

# GREATER LONDON AUTHORITY ACT 1999

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part Vi: Police and Probation Services

468. England and Wales is divided into 43 policing areas, two in London (the metropolitan police district (MPD) and the City of London police area) and 41 elsewhere. Policing in each of these areas is the responsibility of three parties. These are the chief officer of police for that area, the Home Secretary and the police authority for that area. Uniquely, with regard to the MPD the Home Secretary acts as police authority as well as in his national role.
469. The main legislation governing the roles, duties and powers of these three parties in the non-London police areas is the Police Act 1996 ("the 1996 Act"). Although some of the provisions of that Act apply to the policing of London, many do not. There is a significant number of other statutes governing the policing of the MPD, dating back to the Metropolitan Police Act 1829 ("the 1829 Act"), which established the metropolitan police force.
470. The purpose of Part VI of the Act and the related Schedules 26 and 27 is, so far as possible, to bring the arrangements for the policing of the MPD into line with arrangements elsewhere in England and Wales. The Act achieves these changes in two main ways. First, by inserting new sections into the 1996 Act concerned specifically with the new police authority for London, the Metropolitan Police Authority (MPA), and the metropolitan police force. Second, through amendments to the 1996 Act which have the effect of applying provisions of that Act to the policing of the MPD. There are also a number of consequential amendments to other legislation.
471. The policing of the City of London is not affected by the policing provisions contained in this Act.
472. Part VI also makes provision for the reorganisation, by order, of the probation service in Greater London (see comments on section 326 below).

#### ***Sections 310 and 312 and Schedule 26: Establishment, membership and duty to maintain police force***

473. *Section 310* deals with the establishment and duties of the MPA. It provides that a police force is to be maintained for the metropolitan police district (MPD) and for the establishment of the Metropolitan Police Authority (MPA) for the MPD.
474. *Section 312* substitutes the MPA for the Home Secretary as the police authority for the MPD. It is intended that the MPA will be established on 3 July 2000.
475. Provisions on the membership and procedures of the MPA are contained in *Schedule 26*. As with other police authorities, the MPA will have a majority of elected members, with the balance made up of magistrates and independent members. However, there will be a number of differences between the MPA and the other authorities:

*These notes refer to the Greater London Authority Act 1999  
(c.29) which received Royal Assent on 11th November 1999*

- to reflect the size of the metropolitan police force, the MPA's membership is to be 23 compared with the normal figure of 17 elsewhere;
- to reflect the existence of a pan-London chamber, the 12 elected members of the MPA will be drawn from the Assembly (appointed by the Mayor), not, as happens elsewhere, from the local councils which are within the police area (i.e. the 32 London boroughs in the case of the MPD);
- to reflect the creation of the Greater London Magistrates' Courts Authority (GLMCA), the four magistrate members will be appointed by the GLMCA selection panel which is to be set up under powers inserted into the Justices of the Peace Act 1997 by the Access to Justice Act 1999;
- to reflect the Home Secretary's continuing responsibilities for the national functions of the metropolitan police force (see comments below), one of the seven independent members of the MPA is to be appointed by him;
- for the first round of appointments of independent members to the MPA, the selection panel which puts forward the list of potential members is to be constituted differently from a standard panel. In particular, the three-member selection panel will not include (as it will in future rounds) a nominee of the MPA's Assembly and magistrate members. This will enable the selection panel to be formed before the first elections of the Mayor and Assembly members take place, thereby allowing the full membership of the MPA to be chosen as soon as possible after those elections. The selection panel will consist of three persons. Two of them will be appointed by the Secretary of State, one after consultation with organisations which represent the interests of local government in London, and the third person will be appointed by the other two.

476. *Schedule 27* also makes various amendments to parts of the 1996 Act which set out the selection procedure for independent members of police authorities.

### ***Section 311: Assimilation of general functions to those of other police authorities***

477. *Section 311* assimilates the MPA's general functions to those of other police authorities. The MPA will be under a duty to maintain an efficient and effective police force for the MPD. In discharging its functions, the MPA must have regard to a number of factors:

- objectives determined by the Secretary of State;
- objectives determined by the MPA;
- performance targets established by the MPA;
- local policing plans issued by the MPA (including Best Value compliance);
- codes of practice issued by the Secretary of State.

478. The MPA will also have to comply with any directions given to it by the Secretary of State relating to performance targets, or following an adverse report from Her Majesty's Inspectors of Constabulary.

479. *Schedule 27* amends the 1996 Act so as to require the MPA to determine objectives for the policing of the MPD, issue a policing plan, and produce an annual report at the end of each financial year.

### ***Section 313: Openness***

480. *Section 313* makes some amendments to the Local Government Act 1972 to apply various provisions of that Act to the MPA regarding such matters as public access to meetings and documents.

***Sections 314 to 322: Commissioner, Deputy Commissioner, Assistant Commissioners, Commanders and other members of the metropolitan police force***

481. *Section 314, section 316, section 319 and Schedule 27* set out the functions of the three most senior ranks of the metropolitan police force. Section 314 provides for the metropolitan police force to be under the direction and control of the Commissioner of Police of the Metropolis ("the Commissioner"), and that in discharging this function the Commissioner is to have regard to the MPA's policing plan. An amendment in Schedule 27 provides that the Commissioner, like Chief Constables and the Commissioner of Police for the City of London, can be required by the Secretary of State to submit a report on matters connected with policing.
482. *Section 316* provides that the Deputy Commissioner of Police of the Metropolis ("the Deputy Commissioner") will exercise the powers and duties of the Commissioner in the latter's absence or with the latter's consent, and will also have all the powers and duties of an Assistant Commissioner. At present there is no statutory rank of Deputy Commissioner, so when the Commissioner has been unable to perform his duties the legal position is that one of the Assistant Commissioners designated for that purpose has exercised them. The Act repeals sections of the Metropolitan Police Act 1856 which cover the powers of Assistant Commissioners; section 319 inserts equivalent provisions into the 1996 Act. An Assistant Commissioner will be able to exercise the powers and duties of the Commissioner with the consent of the latter.
483. *Section 315 and sections 317 to 320* make provision for the appointment and removal of the four most senior ranks of the metropolitan police force, that is the three Commissioner ranks plus Commanders. A Commander is the highest rank below the three Commissioner ranks, and is considered roughly equivalent to the rank of Assistant Chief Constable outside London. *Section 322* provides that the ranks that may be held in the metropolitan police force are those prescribed in regulations made under section 50 of the 1996 Act, and that they must include the four senior ranks and the ranks of superintendent, chief inspector, inspector, sergeant and constable.
484. The appointment and dismissal provisions for the four senior ranks are similar to the procedures that are already applied to Chief Constables and Assistant Chief Constables outside London. In particular, regulations made under section 50 of the 1996 Act, which are concerned with the appointment and dismissal of police officers, will be applied to the three Commissioner ranks and to Commanders. One effect of this will be that the Commissioner ranks will in future be police officer appointments - at present they are civilian posts, albeit that all recent incumbents have been police officers.
485. However, there will be a few differences in the appointment procedure to reflect the special status of the metropolitan police force, and those who hold senior office in it. Her Majesty, on a recommendation from the Home Secretary, will as now make the appointment of a Commissioner. Section 315 requires the Home Secretary to have regard to the MPA's recommendations and any representations from the Mayor before making his recommendation to Her Majesty. The procedure for the appointment of a Deputy Commissioner is set out in section 317 and is the same, except that it is the Commissioner, rather than the Mayor, whose is able to make representations.
486. Appointments of Assistant Commissioners and Commanders will be made by the MPA, subject to the approval of the Secretary of State.
487. The Act also sets out the procedure for the removal of the Commissioner, Deputy Commissioner, Assistant Commissioners and Commanders. The MPA may, having given the officer an opportunity to make representations and having obtained the Secretary of State's approval, call upon the officer to retire in the interests of efficiency or effectiveness.
488. Section 42 of the 1996 Act, which covers the procedure to be followed by the Secretary of State when requiring a police authority to exercise its powers to remove

a Chief Constable (or Assistant Chief Constable), is also amended in paragraph 90 of schedule 27 so as to apply that section to the removal of the Commissioner, Deputy Commissioner, Assistant Commissioners and Commanders. Paragraph 95 of Schedule 27 (which amends section 50 of the Police Act 1996 allows the MPA, rather than (as now) the Commissioner, to decide disciplinary cases involving senior officers of the metropolitan police force. (A "senior officer" is a member of a police force holding a rank above that of Superintendent. The three Commissioner ranks (as there will be) and Commanders come within this definition.)

489. *Section 321* makes transitional provision in respect of those individuals who are occupying any of the four senior ranks of the metropolitan police force on the date when the sections of the Act relating to their appointment come into force (which is intended to be 3 July 2000). Such individuals will be deemed to have been appointed under the new arrangements inserted into the 1996 Act by this Act. This will ensure that they are subject to other provisions made by this Act in respect of the four senior ranks – for example, the procedures for handling complaints and discipline cases against them.

### ***Sections 323 and 324: Alteration of the metropolitan police district***

490. *Section 323* amends the boundary of the metropolitan police district (MPD) to make it coterminous with Greater London, excluding the City of London, the Inner Temple and the Middle Temple (which will continue to be policed by the City of London police force). At present, the MPD extends beyond Greater London, incorporating parts of Essex, Hertfordshire and Surrey. This section removes this historical anomaly. There are 43 police areas in England and Wales, and these are based on whole counties and/or districts. *Schedule 27* makes some consequential changes, by repealing various provisions which will be obsolete once the MPD boundary is brought into line with those of the London boroughs. Paragraphs 69, 84 and 105 of *Schedule 27* remove references to the previous boundaries of the MPD. Paragraph 85 of *Schedule 27* also ensures that the GLA will be consulted should the Secretary of State decide to amend the MPD boundary.
491. *Section 324* enables the Commissioner to second officers from the metropolitan police force to the county forces of Essex, Hertfordshire and Surrey to meet demands placed (or expected to be placed) on those forces as a result of the changes to the MPD boundary. The purpose of any such secondments would be to provide adequate policing cover in the areas transferred, giving the county forces sufficient time to recruit new officers to police those areas in the longer term.

### ***Section 325 and Schedule 27: Further amendments relating to metropolitan police etc***

492. *Section 325* introduces *Schedule 27* which contains many amendments to existing legislation to reflect provisions in this Act. A few of the more significant changes which are not discussed elsewhere in this part of the explanatory notes are mentioned here.
493. *Paragraph 74* of Schedule 27 provides that the MPA will be the employer of civilian staff of the metropolitan police force (although the majority of such staff will remain under the direction and control of the Commissioner). At present, they are employed under the Commissioner or Receiver for the Metropolitan Police District. Paragraph 20 ensures that these employees retain their pension entitlements under the Metropolitan Civil Staffs Superannuation Scheme when they transfer. Paragraph 75 requires the MPA to appoint a person to be its clerk. Paragraph 76 sets out the discretion the MPA will have when choosing what person to appoint to a particular office or to take on specified duties, as required by other legislation (namely, that such a person may or may not already be employed by the MPA). Paragraph 77 provides that provisions in the Local Authorities (Goods and Services) Act 1970 on the supply of local goods and services by local authorities will apply to the MPA in the same way as to police authorities outside London. Paragraph 78 provides for the holding of meetings by the London Assembly

to put questions to a representative (or representatives) of the MPA on the discharge of the MPA's functions.

494. Provisions on the remuneration of the Commissioner and Assistant Commissioners contained in section 1 of the Metropolitan Police Act 1899 are repealed by Schedule 27 and will in future be covered by regulations made under section 50 of the 1996 Act.
495. *Schedule 27* places the Commissioner under the same requirement to provide to the MPA an annual general report on policing as other chief officers of police are to provide such a report to their police authority. Constables who are members of the metropolitan police force will give their attestation to a justice of the peace in the same way as constables of other forces, rather than by giving it to the Commissioner or an Assistant Commissioner as they do at the moment. The same arrangements set out in section 96 of the 1996 Act for obtaining the views of the community on policing matters and for obtaining their co-operation in preventing crime are applied to the MPD as to police areas outside London.
496. The Schedule also provides that the MPA is the appropriate authority for dealing with complaints against senior officers in its area rather than, as at present, the Commissioner. Where the complaint is against the Commissioner or Deputy Commissioner, the Secretary of State rather than the MPA appoints the person to investigate that complaint. The present requirement that the investigating officer must not be of a lower rank than the officer against whom the complaint has been made is disapplied because both the Commissioner and Deputy Commissioner are regarded as higher in rank than a Chief Constable.
497. Provision is made in respect of the national and international functions of the metropolitan police force. The Commissioner will be accountable to the MPA in respect of all of the activities of the force, including any of its national or international functions which take place outside, or relate to matters outside, the MPD. However, the Home Secretary will retain a continuing responsibility for these functions. *Paragraph 104* of Schedule 27 therefore provides that the Secretary of State and the MPA may make an agreement on the level of performance that the metropolitan police force will achieve in respect of these functions, for example the protection of prominent persons, national security and counter-terrorism. The Secretary of State has power to give directions to the MPA if he considers that the level of performance set out in the MPA is not being met or, in the absence of an agreement, if he considers that the level of performance is not satisfactory. The MPA will be under a duty to comply with any such direction.

### ***Section 326: The probation service***

498. The Government has embarked upon a programme of probation service changes which include, where necessary, amalgamating probation areas so that they and the police service share common boundaries. Overall, this will mean the 54 existing English and Welsh probation areas becoming 42, including the five in London joining to create a single new probation service for the capital, its boundaries the same as those of the Metropolitan Police District (as amended by section 323), except that the single probation service will also cover the City of London. All of the planned probation amalgamations are intended to take effect on 1 April 2001.
499. *Section 326* provides an order-making power to amalgamate the probation areas in Greater London into one area and organise the probation service in that area. Provision may be made in the order to amend or repeal the Probation Service Act 1993.

### ***Section 327: Abolition of office of Receiver***

500. *Section 327* provides for the abolition of the office of Receiver, by order of the Secretary of State. Related provisions are contained in *section 312* (in the definition of a "police fund" in the 1996 Act) and in Schedule 27. The office of Receiver was created by the 1829 Act to handle financial, contractual and similar matters of the metropolitan police

force. The office is unique to the MPD - in other police forces, the police authority performs these functions. The MPA will take on the majority of the police-related functions of the Receiver, although the existence of a single financial structure for the GLA means the financial roles of the MPA will be a modified version of those of other police authorities (see Part III of the Act: Financial Provisions).

501. The Receiver has over time acquired a number of responsibilities in respect of the inner London probation service (ILPS) and the inner London magistrates' courts service (ILMCS). Powers in Part XII of the Act may be used to transfer the ILPS-related responsibilities elsewhere following the use of the order-making power in section 326. The target date for this is 1 April 2001. The ILMCS-related responsibilities will be taken on by the GLMCA – see section 83 of, and paragraph 13 of Schedule 12 to, the Access to Justice Act 1999. Paragraph 33 of Schedule 14 to that Act provides for the transfer of property, rights and liabilities from the Receiver to the GLMCA; paragraph 36 is concerned with the pension arrangements of inner London court staff currently on the Metropolitan Civil Staffs Superannuation Scheme. It is intended that the GLMCA will take on its full powers on 1 April 2001. The Receiver will therefore retain responsibility for these functions for an interim period following the creation of the MPA. Once provision has been made for the transfer of those responsibilities and of the Receiver's property, rights and liabilities, the Secretary of State may abolish the office of Receiver by order.
502. Paragraph 73 of *Schedule 27* makes further provision relating to MPA funding issues. It extends to the MPA the requirement already incumbent on other police authorities to keep a police fund (i.e. a fund out of which money is paid for police purposes). Paragraph 92 of *Schedule 27* provides that the MPA rather than the Receiver will be treated as the employer of police cadets in London and paragraph 102 removes provisions relating to payments for special constables and police cadets which will no longer be required. It provides that various grants made by the Secretary of State for police purposes will go to the MPA (via the GLA) rather than to the Receiver. Paragraphs 92 to 94 also provide that grants by local authorities, and gifts of money and loans, will go to the MPA rather than to the Receiver.