
EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into force the following provisions of the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”) on 1st January 2013: sections 2(1)(b), 3(1)(c) and (2), 74(2)(b), 75(1), (3) and (4), 76, 77, 79, 80, 81(1)(b), (2) and (3), 85, 100 and 119 (for certain purposes) and paragraph 13(3) of schedule 7.

Article 2 appoints 1st January 2013 as the day for the coming into force of the provisions of the 2012 Act specified in Schedule 1.

Section 2(1)(b) and 3(1)(c) confer the functions on the Scottish Police Authority (“SPA”) of promoting the policing principles set out in section 32 of the 2012 Act and providing to the chief constable details of how it intends to allocate any resources it expects to have available to it. Schedule 2 makes a transitional modification of section 3(1)(a) to make it clear that this function is to be exercised in anticipation of the SPA having the function in section 2(1)(a) of the 2012 Act of maintaining the Police Service of Scotland (“the Service”) from 1st April 2013.

Sections 74(2)(b), 75(1), (3) and (4), 76, 77, 79, 80 and 81(1)(b), (2) and (3) are commenced to allow the inspectors of constabulary (“HMICS”) to exercise the functions of making inquiries as to the arrangements made by the SPA and the chief constable under section 37 of the 2012 Act (best value) and preparing an inspection plan for their inquiries generally. A range of ancillary functions are also conferred on HMICS by these provisions. The duties the SPA and the chief constable have in relation to those inquiries are also brought into force. Transitory modifications are made by Schedule 2 which have the effect of conferring the functions of HMICS under these provisions on the inspectors of constabulary appointed under the Police (Scotland) Act 1967, pending the appointment of inspectors under the 2012 Act from 1st April 2013.

Section 85 is also brought into force (subject to certain transitory modifications in Schedule 2) to ensure that HMICS and the Auditor General co-operate in the exercise of their respective functions in relation to the Service and the SPA.

Section 100, which makes provision about the application of the 2012 Act to the Crown, is brought into force.

Section 119 is commenced for the purpose of inserting sections 43B(1), (3)(b) and (4) to (7), 43C(1), (2) and (3), 43E and 43F(1), (3) and (4) into the Fire (Scotland) Act 2005 (“the 2005 Act”) in relation to the Inspectors of the Scottish Fire and Rescue Service (SFRS). These provisions bring into force the power of Inspectors to carry out inquiries as to the compliance by SFRS with its best value duties and requires the Chief Inspector to prepare an inspection plan in relation to those and other inquiries which may be carried out by the Inspectors. A number of ancillary functions are also brought into force, together with requirements for SFRS to exercise certain duties in relation to the Inspectors and their inquiries and reports.

Section 119 is also commenced for the purpose of inserting section 43G into the 2005 Act which requires the Inspectors to co-operate in the exercise of their respective functions in relation to SFRS. Since Inspectors will not be appointed under the 2012 Act until 1st April 2013, Schedule 2 makes transitory modifications which have the effect of conferring the functions of Inspectors on the Chief Inspector of Fire and Rescue Authorities and Inspectors of Fire and Rescue Authorities appointed under the 2005 Act.

Paragraph 3 of Schedule 2 makes transitional provision to ensure that anything done under the 2012 Act by or in relation to the existing inspectors of constabulary, assistant inspectors or their

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staff officers is treated on and after 1 April 2013 as having been done by or in relation to their equivalent office holders and staff members under the 2012 Act. Similar provision is made in relation to anything done by or in relation to the Chief Inspector, Inspectors and Assistant Inspectors of Fire and Rescue Authorities under provisions of the 2012 Act inserted by section 119 (in so far as commenced by this Order).

Article 4 specifies 1st April 2013 as the appointed day for the purposes of the staff and property transfer provisions in schedule 6 to the 2012 Act.