

POLICY NOTE

THE POLICE AND FIRE REFORM (SCOTLAND) ACT 2012 (COMMENCEMENT NO. 1, TRANSITIONAL, TRANSITORY AND SAVING PROVISIONS) ORDER 2012

SSI 2012/253 (C. 24)

1. The above instrument is made in exercise of the powers conferred by section 129(2) and (3) of the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”).

Policy Objectives

2. This instrument forms part of an implementation package for the 2012 Act. The provisions of the Act will be commenced in several phases to allow for preparation and strategic planning in advance of the Scottish Police Authority (SPA), Police Service of Scotland (PSS) and Scottish Fire and Rescue Service (SFRS) taking up their full operational functions. The Act also provides powers for the Scottish Ministers to make orders and regulations on various issues, many of which will be brought forward during these preparatory phases.

Commencement

3. A number of provisions came into force on the day following Royal Assent (ie, on 8 August 2012), by virtue of section 129. These establish the SPA and SFRS, allowing members and chief officers to be appointed. They provide the bodies with a basic range of powers, functions and duties to enable them to start preparations for taking up their full functions.

4. Article 2 of this Order appoints 1 October 2012 as the day on which the provisions of the 2012 Act listed in the Schedule come into force. Some come into force only for specific purposes.

5. The provisions included here will enable the SPA, chief constable and SFRS to make effective preparations for taking up their full functions. This includes strategic planning; appointment of senior officers and staff; and preparation for the transfer of constables, staff, property and other rights and liabilities;. Provisions are also included to enable the Auditor General to examine the arrangements made by the bodies to secure Best Value, and to examine the economy, efficiency and effectiveness of the SPA and SFRS, and for Scottish Ministers to give directions to those bodies if necessary. Powers are also commenced for Scottish Ministers to make regulations about the terms and conditions of police officers; the investigation of serious incidents involving the police; arrangements for constables to be seconded to other organisations; and in relation to the provision of goods and services by the SPA and PSS to other persons.

Transitional, transitory and saving provisions

6. Article 3 makes transitional provision so that the first annual police plan is to be made for the year starting from April 2013, removing the requirement for the chief constable to prepare an annual police plan for the part year from 1 October 2012 to 31 March 2013.

7. Article 4 makes transitory provision so that the requirement to consult Her Majesty's inspectors of constabulary on the strategic police plan applies to the inspectors appointed under the current legislation, until that is replaced by section 71 of the 2012 Act.

8. Section 42(1)(b) enables the Auditor General to initiate examinations into the arrangements made by the chief constable to secure Best Value for the PSS, and subsections (2) to (7) make provisions about procedure in relation to such examinations. Article 5 makes transitory provision to adjust the application of subsection (4), removing reference to the policy objectives of the PSS and clarifying that examinations will be into the use of resources which the chief constables considers will be available to the PSS, until the PSS comes into existence.

9. Section 66 enables Scottish Ministers to make regulations about certain investigations by the Police Investigations and Review Commissioner (PIRC). Article 6 makes transitory provision about the interpretation of the people who must be consulted on such regulations, until such time as amendments in the 2012 Act to the definitions in the Police, Public Order and Criminal Justice (Scotland) Act 2006 come into effect.

10. When the SFRS prepares its strategic plan, it is required to have regard to the framework document, prepared by the Scottish Ministers under section 40. Articles 7 and 8 make transitory provision so that the current fire framework document continues to have effect in relation to existing fire and rescue authorities until they are abolished, but the framework document to which the SFRS is required to have regard will be a new one drawn up under section 40 of the 2005 Act as amended by paragraph 68(15) and (16) of schedule 7 to the 2012 Act.

Consultation

11. A public consultation was carried out for the Police and Fire Reform (Scotland) Bill in 2011. Stakeholders have also been consulted on the commencement plan for the 2012 Act.

Impacts

12. A Business Regulatory Impact Assessment and Equality Impact Assessment were carried out for the Police and Fire Reform (Scotland) Bill.