrument is subject to affirmative procedure.

Policy Objectives

1. This Order makes amendments to legislation which are necessary as a result of the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”). The 2012 Act reorganises police services and fire and rescue services in Scotland, replacing the current regional structure, run by local government, with two single services run as national public bodies.
2. For police, the 2012 Act repeals the Police (Scotland) Act 1967, which established local authorities as police authorities with a duty to maintain police forces. These were grouped together into six joint police boards, plus two unitary police authorities, maintaining the current 8 police forces. In their place it creates the Police Service of Scotland (“the Police Service”), headed by a chief constable and maintained by the Scottish Police Authority (“the Authority”). The majority of policing functions and duties are placed on the chief constable, and may be delegated to the constables of the Police Service and police staff appointed by the Authority. The chief constable is accountable to the Authority, which in turn is answerable to Scottish Ministers and to the Scottish Parliament for the performance of its and the Police Service’s functions.
3. The 2012 Act also repeals those sections of the Police, Public Order and Criminal Justice (Scotland) Act 2006 which establish the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency. They will be abolished and their functions will be absorbed into the Authority and the Police Service. In addition, the Police Complaints Commissioner for Scotland is renamed the Police Investigations and Review Commissioner (“the PIRC”), with expanded powers to carry out investigations into serious incidents and other matters relating to the Police Service, and provisions relating to HM Inspectors of Constabulary are updated.
4. For fire, the 2012 Act similarly removes local authorities’ functions as fire and rescue authorities, grouped together as “relevant authorities”, by repealing the sections 1 to 7 of the Fire (Scotland) Act 2005, and establishes a single Scottish Fire and Rescue Service (SFRS). All fire fighters, including the chief officer, and support staff are employees of SFRS and do not have separate functions. The SFRS is answerable to the Scottish Ministers and the Scottish Parliament for the performance of its functions.
5. This Order makes amendments to primary and secondary legislation with effect in Scotland.
 - Schedule 1 deals with legislation relating to the police. It updates references to police authorities and joint boards and police forces to refer instead to the Scottish Police Authority or Police Service of Scotland, as appropriate. It removes references to the

Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency, and to police or fire and rescue functions in relation to local authorities. It also amends provisions which depend on there being more than one police area within Scotland.

- Schedule 2 makes modifications relating to fire and rescue. References to fire and rescue authorities and joint boards, or “relevant authorities” are changed to refer to the Scottish Fire and Rescue Service, and provisions which refer to more than one relevant authority area are updated.
 - Schedule 3 covers amendments which relate to both police and fire.
 - Article 2 makes a saving for the supervision of appeals tribunals in relation to police pensions and police conduct and performance, so that the provisions of the Tribunals and Inquiries Act 1992 continue to apply in respect of appeals brought by constables of the old police forces.
 - Article 3 makes a saving in relation to the Local Authority Accounts (Scotland) Regulations 1985, to require details of the remuneration of senior police officers to be included in the Remuneration Report of local authorities and joint boards for 2012-13.
6. Other relevant amendments to legislation are made in the 2012 Act and in the Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013, which was laid in draft in the UK Parliament on 21 January 2013.

Consultation

No public consultation has been carried out for this Order. The Scottish Government conducted parallel formal consultation on police and on fire and rescue service reform from 10 February to 5 May 2011. These are available on the Scottish Government website, along with reports on the responses.

Police: <http://www.scotland.gov.uk/Publications/2011/02/10120102/0>

Responses: <http://www.scotland.gov.uk/Publications/2011/06/20115001/0>

Fire and Rescue: <http://www.scotland.gov.uk/Publications/2011/02/21161910/0>

Responses: <http://www.scotland.gov.uk/Publications/2011/06/14113246/0>

A further consultation on the legislative framework was carried out between September and November 2011:

<http://www.scotland.gov.uk/Publications/2011/09/15110325/0>

A detailed report on the outcome was published on 10 February 2012

<http://www.scotland.gov.uk/Publications/2012/02/1912>

Impact Assessments

This Order has no effect on any equality issues. An Equality Impact Assessment was carried out for the Police and Fire Reform (Scotland) Bill and is available on the Scottish Government website.

<http://www.scotland.gov.uk/Topics/Justice/public-safety/Police/ConsultationFuturePolicin/EQIA>

Financial Effects

The Cabinet Secretary for Justice confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Safer Communities Directorate

18 February 2013