

SCHEDULES

SCHEDULE 1

Section 8

POWERS OF THE SECRETARY OF STATE IN RELATION TO NCIS AND NCS

Introductory

1 The 1997 Act shall be amended as follows.

Codes of Practice for Directors General

2 (1) After section 28 (codes of practice for the NCIS Service Authority) there shall be inserted—

“28A Codes of practice for Director General of NCIS

- (1) The Secretary of State may issue codes of practice relating to the discharge by the Director General of NCIS of any of his functions.
- (2) The Secretary of State may from time to time revise the whole or any part of a code of practice issued under this section.
- (3) Where the Secretary of State proposes to issue or revise a code of practice under this section, he shall first require the Central Police Training and Development Authority to prepare a draft of the code or of the revisions; and the draft prepared by that Authority must contain all such matters as the Secretary of State may specify in the requirement.
- (4) Before preparing a draft code of practice under this section or any draft revisions of such a code, the Central Police Training and Development Authority (“the CPTDA”) shall consult with—
 - (a) the NCIS Service Authority;
 - (b) the Director General of NCIS;
 - (c) persons whom the CPTDA considers to represent the interests of police authorities;
 - (d) persons whom the CPTDA considers to represent the interests of chief officers of police; and
 - (e) such other persons as the CPTDA thinks fit.
- (5) Before issuing or revising a code of practice under this section the Secretary of State shall consult the Scottish Ministers.
- (6) The Secretary of State shall lay any code of practice issued by him under this section, and any revisions of any such code, before Parliament.
- (7) The Secretary of State shall not be required by subsection (6) to lay before Parliament, or may exclude from what he does so lay, anything the publication of which, in his opinion—

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- (a) would be against the interests of national security;
 - (b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders; or
 - (c) could jeopardise the safety of any person.
- (8) In discharging any function to which a code of practice under this section relates, the Director General of NCIS shall have regard to the code.”
- (2) After section 73 (codes of practice for the NCS Service Authority) there shall be inserted—

“73A Codes of practice for Director General of NCS

- (1) The Secretary of State may issue codes of practice relating to the discharge by the Director General of the National Crime Squad of any of his functions.
- (2) The Secretary of State may from time to time revise the whole or any part of a code of practice issued under this section.
- (3) Where the Secretary of State proposes to issue or revise a code of practice under this section, he shall first require the Central Police Training and Development Authority to prepare a draft of the code or of the revisions; and the draft prepared by that Authority must contain all such matters as the Secretary of State may specify in the requirement.
- (4) Before preparing a draft code of practice under this section or any draft revisions of such a code, the Central Police Training and Development Authority (“the CPTDA”) shall consult with—
 - (a) the NCS Service Authority;
 - (b) the Director General of the National Crime Squad;
 - (c) persons whom the CPTDA considers to represent the interests of police authorities;
 - (d) persons whom the CPTDA considers to represent the interests of chief officers of police; and
 - (e) such other persons as the CPTDA thinks fit.
- (5) The Secretary of State shall lay any code of practice issued by him under this section, and any revisions of any such code, before Parliament.
- (6) The Secretary of State shall not be required by subsection (5) to lay before Parliament, or may exclude from what he does so lay, anything the publication of which, in his opinion—
 - (a) would be against the interests of national security;
 - (b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders; or
 - (c) could jeopardise the safety of any person.
- (7) In discharging any function to which a code of practice under this section relates, the Director General of the National Crime Squad shall have regard to the code.”

Directions to Service Authorities

- 3 (1) For section 30 (power to give directions in response to a report on NCIS carried out in accordance with that section) there shall be substituted—

“30 Power to give directions to NCIS Service Authority

- (1) Where a report made to the Secretary of State on an inspection under section 54 of the Police Act 1996 (c. 16) or section 41 of the Police (Northern Ireland) Act 1998 (c. 32) states—
- (a) that, in the opinion of the person making the report, the whole or any part of NCIS is, whether generally or in particular respects, not efficient or not effective, or
 - (b) that, in that person’s opinion, the whole or a part of NCIS will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken,
- the Secretary of State may, after consultation with the Scottish Ministers, direct the NCIS Service Authority to take such remedial measures as may be specified in the direction.
- (2) Those remedial measures must not relate to any matter other than—
- (a) a matter by reference to which the report contains a statement of opinion falling within subsection (1)(a) or (b); or
 - (b) a matter that the Secretary of State considers relevant to any matter falling within paragraph (a).
- (3) Where a report made to the Scottish Ministers on an inspection under section 33 of the Police (Scotland) Act 1967 (c. 77) states—
- (a) that, in the opinion of the person making the report, the whole or any part of NCIS is, whether generally or in particular respects, not efficient or not effective, or
 - (b) that, in that person’s opinion, the whole or a part of NCIS will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken,
- the Scottish Ministers may, after consultation with the Secretary of State, direct the NCIS Service Authority to take such remedial measures as may be specified in the direction.
- (4) Those remedial measures must not relate to any matter other than—
- (a) a matter by reference to which the report contains a statement of opinion falling within subsection (3)(a) or (b); or
 - (b) a matter that the Scottish Ministers consider relevant to any matter falling within paragraph (a).
- (5) If the Secretary of State exercises his power to give a direction under this section—
- (a) he shall prepare a report on his exercise of that power; and
 - (b) he shall lay that report before Parliament.
- (6) If the Scottish Ministers exercise their power to give a direction under this section—
- (a) they shall prepare a report on their exercise of that power; and

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- (b) they shall lay that report before the Scottish Parliament.
- (7) A report under subsection (5) or (6)—
 - (a) shall be prepared at such time as the Secretary of State considers or, as the case may be, the Scottish Ministers consider appropriate; and
 - (b) may relate to more than one exercise of the power to give a direction under this section.”
- (2) For section 75 (power to give directions in response to a report on NCS on an inspection carried out in accordance with that section) there shall be substituted—

“75 Power to give directions to NCS Service Authority

- (1) Where a report made to the Secretary of State on an inspection under section 54 of the Police Act 1996 (c. 16) states—
 - (a) that, in the opinion of the person making the report, the whole or any part of the National Crime Squad is, whether generally or in particular respects, not efficient or not effective, or
 - (b) that, in that person’s opinion, the whole or a part of the National Crime Squad will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken,

the Secretary of State may direct the NCS Service Authority to take such remedial measures as may be specified in the direction.
- (2) Those remedial measures must not relate to any matter other than—
 - (a) a matter by reference to which the report contains a statement of opinion falling within subsection (1)(a) or (b); or
 - (b) a matter that the Secretary of State considers relevant to any matter falling within paragraph (a).
- (3) If the Secretary of State exercises his power to give a direction under this section—
 - (a) he shall prepare a report on his exercise of that power; and
 - (b) he shall lay that report before Parliament.
- (4) A report under subsection (3)—
 - (a) shall be prepared at such time as the Secretary of State considers appropriate; and
 - (b) may relate to more than one exercise of the power to give a direction under this section.”

Directions as to action plans

- 4 (1) After section 31 there shall be inserted—

“31A Power to give directions as to action plans

- (1) This section applies where an inspection report made to the Secretary of State states —

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- (a) that, in the opinion of the person making the report, the whole or any part of NCIS is, whether generally or in particular respects, not efficient or not effective; or
 - (b) that, in that person's opinion, the whole or a part of NCIS will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken.
- (2) If the Secretary of State considers that remedial measures are required in relation to any matter identified by the report, he may, after consultation with the Scottish Ministers, direct the NCIS Service Authority to submit an action plan to him.
- (3) An action plan is a plan setting out the remedial measures which the NCIS Service Authority proposes to take in relation to the matters in respect of which the direction is given.
- (4) If the NCIS Service Authority is directed to submit an action plan, that authority shall direct the Director General of NCIS to prepare a draft of it and to submit it to the NCIS Service Authority for that authority to consider.
- (5) The NCIS Service Authority, on considering a draft action plan submitted to it under subsection (4) may submit the plan to the Secretary of State, with or without modifications.
- (6) If the NCIS Service Authority proposes to make modifications to the draft of the action plan submitted under subsection (4), it must consult with the Director General of NCIS.
- (7) On considering an action plan submitted to him in accordance with a direction under this section, the Secretary of State may, if he is of the opinion that the remedial measures contained in the action plan submitted to him are inadequate, notify the NCIS Service Authority and the Director General of NCIS of that opinion and of his reasons for it.
- (8) In forming an opinion for the purposes of subsection (7), the Secretary of State must consult with the Scottish Ministers.
- (9) If the NCIS Service Authority is notified under subsection (7) —
 - (a) it shall consider, after consultation with the Director General of NCIS about the matters notified, whether to revise the action plan in the light of those matters; and
 - (b) if it does revise that plan, it shall send a copy of the revised plan to the Secretary of State.
- (10) On giving a direction under this section to the NCIS Service Authority, the Secretary of State shall notify the Director General of NCIS that he has given that direction.
- (11) The period within which a direction to submit an action plan must be complied with is such period of not less than four weeks and not more than twelve weeks after it is given as may be specified in the direction.
- (12) The provision that a direction under this section may require to be included in an action plan to be submitted to the Secretary of State includes—
 - (a) provision setting out the steps that the NCIS Service Authority proposes should be taken in respect of the matters to which the

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- direction relates and the performance targets the authority proposes should be met;
- (b) provision setting out that Authority’s proposals as to the times within which those steps are to be taken and those targets to be met and the means by which the success of the plan’s implementation is to be measured;
 - (c) provision for the making of progress reports to the Secretary of State about the implementation of the action plan;
 - (d) provision as to the times at which, and the manner in which, any progress report is to be made; and
 - (e) provision for the duration of the plan and for it to cease to apply in the circumstances determined by the Secretary of State.
- (13) Nothing in this section shall authorise the Secretary of State or the NCIS Service Authority to direct the inclusion in an action plan or draft action plan of any requirement to do or not to do anything in a particular case identified for the purposes of the requirement, or in relation to a particular person so identified.
- (14) In this section references, in relation to a case in which there is already an action plan in force, to the submission of a plan to the Secretary of State include references to the submission of revisions of the existing plan; and the preceding provisions of this section shall have effect accordingly.
- (15) The NCIS Service Authority shall comply with any direction given to it under this section.
- (16) The Director General of NCIS shall comply with any direction given to him under this section.
- (17) If the Secretary of State exercises his power to give a direction under this section—
- (a) he shall prepare a report on his exercise of that power;
 - (b) he shall lay a copy of that report before Parliament; and
 - (c) he shall send a copy of that report to the Scottish Ministers.
- (18) The Scottish Ministers shall lay any copy of a report sent to them under subsection (17) before the Scottish Parliament.
- (19) A report under subsection (17)—
- (a) shall be prepared at such time as the Secretary of State considers appropriate; and
 - (b) may relate to more than one exercise of the power mentioned in that subsection.
- (20) In this section “an inspection report” means a report under section 54 of the Police Act 1996 (c. 16), section 33 of the Police (Scotland) Act 1967 (c. 77) or section 41 of the Police (Northern Ireland) Act 1998 (c. 32).
- (21) Nothing in this section or in section 30 prevents the Secretary of State in the case of the same inspection report from exercising (whether in relation to the same matter or different matters or at the same time or at different times) both his powers under this section and his powers under that section.”
- (2) After section 76 there shall be inserted—

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“76A Power to give directions as to action plans

- (1) This section applies where a report made to the Secretary of State on an inspection under section 54 of the Police Act 1996 (c. 16) states—
 - (a) that, in the opinion of the person making the report, the whole or any part of the National Crime Squad is, whether generally or in particular respects, not efficient or not effective; or
 - (b) that, in that person’s opinion, the whole or a part of the National Crime Squad will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken.
- (2) If the Secretary of State considers that remedial measures are required in relation to any matter identified by the report, he may direct the NCS Service Authority to submit an action plan to him.
- (3) An action plan is a plan setting out the remedial measures which the NCS Service Authority proposes to take in relation to the matters in respect of which the direction is given.
- (4) If the NCS Service Authority is directed to submit an action plan, that authority shall direct the Director General of the National Crime Squad to prepare a draft of it and to submit it to the NCS Service Authority for that authority to consider.
- (5) The NCS Service Authority, on considering a draft action plan submitted to it under subsection (4) may submit the plan to the Secretary of State, with or without modifications.
- (6) If the NCS Service Authority proposes to make modifications to the draft of the action plan submitted under subsection (4), it must consult with the Director General of the National Crime Squad.
- (7) On considering an action plan submitted to him in accordance with a direction under this section, the Secretary of State may, if he is of the opinion that the remedial measures contained in the action plan submitted to him are inadequate, notify the NCS Service Authority and the Director General of the National Crime Squad of that opinion and of his reasons for it.
- (8) If the NCS Service Authority is notified under subsection (7) —
 - (a) it shall consider, after consultation with the Director General of the National Crime Squad about the matters notified, whether to revise the action plan in the light of those matters; and
 - (b) if it does revise that plan, it shall send a copy of the revised plan to the Secretary of State.
- (9) On giving a direction under this section to the NCS Service Authority, the Secretary of State shall notify the Director General of the National Crime Squad that he has given that direction.
- (10) The period within which a direction to submit an action plan must be complied with is such period of not less than four weeks and not more than twelve weeks after it is given as may be specified in the direction.

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- (11) The provision that a direction under this section may require to be included in an action plan to be submitted to the Secretary of State includes—
- (a) provision setting out the steps that the NCS Service Authority proposes should be taken in respect of the matters to which the direction relates and the performance targets the authority proposes should be met;
 - (b) provision setting out that Authority’s proposals as to the times within which those steps are to be taken and those targets to be met and the means by which the success of the plan’s implementation is to be measured;
 - (c) provision for the making of progress reports to the Secretary of State about the implementation of the action plan;
 - (d) provision as to the times at which, and the manner in which, any progress report is to be made; and
 - (e) provision for the duration of the plan and for it to cease to apply in the circumstances determined by the Secretary of State.
- (12) Nothing in this section shall authorise the Secretary of State or the NCS Service Authority to direct the inclusion in an action plan or draft action plan of any requirement to do or not to do anything in a particular case identified for the purposes of the requirement, or in relation to a particular person so identified.
- (13) In this section references, in relation to a case in which there is already an action plan in force, to the submission of a plan to the Secretary of State include references to the submission of revisions of the existing plan; and the preceding provisions of this section shall have effect accordingly.
- (14) The NCS Service Authority shall comply with any direction given to it under this section.
- (15) The Director General of the National Crime Squad shall comply with any direction given to him under this section.
- (16) If the Secretary of State exercises his power to give a direction under this section—
- (a) he shall prepare a report on his exercise of that power; and
 - (b) he shall lay that report before Parliament.
- (17) A report under subsection (16)—
- (a) shall be prepared at such time as the Secretary of State considers appropriate; and
 - (b) may relate to more than one exercise of the power mentioned in that subsection.
- (18) Nothing in this section or in section 75 prevents the Secretary of State in the case of the same report under section 54 of the Police Act 1996 (c. 16) from exercising (whether in relation to the same matter or different matters or at the same time or at different times) both his powers under this section and his powers under section 75.”

Procedure for giving directions

5 (1) After section 31A (which is inserted by paragraph 4(1)) there shall be inserted—

“31B Procedure for giving directions by the Secretary of State

- (1) The Secretary of State shall not give a direction under section 30 or 31A unless—
 - (a) the NCIS Service Authority and the Director General of NCIS have each been given such information about the Secretary of State’s grounds for proposing to give that direction as he considers appropriate for enabling them to make representations or proposals under the following paragraphs of this subsection;
 - (b) the NCIS Service Authority and the Director General of NCIS have each been given an opportunity of making representations about those grounds;
 - (c) the NCIS Service Authority has had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and
 - (d) the Secretary of State has considered any such representations and any such proposals.
- (2) The Secretary of State may by regulations make further provision as to the procedure to be followed in cases where a proposal is made for the giving of a direction by him under section 30 or 31A.
- (3) Before making any regulations under this section, the Secretary of State shall consult with—
 - (a) the Scottish Ministers;
 - (b) the NCIS Service Authority;
 - (c) the Director General of NCIS;
 - (d) persons whom he considers to represent the interests of police authorities in England and Wales;
 - (e) persons whom he considers to represent the interests of chief officers of police of police forces in England and Wales; and
 - (f) such other persons as he thinks fit.
- (4) Regulations under this section may make different provision for different cases and circumstances.
- (5) A statutory instrument containing regulations under this section shall not be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.

31C Procedure for giving directions by the Scottish Ministers

- (1) The Scottish Ministers shall not give a direction under section 30 unless—
 - (a) the NCIS Service Authority and the Director General of NCIS have each been given such information about the Scottish Ministers' grounds for proposing to give that direction as they consider appropriate for enabling them to make representations or proposals under the following paragraphs of this subsection;

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- (b) the NCIS Service Authority and the Director General of NCIS have each been given an opportunity of making representations about those grounds;
 - (c) the NCIS Service Authority has had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and
 - (d) the Scottish Ministers have considered any such representations and any such proposals.
- (2) The Scottish Ministers may by regulations make further provision as to the procedure to be followed in cases where a proposal is made for the giving of a direction by them under section 30.
- (3) Before making any regulations under this section, the Scottish Ministers shall consult with—
- (a) the Secretary of State;
 - (b) the NCIS Service Authority;
 - (c) the Director General of NCIS;
 - (d) persons whom they consider to represent the interests of police authorities in Scotland;
 - (e) persons whom they consider to represent the interests of chief constables of police forces in Scotland; and
 - (f) such other persons as they think fit.
- (4) Regulations under this section may make different provision for different cases and circumstances.
- (5) A statutory instrument containing regulations under this section shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Scottish Parliament.”
- (2) In section 45 (orders and regulations under Part 1), after “Part” there shall be inserted “or of the Scottish Ministers to make regulations under this Part”.
- (3) After section 76A (which is inserted by paragraph 4(2)), there shall be inserted—

“76B Procedure for giving directions under sections 75 and 76A

- (1) The Secretary of State shall not give a direction under section 75 or 76A unless—
- (a) the NCS Service Authority and the Director General of the National Crime Squad have each been given such information about the Secretary of State’s grounds for proposing to give that direction as he considers appropriate for enabling them to make representations or proposals under the following paragraphs of this subsection;
 - (b) the NCS Service Authority and the Director General of the National Crime Squad have each been given an opportunity of making representations about those grounds;
 - (c) the NCS Service Authority has had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and

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- (d) the Secretary of State has considered any such representations and any such proposals.
- (2) The Secretary of State may by regulations make further provision as to the procedure to be followed in cases where a proposal is made for the giving of a direction by him under section 75 or 76A.
- (3) Before making any regulations under this section, the Secretary of State shall consult with—
 - (a) the NCS Service Authority;
 - (b) the Director General of the National Crime Squad;
 - (c) persons whom he considers to represent the interests of police authorities;
 - (d) persons whom he considers to represent the interests of chief officers of police; and
 - (e) such other persons as he thinks fit.
- (4) Regulations under this section may make different provision for different cases and circumstances.
- (5) A statutory instrument containing regulations under this section shall not be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.”

National Crime Squad equipment

- 6 (1) Section 80 shall become subsection (1) of that section, and in that section, after that subsection, there shall be inserted—
- “(2) The Secretary of State may by regulations make any or all of the following provisions—
- (a) provision requiring the National Crime Squad when using equipment for the purposes specified in the regulations to use only—
 - (i) the equipment which is specified in the regulations;
 - (ii) equipment which is of a description so specified; or
 - (iii) equipment which is of a type approved by the Secretary of State in accordance with the regulations;
 - (b) provision requiring the National Crime Squad to keep available for use the equipment falling within paragraph (a)(i) to (iii) which is specified or described in, or approved in accordance with, the regulations;
 - (c) provision prohibiting the National Crime Squad from using equipment of a type approved as mentioned in paragraph (a)(iii) except—
 - (i) where the conditions subject to which the approval was given are satisfied; and
 - (ii) in accordance with the other terms of that approval;
 - (d) provision requiring equipment used the National Crime Squad to comply with such conditions as may be specified in the regulations, or as may be approved by the Secretary of State in accordance with the regulations;

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- (e) provision prohibiting the National Crime Squad from using equipment specified in the regulations, or any equipment of a description so specified.
- (3) Before making regulations under this section, the Secretary of State shall consult with—
 - (a) the Service Authority for the National Crime Squad;
 - (b) the Director General of that Squad;
 - (c) persons whom the Secretary of State considers to represent the interests of police authorities;
 - (d) persons whom the Secretary of State considers to represent the interests of chief officers of police; and
 - (e) such other persons as the Secretary of State thinks fit.
- (4) Regulations under this section may make different provision for different cases and circumstances.
- (5) A statutory instrument containing any regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) In this section “equipment” includes—
 - (a) vehicles; and
 - (b) headgear and protective and other clothing.”

Procedures and practices of the National Crime Squad

7 After section 80 there shall be inserted—

“80A Regulation of procedures and practices

- (1) The Secretary of State may by regulations make provision requiring the National Crime Squad—
 - (a) to adopt particular procedures or practices; or
 - (b) to adopt procedures or practices of a particular description.
- (2) Before making any regulations under this section, the Secretary of State shall seek advice from—
 - (a) the chief inspector of constabulary; and
 - (b) the Central Police Training and Development Authority.
- (3) Before seeking advice under subsection (2) the Secretary of State shall consult about his proposal to do so with—
 - (a) persons whom he considers to represent the interests of police authorities; and
 - (b) persons whom he considers to represent the interests of chief officers of police.
- (4) A request for the purposes of subsection (2) may specify a period within which the requested advice is to be provided; and, if a period is so specified, the requested advice must be provided within it.

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- (5) Before giving any advice in response to a request for the purposes of subsection (2), the Central Police Training and Development Authority (“the CPTDA”) shall consult with—
- (a) the NCS Service Authority;
 - (b) the Director General of the National Crime Squad;
 - (c) persons whom the CPTDA considers to represent the interests of police authorities;
 - (d) persons whom the CPTDA considers to represent the interests of chief officers of police; and
 - (e) such other persons as the CPTDA thinks fit.
- (6) The Secretary of State shall not make any regulations under this section requiring the adoption of any procedure or practice unless—
- (a) he has, as respects that procedure or practice, received advice from the Central Police Training and Development Authority and has considered that advice; and
 - (b) the advice of the chief inspector of constabulary states that that inspector is satisfied as to the matters mentioned in subsection (7); and
 - (c) the Secretary of State himself is satisfied as to those matters.
- (7) Those matters are—
- (a) that the adoption of that procedure or practice is necessary in order to facilitate the carrying out by members of the National Crime Squad and of any one or more police forces of joint or co-ordinated operations;
 - (b) that the making of regulations is necessary for securing the adoption of that procedure or practice; and
 - (c) that securing the adoption of that procedure or practice is in the national interest.
- (8) Regulations under this section may make different provision for different cases and circumstances.
- (9) A statutory instrument containing any regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”