



# Police and Justice Act 2006

## 2006 CHAPTER 48

An Act to establish a National Policing Improvement Agency; to make provision about police forces and police authorities and about police pensions; to make provision about police powers and about the powers and duties of community support officers, weights and measures inspectors and others; to make provision about the supply to the police and others of information contained in registers of death; to make further provision for combatting crime and disorder; to make further provision about certain inspectorates; to amend Part 12 of the Criminal Justice Act 2003; to amend the Computer Misuse Act 1990; to make provision about the forfeiture of indecent images of children; to provide for the conferring of functions on the Independent Police Complaints Commission in relation to the exercise of enforcement functions by officials involved with immigration and asylum; to amend the Extradition Act 2003; to make further provision about the use of live links in criminal proceedings; and for connected purposes. [8th November 2006]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### PART 1

#### POLICE REFORM

##### *National Policing Improvement Agency*

#### **1 National Policing Improvement Agency**

- (1) There is to be a body corporate to be known as the National Policing Improvement Agency.

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- (2) The following are abolished—
- (a) the Central Police Training and Development Authority;
  - (b) the Police Information Technology Organisation.
- (3) Schedule 1 (further provision about the National Policing Improvement Agency, and related amendments) has effect.

#### Commencement Information

- I1** S. 1 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

### *Police forces and police authorities*

## 2 Amendments to the Police Act 1996

Schedule 2 (which makes amendments to the Police Act 1996 (c. 16)) has effect.

#### Commencement Information

- I2** S. 2 partly in force; s. 2 in force for specified purposes at Royal Assent see s. 53(1)(2)
- I3** S. 2 in force at 15.1.2007 for specified purposes by [S.I. 2006/3364](#), [art. 2\(a\)](#)
- I4** S. 2 in force at 1.4.2007 for specified purposes by [S.I. 2007/709](#), [art. 3\(b\)](#) (with [arts. 6, 7](#))
- I5** [S. 2](#) in force at 29.6.2007 for specified purposes by [S.I. 2007/1614](#), [art. 2\(a\)](#)
- I6** [S. 2](#) in force at 14.3.2008 for specified purposes by [S.I. 2008/311](#), [art. 2\(a\)](#)
- I7** [S. 2](#) in force at 1.4.2008 for specified purposes by [S.I. 2008/790](#), [art. 2\(a\)](#)

## 3 Delegation of police authority functions

- (1) Section 107 of the Local Government Act 1972 (c. 70) (application to police authorities of provisions about discharge of local authority functions) is amended as follows.

- (2) After subsection (3A) there is inserted—

“(3B) Section 101 above, in its application to a police authority, shall have effect as if a reference in subsection (1), (2), (4) or (5) to an officer of an authority included a reference to a member of that authority.”

- (3) For subsection (4) there is substituted—

“(4) The Secretary of State may by regulations make provision regulating the power of a police authority under section 101 above to arrange for the discharge of their functions by a committee, sub-committee, officer or member of the authority as respects part only of their area.

- (4A) Regulations under subsection (4) may in particular—

- (a) impose limitations or restrictions on the functions which may be the subject of arrangements of the kind referred to in that subsection;
- (b) make provision as to the membership or chairmanship of any committee or sub-committee discharging functions under such arrangements;

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(c) impose limitations or restrictions on which officers or members of a police authority may discharge functions under such arrangements.

(4B) A statutory instrument containing regulations under subsection (4) shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

(4) Subsection (6) (members of police authority committees must be authority members) is omitted.

**Commencement Information**

**I8** S. 3 in force at 29.6.2007 by S.I. 2007/1614, art. 2(c)

**F14** **Police authorities as best value authorities**

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**Textual Amendments**

**F1** S. 4 repealed (1.4.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(2), [Sch. 18 Pt. 8](#); S.I. 2008/917, art. 2(v)(i)

*Police pension schemes*

**5** **Power to merge schemes**

Schedule 3 (power to merge police pension schemes) has effect.

**Commencement Information**

**I9** S. 5 in force at 31.12.2007 by S.I. 2007/3203, art. 3(a)

*Statutory consultation requirements*

**6** **Consultation with APA and ACPO**

(1) Schedule 4 (which amends provisions requiring consultation with persons representing the interests of police authorities or chief officers of police so that they require consultation with the Association of Police Authorities or the Association of Chief Police Officers) has effect.

(2) If it appears to the Secretary of State that, by reason of a change of name or otherwise—

- (a) the interests of police authorities are represented by a body that is not called the Association of Police Authorities, or
- (b) the interests of chief officers of police are represented by a body that is not called the Association of Chief Police Officers of England, Wales and Northern Ireland,

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he may by order make the appropriate consequential amendments to any statutory provision (including this subsection) containing a reference to the association in question.

- (3) In subsection (2) “statutory provision” means provision contained in, or in any instrument made under, any Act.

#### Commencement Information

**I10** S. 6 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(d\)](#) (with [arts. 6, 7](#))

### *Community support officers etc*

## 7 Standard powers and duties of community support officers

- (1) In section 38 of the Police Reform Act 2002 (c. 30) (police powers for police authority employees), after subsection (5) there is inserted—

“(5A) A person designated under this section as a community support officer shall also have the standard powers and duties of a community support officer (see section 38A(2)).”

- (2) After section 38 of the Police Reform Act 2002 there is inserted—

#### **“38A Standard powers and duties of community support officers**

- (1) The Secretary of State may by order provide for provisions of Part 1 of Schedule 4 to apply to every person who under section 38 is designated as a community support officer.
- (2) The powers and duties conferred or imposed by the provisions for the time being applied under subsection (1) are to be known as the standard powers and duties of a community support officer.
- (3) Before making an order under subsection (1), the Secretary of State shall consult with—
  - (a) the Association of Police Authorities; and
  - (b) the Association of Chief Police Officers.
- (4) The Secretary of State shall not make an order containing (with or without any other provision) any provision authorised by subsection (1) unless a draft of that order has been laid before Parliament and approved by a resolution of each House.
- (5) A provision of Part 1 of Schedule 4 may be applied to a person concurrently by an order under subsection (1) and a designation under section 38.
- (6) If an order under subsection (1) confers or imposes additional powers and duties on a person who is under the direction and control of a chief officer of police of a police force, that chief officer must ensure that the person receives adequate training in the exercise and performance of the additional powers and duties.”

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#### Commencement Information

- I11** S. 7(1) in force at 1.12.2007 by S.I. 2007/3203, **art. 2(a)**  
**I12** S. 7(2) in force at 1.4.2007 by S.I. 2007/709, **art. 3(e)** (with arts. 6, 7)

### 8 Community support officers: power to deal with truants

In Schedule 4 to the Police Reform Act 2002 (exercise of police powers etc by civilians), after paragraph 4B there is inserted—

#### “Power to remove truants to designated premises etc.

- 4C Where a designation applies this paragraph to any person, that person shall—
- (a) as respects any area falling within the relevant police area and specified in a direction under section 16(2) of the Crime and Disorder Act 1998, but
  - (b) only during the period specified in the direction,
- have the powers conferred on a constable by section 16(3) of that Act (power to remove truant found in specified area to designated premises or to the school from which truant is absent).”

#### Commencement Information

- I13** S. 8 in force at 1.4.2007 by S.I. 2007/709, **art. 3(f)** (with arts. 6, 7)

### 9 Exercise of police powers by civilians

Schedule 5, which—

makes amendments consequential on section 7 (standard powers and duties of community support officers), and

makes other minor amendments in connection with the exercise of police powers by civilians,

has effect.

#### Commencement Information

- I14** S. 9 in force at 1.4.2007 for specified purposes by S.I. 2007/709, **art. 3(g)** (with arts. 6, 7)  
**I15** S. 9 in force at 1.12.2007 for specified purposes by S.I. 2007/3203, **art. 2(b)**

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## PART 2

### POWERS OF POLICE ETC

#### *Police powers*

#### 10 Police bail

Schedule 6, which amends provisions in the Police and Criminal Evidence Act 1984 (c. 60) that relate to bail—

- (a) granted by a constable elsewhere than at a police station, or
  - (b) granted at a police station,
- has effect.

#### Commencement Information

**I16** S. 10 in force at 1.4.2007 by S.I. 2007/709, art. 3(i) (with arts. 6, 7)

#### 11 Power to detain pending DPP's decision about charging

In section 37 of the Police and Criminal Evidence Act 1984 (duties of custody officer before charge), in paragraph (a) of subsection (7) (officer's duties when he determines that there is sufficient evidence to charge), for “shall be released without charge and on bail for the purpose” there is substituted “shall be—

- (i) released without charge and on bail, or
- (ii) kept in police detention,

for the purpose”.

#### Commencement Information

**I17** S. 11 in force at 15.1.2007 by S.I. 2006/3364, art. 2(c)

#### 12 Power to stop and search at aerodromes

In Part 3 of the Aviation Security Act 1982 (c. 36) (policing of airports), before section 25 there is inserted—

*“Power to stop and search at aerodromes*

#### 24B Power of constable to stop and search persons, vehicles etc

- (1) Subject to subsection (2) below, a constable may search—
  - (a) any person, vehicle or aircraft in an aerodrome, or
  - (b) anything which is in or on such a vehicle or aircraft,
 for stolen or prohibited articles.

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- (2) This section does not give a constable power to search a person, vehicle or aircraft, or anything in or on a vehicle or aircraft, unless he has reasonable grounds for suspecting that he will find stolen or prohibited articles.
- (3) For the purposes of exercising the power conferred by subsection (1) above, a constable may—
  - (a) enter any part of an aerodrome;
  - (b) detain a person, vehicle or aircraft;
  - (c) board an aircraft.
- (4) If in the course of a search under subsection (1) above a constable discovers an article which he has reasonable grounds for suspecting to be a stolen or prohibited article, he may seize it.
- (5) An article is prohibited for the purposes of this section if it is an article—
  - (a) made or adapted for use in the course of or in connection with criminal conduct, or
  - (b) intended by the person having it with him for such use by him or by some other person.
- (6) In this section “criminal conduct” means conduct which—
  - (a) constitutes an offence in the part of the United Kingdom in which the aerodrome is situated, or
  - (b) would constitute an offence in that part of the United Kingdom if it occurred there.
- (7) The powers conferred by this section on a constable are without prejudice to any powers exercisable by him apart from this section.
- (8) The exercise of a power under this section does not require a warrant.
- (9) Nothing in this section authorises a constable to enter a dwelling.”

#### Commencement Information

**118** S. 12 in force at 1.4.2007 by S.I. 2007/709, art. 3(j) (with arts. 6, 7)

### *Information from registers of death*

## **13 Supply of information to police etc by Registrar General**

- (1) The Registrar General for England and Wales or the Registrar General for Northern Ireland may supply information contained in any register of deaths kept by him—
  - (a) to a police force in the United Kingdom,
  - (b) to a special police force,
  - (c) to the Serious Organised Crime Agency, or
  - (d) to a person or body specified, or of a description specified, by order, for use in the prevention, detection, investigation or prosecution of offences.
- (2) The power to make an order under subsection (1)(d) is exercisable—

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- (a) in relation to England and Wales, by the Registrar General for England and Wales with the approval of [<sup>F2</sup>the Secretary of State];
  - (b) in relation to Northern Ireland, by the Secretary of State after consulting the Registrar General for Northern Ireland.
- (3) A Registrar General may charge a reasonable fee in respect of the cost of supplying information under this section.
- (4) The supply of information in the exercise of the power conferred by subsection (1) may be made subject to conditions, including in particular conditions as to—
- (a) the use and storage of the information;
  - (b) the period for which any record of the information may be retained;
  - (c) those to whom the information may be disclosed.
- (5) This section does not limit the circumstances in which information may be supplied apart from this section.
- (6) In this section “special police force” means—
- (a) the Ministry of Defence Police;
  - (b) the British Transport Police Force;
  - (c) the Civil Nuclear Constabulary;
  - (d) the Scottish Crime and Drug Enforcement Agency.

#### Textual Amendments

**F2** Words in s. 13(2) substituted (3.4.2008) by [Transfer of Functions \(Registration\) Order 2008 \(S.I. 2008/678\)](#), art. 1(2), [Sch. 2 para. 15](#) (with art. 4)

#### Modifications etc. (not altering text)

**C1** S. 13(2)(a): transfer of functions (3.4.2008) by [Transfer of Functions \(Registration\) Order 2008 \(S.I. 2008/678\)](#), art. 1(2), [Sch. 1 para. 15](#) (with art. 4)

#### Commencement Information

**I19** S. 13 in force at 29.6.2007 for E.W. by [S.I. 2007/1614](#), art. 2(d)

**I20** S. 13 in force at 30.7.2007 for N.I. by [S.I. 2007/2052](#), art. 2

PROSPECTIVE

### *Travel and freight information*

#### **14 Information-gathering powers: extension to domestic flights and voyages**

- (1) The Immigration, Asylum and Nationality Act 2006 (c. 13) is amended as follows.
- (2) In section 32 (police powers to gather information relating to flights and voyages to or from the United Kingdom), in subsection (1) (ships and aircraft to which section applies), for paragraphs (a) and (b) there is substituted—
- “(a) arriving, or expected to arrive, at any place in the United Kingdom (whether from a place in the United Kingdom or from outside the United Kingdom), or



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- (b) leaving, or expected to leave, from any place in the United Kingdom (whether for a place in the United Kingdom or for outside the United Kingdom).”
- (3) In each of section 32(5) (interpretation of section) and section 33(5) (police powers to gather information about freight entering or leaving the United Kingdom: interpretation of section), after paragraph (c) there is inserted “, and
  - (d) “ship” includes—
    - (i) every description of vessel used in navigation, and
    - (ii) hovercraft.”
- (4) In section 36 (duty to share travel and freight information), in subsection (9) (interpretation of section), after the definition of “Revenue and Customs purposes” there is inserted “, and
  - “ship” includes—
    - (a) every description of vessel used in navigation, and
    - (b) hovercraft.”
- (5) In section 38 (disclosure of travel and freight information for security purposes), after subsection (5) there is inserted—
  - “(5A) In subsection (4) “ship” includes—
    - (a) every description of vessel used in navigation, and
    - (b) hovercraft.”

#### *Fixed penalty notices*

### **15 Accreditation of weights and measures inspectors**

- (1) After section 41 of the Police Reform Act 2002 (c. 30) there is inserted—

#### **“41A Accreditation of weights and measures inspectors**

- (1) The chief officer of police of any police force may, on the making of an application for the purpose by such person and in such manner as he may require, grant accreditation under this section to a weights and measures inspector.
- (2) A weights and measures inspector to whom an accreditation under this section is granted by a chief officer of police may exercise the powers conferred by the accreditation in the chief officer's police area.
- (3) Schedule 5A (which sets out the powers that may be conferred on inspectors accredited under this section) shall have effect.
- (4) A chief officer of police shall not grant accreditation to a weights and measures inspector under this section unless he is satisfied that—
  - (a) the inspector is a suitable person to exercise the powers that will be conferred on him by virtue of the accreditation; and
  - (b) the inspector has received adequate training for the exercise of those powers.

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- (5) A chief officer of police may charge such fee as he considers appropriate for one or both of the following—
    - (a) considering an application for or for the renewal of an accreditation under this section;
    - (b) granting an accreditation under this section.
  - (6) A weights and measures inspector authorised or required to do anything by virtue of an accreditation under this section—
    - (a) shall not be authorised or required by virtue of that accreditation to engage in any conduct otherwise than in the course of his duties as a weights and measures inspector; and
    - (b) shall be so authorised or required subject to such other restrictions and conditions (if any) as may be specified in his accreditation.
  - (7) An accreditation under this section, unless it is previously withdrawn or ceases to have effect in accordance with subsection (8), shall remain in force for such period as may be specified in the accreditation, but it may be renewed at any time with effect from the time when it would otherwise expire.
  - (8) An accreditation under this section shall cease to have effect if the accredited inspector ceases to hold office as a weights and measures inspector.”
- (2) After Schedule 5 to that Act there is inserted the Schedule set out in Schedule 7 to this Act.

#### Commencement Information

**I21** S. 15 in force at 1.4.2007 by S.I. 2007/709, art. 3(k) (with arts. 6, 7)

## 16 Power to apply accreditation provisions

After section 41A of the Police Reform Act 2002 (c. 30) (inserted by section 15 above) there is inserted—

### “41B Power to apply accreditation provisions

- (1) The Secretary of State may by order provide for section 41A and any other provision of this Chapter relating to accredited inspectors to apply (with or without modification) in relation to persons of a description specified in the order.
- (2) The provision which may be made by an order under this section includes such modifications of other enactments as appear to the Secretary of State to be necessary or appropriate.
- (3) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of each House of Parliament.”

#### Commencement Information

**I22** S. 16 in force at 1.4.2007 by S.I. 2007/709, art. 3(l) (with arts. 6, 7)

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### Conditional cautions

#### 17 Conditional cautions: types of condition

(1) Part 3 of the Criminal Justice Act 2003 (c. 44) (conditional cautions) is amended as set out in subsections (2) to (4).

(2) In section 22, for subsection (3) (types of conditions that may be attached to cautions) there is substituted—

“(3) The conditions which may be attached to such a caution are those which have one or more of the following objects—

- (a) facilitating the rehabilitation of the offender;
- (b) ensuring that the offender makes reparation for the offence;
- (c) punishing the offender.”

(3) After that subsection there is inserted—

“(3A) The conditions which may be attached to a conditional caution include—

- (a) (subject to section 23A) a condition that the offender pay a financial penalty;
- (b) a condition that the offender attend at a specified place at specified times.

“Specified” means specified by a relevant prosecutor.

(3B) Conditions attached by virtue of subsection (3A)(b) may not require the offender to attend for more than 20 hours in total, not including any attendance required by conditions attached for the purpose of facilitating the offender's rehabilitation.

(3C) The Secretary of State may by order amend subsection (3B) by substituting a different figure.”

(4) After section 23 (requirements for conditional caution to be given) there is inserted—

#### “23A Financial penalties

(1) A condition that the offender pay a financial penalty (a “financial penalty condition”) may not be attached to a conditional caution given in respect of an offence unless the offence is one that is prescribed, or of a description prescribed, in an order made by the Secretary of State.

(2) An order under subsection (1) must prescribe, in respect of each offence or description of offence in the order, the maximum amount of the penalty that may be specified under subsection (5)(a).

(3) The amount that may be prescribed in respect of any offence must not exceed—

- (a) one quarter of the amount of the maximum fine for which a person is liable on summary conviction of the offence, or
- (b) £250,

whichever is the lower.

(4) The Secretary of State may by order amend subsection (3) by—

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- (a) substituting a different fraction in paragraph (a);
  - (b) substituting a different figure in paragraph (b).
- (5) Where a financial penalty condition is attached to a conditional caution, a relevant prosecutor must also specify—
- (a) the amount of the penalty,
  - (b) the designated officer for a local justice area to whom the penalty is to be paid, and
  - (c) the address of that officer.
- (6) To comply with the condition, the offender must pay the penalty to the specified officer.
- (7) The offender may pay a sum in respect of the penalty by pre-paying and posting a letter containing that sum (in cash or otherwise) to the address specified under subsection (5)(c).
- (8) If a person—
- (a) claims to have made payment by the method described in subsection (7), and
  - (b) shows that his letter was posted,
- then, unless the contrary is proved, payment is to be regarded as made at the time at which the letter would be delivered in the ordinary course of post.
- (9) Subsection (7) is not to be read as preventing payment by other means.”
- (5) In section 330 of that Act (orders subject to affirmative resolution procedure), in subsection (5)—
- (a) in paragraph (a), before “section 25(5)” there is inserted— “ section 22(3C), ”;
  - (b) after that paragraph there is inserted—
    - “(aa) an order under section 23A(4) which makes provision—
      - (i) increasing the fraction in section 23A(3)(a), or
      - (ii) increasing the figure in section 23A(3)(b) by more than is necessary to reflect changes in the value of money,”.

#### Commencement Information

**I23** S. 17(1)(2)(4) in force at 8.7.2009 for specified purposes by [S.I. 2009/1679](#), **art. 2(1)(4)**

**I24** S. 17(3) in force at 8.7.2009 for specified purposes by [S.I. 2009/1679](#), **art. 2(1)(2)(4)**

**I25** S. 17(5) in force at 8.7.2009 for specified purposes by [S.I. 2009/1679](#), **art. 2(1)(3)(4)**

## 18 Arrest for failing to comply with conditional caution

- (1) In Part 3 of the Criminal Justice Act 2003 (c. 44) (conditional cautions), after section 24 there is inserted—

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#### **“24A Arrest for failure to comply**

- (1) If a constable has reasonable grounds for believing that the offender has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution, he may arrest him without warrant.
- (2) A person arrested under this section must be—
  - (a) charged with the offence in question,
  - (b) released without charge and on bail to enable a decision to be made as to whether he should be charged with the offence, or
  - (c) released without charge and without bail (with or without any variation in the conditions attached to the caution).
- (3) Subsection (2) also applies in the case of—
  - (a) a person who, having been released on bail under subsection (2)(b), returns to a police station to answer bail or is otherwise in police detention at a police station;
  - (b) a person who, having been released on bail under section 30A of the 1984 Act (bail elsewhere than at police station) as applied by section 24B below, attends at a police station to answer bail or is otherwise in police detention at a police station;
  - (c) a person who is arrested under section 30D or 46A of the 1984 Act (power of arrest for failure to answer to police bail) as applied by section 24B below.
- (4) Where a person is released under subsection (2)(b), the custody officer must inform him that he is being released to enable a decision to be made as to whether he should be charged with the offence in question.
- (5) A person arrested under this section, or any other person in whose case subsection (2) applies, may be kept in police detention—
  - (a) to enable him to be dealt with in accordance with that subsection, or
  - (b) where applicable, to enable the power under section 37D(1) of the 1984 Act (power of custody officer to appoint a different or additional time for answering to police bail), as applied by section 24B below, to be exercised.

If the person is not in a fit state to enable him to be so dealt with, or to enable that power to be exercised, he may be kept in police detention until he is.

- (6) The power under subsection (5)(a) includes power to keep the person in police detention if it is necessary to do so for the purpose of investigating whether he has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution.
- (7) Subsection (2) must be complied with as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.
- (8) Subsection (2) does not require a person who—
  - (a) falls within subsection (3)(a) or (b), and
  - (b) is in police detention in relation to a matter other than the conditional caution,

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to be released if he is liable to be kept in detention in relation to that other matter.

(9) In this Part—

“the 1984 Act” means the Police and Criminal Evidence Act 1984;

“police detention” has the same meaning as in the 1984 Act (see section 118(2) of that Act).

### **24B Application of PACE provisions**

(1) In the case of a person arrested under section 24A, the provisions of the 1984 Act specified in subsection (2) apply, with the modifications specified in subsection (3) and with such further modifications as are necessary, as they apply in the case of a person arrested for an offence.

(2) The provisions are—

- (a) section 30 (arrest elsewhere than at police station);
- (b) sections 30A to 30D (bail elsewhere than at police station);
- (c) section 31 (arrest for further offence);
- (d) section 34(1) to (5) (limitations on police detention);
- (e) section 36 (custody officers at police stations);
- (f) section 37(4) to (6) (record of grounds for detention);
- (g) section 38 (duties of custody officer after charge);
- (h) section 39 (responsibilities in relation to persons detained);
- (i) section 55A (x-rays and ultrasound scans).

(3) The modifications are—

- (a) in section 30CA(5)(a), for the reference to being involved in the investigation of the offence mentioned in that provision substitute a reference to being involved—
  - (i) in the investigation of the offence in respect of which the person was given the conditional caution, or
  - (ii) in investigating whether the person has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution;
- (b) in section 36(5) and (7), for the references to being involved in the investigation of an offence for which the person is in police detention substitute references to being involved—
  - (i) in the investigation of the offence in respect of which the person was given the conditional caution, or
  - (ii) in investigating whether the person has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution;
- (c) in section 38(1)(a)(iii) and (iv), for “arrested for” substitute “charged with”;
- (d) in section 39(2) and (3), for the references to an offence substitute references to a failure to comply with conditions attached to the conditional caution.

(4) Section 40 of the 1984 Act (review of police detention) applies to a person in police detention by virtue of section 24A above as it applies to a person in

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police detention in connection with the investigation of an offence, but with the following modifications—

- (a) omit subsections (8) and (8A);
  - (b) in subsection (9), for the reference to section 37(9) or 37D(5) substitute a reference to the second sentence of section 24A(5) above.
- (5) The following provisions of the 1984 Act apply to a person released on bail under section 24A(2)(b) above as they apply to a person released on bail under section 37 of that Act—
- (a) section 37D(1) to (3) (power of custody officer to appoint a different or additional time for answering to police bail);
  - (b) section 46A (power of arrest for failure to answer to police bail);
  - (c) section 47 (bail after arrest).
- (6) Section 54 of the 1984 Act (searches of detained persons) applies in the case of a person who falls within subsection (3) of section 24A above and is detained in a police station under that section as it applies in the case of a person who falls within section 34(7) of that Act and is detained at a police station under section 37.
- (7) Section 54A of the 1984 Act (searches and examination to ascertain identity) applies with the following modifications in the case of a person who is detained in a police station under section 24A above—
- (a) in subsections (1)(a) and (12), after “as a person involved in the commission of an offence” insert “or as having failed to comply with any of the conditions attached to his conditional caution”;
  - (b) in subsection (9)(a), after “the investigation of an offence” insert “, the investigation of whether the person in question has failed to comply with any of the conditions attached to his conditional caution”.
- (2) The reference in subsection (1) of section 24A of the Criminal Justice Act 2003 (c. 44) (inserted by subsection (1) above) to a failure to comply with conditions attached to a conditional caution is to any such failure occurring on or after the day on which this section comes into force.

#### Commencement Information

**I26** S. 18 in force at 29.6.2007 by S.I. 2007/1614, art. 2(e)

### PART 3

#### CRIME AND ANTI-SOCIAL BEHAVIOUR

##### *Crime and disorder*

#### 19 Local authority scrutiny of crime and disorder matters

- (1) Every local authority shall ensure that it has a committee (the “crime and disorder committee”) with power—

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- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions;
- (b) to make reports or recommendations to the local authority with respect to the discharge of those functions.

“The responsible authorities” means the bodies and persons who are responsible authorities within the meaning given by section 5 of the Crime and Disorder Act 1998 (c. 37) (authorities responsible for crime and disorder strategies) in relation to the local authority's area.

- (2) Where by virtue of subsection (1)(b) the crime and disorder committee makes a report or recommendations it shall provide a copy—

- (a) to each of the responsible authorities, and
- (b) to each of the persons with whom, and bodies with which, the responsible authorities have a duty to co-operate under section 5(2) of the Crime and Disorder Act 1998 (“the co-operating persons and bodies”).

[<sup>F3</sup>(3) A local authority must—

- (a) ensure that its crime and disorder committee has power (whether by virtue of section 21(2) of the Local Government Act 2000 or regulations made under section 32(3) of that Act or otherwise) to make a report or recommendations to the local authority with respect to any matter which is a local crime and disorder matter in relation to a member of the authority, and
- (b) make arrangements which enable any member of the authority who is not a member of the crime and disorder committee to refer any local crime and disorder matter to the committee.

- (4) For the purposes of subsection (3)(b), arrangements enable a person to refer a matter to a committee if they enable him to ensure that the matter is included in the agenda for, and discussed at, a meeting of the committee.

- (5) Subsections (6) and (7) apply where a local crime and disorder matter is referred to a crime and disorder committee by a member of a local authority in accordance with arrangements made under subsection (3)(b).

- (6) In considering whether or not to make a report or recommendations to the local authority in relation to the matter, the committee may have regard to—

- (a) any powers which the member may exercise in relation to the matter by virtue of section 236 of the Local Government and Public Involvement in Health Act 2007 (exercise of functions by local councillors in England), and
- (b) any representations made by the member as to why it would be appropriate for the committee to exercise any power which it has by virtue of subsection (3) (a) in relation to the matter.

- (7) If the committee decides not to make a report or recommendations to the local authority in relation to the matter, it must notify the member of—

- (a) its decision, and
- (b) the reasons for it.

- (8) Where a crime and disorder committee of a local authority makes a report or recommendations to the authority by virtue of subsection (3)(a), it must—

- (a) provide a copy of the report or recommendations to any member of the authority who referred the local crime and disorder matter in question to the



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- committee in accordance with arrangements made under subsection (3)(b), and
- (b) provide a copy of the report or recommendations to such of—
- (i) the responsible authorities, and
  - (ii) the co-operating persons and bodies,
- as it thinks appropriate.
- (8A) Subsection (8B) applies where the crime and disorder committee of a local authority—
- (a) makes a report or recommendations to the authority by virtue of subsection (3)(a), or
  - (b) provides a copy of a report or recommendations under subsection (2) or (8)(b).
- (8B) Where this subsection applies—
- (a) the crime and disorder committee must notify the authority, body or person to whom it makes the report or recommendations or provides the copy that paragraph (b) applies, and
  - (b) the authority, body or person must—
    - (i) consider the report or recommendations;
    - (ii) respond to the committee indicating what (if any) action it proposes to take;
    - (iii) have regard to the report or recommendations in exercising its functions.]
- (9) In the case of a local authority operating executive arrangements—
- (a) the crime and disorder committee is to be an overview and scrutiny committee of the authority (within the meaning of Part 2 of the Local Government Act 2000 (c. 22));
  - (b) a reference in [<sup>F4</sup>this section] to making a report or recommendations to the local authority is to be read as a reference to making a report or recommendations to the local authority or the executive.
- (10) Schedule 8 (which makes further provision about the crime and disorder committees of local authorities not operating executive arrangements, made up of provision corresponding to that made by section 21 of the Local Government Act 2000 and particular provision for the City of London) has effect.
- (11) In this section—
- “crime and disorder functions” means functions conferred by or under section 6 of the Crime and Disorder Act 1998 (c. 37) (formulation and implementation of crime and disorder strategies);
- [<sup>F5</sup>electoral area” has the meaning given by section 203(1) of the Representation of the People Act 1983; ]
- “executive arrangements” means executive arrangements under Part 2 of the Local Government Act 2000;
- “local authority” means—
- (a) in relation to England, a county council, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly;
  - (b) in relation to Wales, a county council or a county borough council;
- [<sup>F6</sup>local crime and disorder matter”, in relation to a member of a local authority, means a matter concerning—

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- (a) crime and disorder (including in particular forms of crime and disorder that involve anti-social behaviour or other behaviour adversely affecting the local environment), or
  - (b) the misuse of drugs, alcohol and other substances,
- which affects all or part of the electoral area for which the member is elected or any person who lives or works in that area. ]

#### Textual Amendments

- F3** S. 19(3)-(8B) substituted for (30.4.2009 for E., 1.10.2009 for W.) by Local Government and Public Involvement in [Health Act 2007 \(c. 28\)](#), [ss. 126\(2\)](#), 245(5); [S.I. 2009/959](#), [art. 2\(a\)](#); [S.I. 2009/2539](#), art. 2(a)
- F4** Words in s. 19(9)(b) substituted (30.4.2009 for E., 1.10.2009 for W.) by Local Government and Public Involvement in [Health Act 2007 \(c. 28\)](#), [ss. 126\(3\)](#), 245(5); [S.I. 2009/959](#), [art. 2\(a\)](#); [S.I. 2009/2539](#), art. 2(a)
- F5** Words in s. 19(11) inserted (30.4.2009 for E., 1.10.2009 for W.) by Local Government and Public Involvement in [Health Act 2007 \(c. 28\)](#), [ss. 126\(4\)\(a\)](#), 245(5); [S.I. 2009/959](#), [art. 2\(a\)](#); [S.I. 2009/2539](#), art. 2(a)
- F6** Words in s. 19(11) substituted (30.4.2009 for E., 1.10.2009 for W.) by Local Government and Public Involvement in [Health Act 2007 \(c. 28\)](#), [ss. 126\(4\)\(b\)](#), 245(5); [S.I. 2009/959](#), [art. 2\(a\)](#); [S.I. 2009/2539](#), art. 2(a)

#### Commencement Information

- I27** S. 19 in force at 30.4.2009 for E. by [S.I. 2009/936](#), [art. 2\(a\)](#)
- I28** S. 19 in force at 1.10.2009 for W. by [S.I. 2009/2540](#), [art. 2\(a\)](#)

## 20 Guidance and regulations regarding crime and disorder matters

- (1) The Secretary of State may issue guidance to—
  - (a) local authorities in England,
  - (b) members of those authorities, and
  - (c) crime and disorder committees of those authorities,
 with regard to the exercise of their functions under [<sup>F7</sup>or by virtue of] section 19.
- (2) The National Assembly for Wales, after consulting the Secretary of State, may issue guidance to—
  - (a) local authorities in Wales,
  - (b) members of those authorities, and
  - (c) crime and disorder committees of those authorities,
 with regard to the exercise of their functions under [<sup>F8</sup>or by virtue of] section 19.
- (3) The Secretary of State may by regulations make provision supplementing that made by section 19 in relation to local authorities in England.
- (4) The Secretary of State, after consulting the National Assembly for Wales, may by regulations make provision supplementing that made by section 19 in relation to local authorities in Wales.
- (5) Regulations under subsection (3) or (4) may in particular make provision—

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- (a) as to the co-opting of additional members to serve on the crime and disorder committee of a local authority;
  - (b) as to the frequency with which the power mentioned in section 19(1)(a) is to be exercised;
  - (c) requiring information to be provided to the crime and disorder committee by the responsible authorities and the co-operating persons and bodies;
  - (d) imposing restrictions on the provision of information to the crime and disorder committee by the responsible authorities and the co-operating persons and bodies;
  - (e) requiring officers or employees of the responsible authorities and the co-operating persons and bodies to attend before the crime and disorder committee to answer questions;
  - <sup>F9</sup>(f) . . . . .
  - (g) specifying the periods within which—
    - <sup>F10</sup>(i) . . . . .
    - <sup>F10</sup>(ii) . . . . .
    - <sup>F10</sup>(iii) . . . . .
    - (iv) the responsible authorities and the co-operating persons and bodies are to consider and respond to a report or recommendations made under or by virtue of section 19.
- (6) Regulations made by virtue of subsection (5)(a) may provide for a person co-opted to serve as a member of a crime and disorder committee to have the same entitlement to vote as any other member.
- <sup>F11</sup>(6A) In subsection (5)(c) and (d), references to information are, in relation to any crime and disorder committee, to information relating to—
- (a) the discharge, or decisions made or other action taken in connection with the discharge, by the responsible authorities of their crime and disorder functions; or
  - (b) local crime and disorder matters in relation to which the committee has functions under or by virtue of section 19.]
- (7) In this section “local authority”, “crime and disorder committee”, “responsible authorities”<sup>F12</sup>, “co-operating persons and bodies”, “crime and disorder functions” and “local crime and disorder matters”] have the same meaning as in section 19.

**Textual Amendments**

- F7** Words in s. 20(1) inserted (30.4.2009 for E., 1.10.2009 for W.) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 126(6)**, 245(5); S.I. 2009/959, art. 2(a); S.I. 2009/2539, art. 2(a)
- F8** Words in s. 20(2) inserted (30.4.2009 for E., 1.10.2009 for W.) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 126(6)**, 245(5); S.I. 2009/959, art. 2(a); S.I. 2009/2539, art. 2(a)
- F9** S. 20(5)(f) repealed (30.4.2009 for E., 1.10.2009 for W.) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 126(7)(a)**, 245(5), **Sch. 18 Pt. 6**; S.I. 2009/959, art. 2(a); S.I. 2009/2539, art. 2(a)
- F10** S. 20(5)(g)(i)-(iii) repealed (30.4.2009 for E., 1.10.2009 for W.) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 126(7)(b)**, 245(5), **Sch. 18 Pt. 6**; S.I. 2009/959, art. 2(a); S.I. 2009/2539, art. 2(a)

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- F11** S. 20(6A) inserted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 121(2)**, 245(5); S.I. 2008/3110, art. 4(c)
- F12** Words in s. 20(7) substituted (1.4.2009) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), **ss. 121(3)**, 245(5); S.I. 2008/3110, art. 4(c)

#### Commencement Information

- I29** S. 20 in force at 30.4.2009 for E. by [S.I. 2009/936](#), **art. 2(b)**
- I30** S. 20 in force at 1.10.2009 for W. by [S.I. 2009/2540](#), **art. 2(b)**

## 21 Joint crime and disorder committees

In section 5 of the Crime and Disorder Act 1998 (c. 37) (authorities responsible for crime and disorder strategies), after subsection (1B) there is inserted—

“(1C) An order under subsection (1A) above—

- (a) may require the councils for the local government areas in question to appoint a joint committee of those councils (the “joint crime and disorder committee”) and to arrange for crime and disorder scrutiny functions in relation to any (or all) of those councils to be exercisable by that committee;
- (b) may make provision applying any of the relevant provisions, with or without modifications, in relation to a joint crime and disorder committee.

(1D) In subsection (1C)—

“crime and disorder scrutiny functions”, in relation to a council, means functions that are, or, but for an order under subsection (1A) above, would be, exercisable by the crime and disorder committee of the council under section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters);

“the relevant provisions” means—

- (a) section 19 of the Police and Justice Act 2006;
- (b) section 20 of that Act and any regulations made under that section;
- (c) Schedule 8 to that Act;
- (d) section 21 of the Local Government Act 2000.”

#### Commencement Information

- I31** S. 21 in force at 30.4.2009 for E. by [S.I. 2009/936](#), **art. 2(c)**

## 22 Amendments to the Crime and Disorder Act 1998

Schedule 9 (which contains amendments to the Crime and Disorder Act 1998 (c. 37) in relation to crime and disorder strategies and other matters relating to the reduction of crime and disorder) has effect.

#### Commencement Information

- I32** S. 22 in force at 1.8.2007 for E. by [S.I. 2007/1614](#), **art. 3(b)**

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**I33** S. 22 in force at 19.11.2007 for W. by S.I. 2007/3073, art. 2(a)

**I34** S. 22 in force at 19.11.2007 for W. by S.I. 2007/3251, art. 2

### *Parenting contracts and parenting orders*

## **23 Parenting contracts: local authorities and registered social landlords**

- (1) In Part 3 of the Anti-social Behaviour Act 2003 (c. 38) (parental responsibilities), after section 25 there is inserted—

### **“25A Parenting contracts in respect of anti-social behaviour: local authorities**

- (1) A local authority may enter into a parenting contract with a parent of a child or young person if—
- (a) the local authority has reason to believe that the child or young person has engaged, or is likely to engage, in anti-social behaviour, and
  - (b) the child or young person resides, or appears to reside, in the local authority's area.
- (2) A parenting contract is a document which contains—
- (a) a statement by the parent that he agrees to comply with such requirements as may be specified in the document for such period as may be so specified, and
  - (b) a statement by the local authority that it agrees to provide support to the parent for the purpose of complying with those requirements.
- (3) The requirements mentioned in subsection (2)(a) may include (in particular) a requirement to attend a counselling or guidance programme.
- (4) The purpose of the requirements mentioned in subsection (2)(a) is to prevent the child or young person from engaging in anti-social behaviour or further anti-social behaviour.
- (5) A parenting contract must be signed by the parent and signed on behalf of the local authority.
- (6) A parenting contract does not create any obligations in respect of whose breach any liability arises in contract or in tort.
- (7) In carrying out their functions in relation to parenting contracts—
- (a) local authorities in England shall have regard to any guidance which is issued by the Secretary of State from time to time for that purpose;
  - (b) local authorities in Wales shall have regard to any guidance which is issued by the National Assembly for Wales from time to time for that purpose.

### **25B Parenting contracts in respect of anti-social behaviour: registered social landlords**

- (1) A registered social landlord may enter into a parenting contract with a parent of a child or young person if—

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- (a) the registered social landlord has reason to believe that the child or young person—
    - (i) has engaged in anti-social behaviour, or
    - (ii) is likely to engage in such behaviour,
 and
  - (b) that behaviour directly or indirectly relates to or affects the housing management functions of the registered social landlord (or, where paragraph (a)(ii) applies, would do so if the behaviour were engaged in).
- (2) A parenting contract is a document which contains—
- (a) a statement by the parent that he agrees to comply with such requirements as may be specified in the document for such period as may be so specified, and
  - (b) a statement by the registered social landlord that it agrees to make arrangements for the provision of support to the parent for the purpose of complying with those requirements.
- (3) The requirements mentioned in subsection (2)(a) may include (in particular) a requirement to attend a counselling or guidance programme.
- (4) The purpose of the requirements mentioned in subsection (2)(a) is to prevent the child or young person from engaging in anti-social behaviour or further anti-social behaviour.
- (5) A parenting contract must be signed by the parent and signed on behalf of the registered social landlord.
- (6) A parenting contract does not create any obligations in respect of whose breach any liability arises in contract or in tort.
- (7) In carrying out their functions in relation to parenting contracts—
- (a) registered social landlords on the register maintained by the Housing Corporation shall have regard to any guidance which is issued by the Secretary of State from time to time for that purpose;
  - (b) registered social landlords on the register maintained by the National Assembly for Wales shall have regard to any guidance which is issued by the Assembly from time to time for that purpose.”
- (2) In section 29(1) of that Act (interpretation of sections 25 to 29) the following definitions are inserted at the appropriate places—
- ““housing accommodation” has the meaning given by section 153E(9) of the Housing Act 1996;”;
- ““housing management functions”, in relation to a registered social landlord, include—
- (a) functions conferred by or under any enactment;
  - (b) the powers and duties of the landlord as the holder of an estate or interest in housing accommodation;”;

““local authority” means—

    - (a) a county council in England;
    - (b) a metropolitan district council;

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- (c) a non-metropolitan district council for an area for which there is no county council;
- (d) a London borough council;
- (e) the Common Council of the City of London;
- (f) the Council of the Isles of Scilly;
- (g) a county council or county borough council in Wales;”;

““registered social landlord” means a body registered as such under Chapter 1 of Part 1 of the Housing Act 1996;”.

#### Commencement Information

I35 S. 23 in force at 1.8.2007 for E. by S.I. 2007/1614, art. 3(a)

## 24 Parenting orders: local authorities and registered social landlords

In Part 3 of the Anti-social Behaviour Act 2003 (c. 38) (parental responsibilities), after section 26 there is inserted—

### “26A Parenting orders in respect of anti-social behaviour: local authorities

- (1) A local authority may apply for a parenting order in respect of a parent of a child or young person if—
- (a) the local authority has reason to believe that the child or young person has engaged in anti-social behaviour, and
  - (b) the child or young person resides, or appears to reside, in the local authority's area.

An application for such an order may be made to a magistrates' court or, where section 26C so allows, to a county court.

- (2) If such an application is made, the court may make a parenting order in respect of a parent of the child or young person if it is satisfied—
- (a) that the child or young person has engaged in anti-social behaviour, and
  - (b) that making the order would be desirable in the interests of preventing the child or young person from engaging in further anti-social behaviour.
- (3) A parenting order is an order which requires the parent—
- (a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order, and
  - (b) subject to subsection (4), to attend, for a concurrent period not exceeding three months, such counselling or guidance programme as may be specified in directions given by the responsible officer.
- (4) A parenting order under this section may, but need not, include a requirement mentioned in subsection (3)(b) in any case where a parenting order under this section or any other enactment has been made in respect of the parent on a previous occasion.

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- (5) A counselling or guidance programme which a parent is required to attend by virtue of subsection (3)(b) may be or include a residential course but only if the court is satisfied that the following two conditions are fulfilled.
- (6) The first condition is that the attendance of the parent at a residential course is likely to be more effective than his attendance at a non-residential course in preventing the child or young person from engaging in further anti-social behaviour.
- (7) The second condition is that any interference with family life which is likely to result from the attendance of the parent at a residential course is proportionate in all the circumstances.
- (8) A person is eligible to be the responsible officer in relation to a parenting order under this section only if he is—
  - (a) an officer of the local authority which applied for the order, or
  - (b) a person nominated by that authority or by a person or body requested by the authority to make a nomination.

A person may not be nominated under paragraph (b) without his consent.

### **26B Parenting orders in respect of anti-social behaviour: registered social landlords**

- (1) A registered social landlord may apply for a parenting order in respect of a parent of a child or young person if—
  - (a) the registered social landlord has reason to believe that the child or young person has engaged in anti-social behaviour, and
  - (b) the behaviour in question directly or indirectly relates to or affects the housing management functions of the registered social landlord.

An application for such an order may be made to a magistrates' court or, where section 26C so allows, to a county court.

- (2) If such an application is made, the court may make a parenting order in respect of a parent of the child or young person if it is satisfied—
  - (a) that the child or young person has engaged in anti-social behaviour, and
  - (b) that making the order would be desirable in the interests of preventing the child or young person from engaging in further anti-social behaviour.
- (3) A parenting order is an order which requires the parent—
  - (a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order, and
  - (b) subject to subsection (4), to attend, for a concurrent period not exceeding three months, such counselling or guidance programme as may be specified in directions given by the responsible officer.
- (4) A parenting order under this section may, but need not, include a requirement mentioned in subsection (3)(b) in any case where a parenting order under this section or any other enactment has been made in respect of the parent on a previous occasion.



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- (5) A counselling or guidance programme which a parent is required to attend by virtue of subsection (3)(b) may be or include a residential course but only if the court is satisfied that the following two conditions are fulfilled.
- (6) The first condition is that the attendance of the parent at a residential course is likely to be more effective than his attendance at a non-residential course in preventing the child or young person from engaging in further anti-social behaviour.
- (7) The second condition is that any interference with family life which is likely to result from the attendance of the parent at a residential course is proportionate in all the circumstances.
- (8) A registered social landlord must not make an application under this section without first consulting the local authority in whose area the child or young person in question resides or appears to reside.
- (9) A person is eligible to be the responsible officer in relation to a parenting order under this section only if he is—
  - (a) an officer of the registered social landlord which applied for the order, or
  - (b) a person nominated by that registered social landlord.A person may not be nominated under paragraph (b) without his consent.
- (10) In deciding whom to nominate under subsection (9)(b) a registered social landlord must take into account the views of—
  - (a) the local authority mentioned in subsection (8), and
  - (b) such other persons or bodies as the registered social landlord thinks appropriate.

### **26C Applications under section 26A or 26B in county court proceedings**

- (1) Where a local authority or registered social landlord (a “relevant authority”)—
  - (a) is a party to proceedings in a county court, and
  - (b) considers that a party to those proceedings is a person in relation to whom it would be reasonable for it to make an application for a parenting order under section 26A or 26B (a “parenting order application”),it may make such an application to that court in relation to that person.
- (2) Where—
  - (a) a relevant authority considers that a party to proceedings in a county court is a person in relation to whom it would be reasonable for it to make a parenting order application, but
  - (b) the relevant authority is not a party to those proceedings,it may apply to be joined to those proceedings to enable it to make a parenting order application.
- (3) Where—
  - (a) there are proceedings in a county court to which a relevant authority is a party, and

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- (b) the relevant authority considers that a child or young person has engaged in anti-social behaviour that is material in relation to the proceedings,

the relevant authority may apply for a person who is a parent of the child or young person to be joined to the proceedings to enable it to make a parenting order application in relation to him.

- (4) A person must not be joined to proceedings in pursuance of subsection (3) unless the anti-social behaviour in question is material in relation to those proceedings.”

#### Commencement Information

**I36** S. 24 in force at 1.8.2007 for E. by S.I. 2007/1614, art. 3(a)

## 25 Contracting out of local authority functions with regard to parenting contracts and parenting orders

In Part 3 of the Anti-social Behaviour Act 2003 (c. 38) (parental responsibilities), after section 28 there is inserted—

### “28A Contracting out of local authority functions

- (1) An order made by—
- (a) the Secretary of State as regards local authorities in England, or
  - (b) the National Assembly for Wales as regards local authorities in Wales,
- may provide that a local authority may make arrangements with a person who is specified in the order, or is of a description so specified, for the exercise of any function it has under or by virtue of section 25A or 26A.
- (2) The order may provide—
- (a) that the power of the local authority to make the arrangements is subject to such conditions as are specified in the order;
  - (b) that the arrangements must be subject to such conditions as are so specified;
  - (c) that the arrangements may be made subject to such other conditions as the local authority thinks appropriate.
- (3) The order may provide that the arrangements may authorise the exercise of the function—
- (a) either wholly or to such extent as may be specified in the order or arrangements;
  - (b) either generally or in such cases or areas as may be so specified.
- (4) An order under this section may provide that the person with whom arrangements are made in pursuance of the order is to be treated as if he were a public body for the purposes of section 1 of the Local Authorities (Goods and Services) Act 1970.
- (5) The Secretary of State or (as the case may be) the National Assembly for Wales must not make an order under this section without first consulting—

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- (a) such representatives of local government as appear to be appropriate;
  - (b) such other persons as appear to be appropriate.
- (6) Any arrangements made by a local authority in pursuance of an order under this section do not prevent the local authority from exercising the function to which the arrangements relate.
- (7) The following provisions of the Deregulation and Contracting Out Act 1994 apply for the purposes of arrangements made in pursuance of an order under this section as they apply for the purposes of an authorisation to exercise functions by virtue of an order under section 70(2) of that Act—
- (a) section 72 (effect of contracting out);
  - (b) section 73 (termination of contracting out);
  - (c) section 75 and Schedule 15 (provision relating to disclosure of information);
  - (d) paragraph 3 of Schedule 16 (authorised persons to be treated as officers of local authority).
- (8) For the purposes of subsection (7), any reference in the provisions specified in paragraphs (a) to (d) to a person authorised to exercise a function is to be construed as a reference to a person with whom an arrangement is made for the exercise of the function in pursuance of an order under this section.
- (9) Local authorities in England and any person with whom they make arrangements in pursuance of an order under this section must have regard to any guidance issued by the Secretary of State for the purposes of this section.
- (10) Local authorities in Wales and any person with whom they make arrangements in pursuance of an order under this section must have regard to any guidance issued by the National Assembly for Wales for the purposes of this section.”

#### Commencement Information

I37 S. 25 in force at 1.8.2007 for E. by S.I. 2007/1614, art. 3(a)

### *Injunctions*

## 26 Anti-social behaviour injunctions

For section 153A of the Housing Act 1996 (c. 52) there is substituted—

### “153A Anti-social behaviour injunction

(1) In this section—

“anti-social behaviour injunction” means an injunction that prohibits the person in respect of whom it is granted from engaging in housing-related anti-social conduct of a kind specified in the injunction;

“anti-social conduct” means conduct capable of causing nuisance or annoyance to some person (who need not be a particular identified person);

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“conduct” means conduct anywhere;

“housing-related” means directly or indirectly relating to or affecting the housing management functions of a relevant landlord.

- (2) The court on the application of a relevant landlord may grant an anti-social behaviour injunction if the condition in subsection (3) is satisfied.
- (3) The condition is that the person against whom the injunction is sought is engaging, has engaged or threatens to engage in housing-related conduct capable of causing a nuisance or annoyance to—
  - (a) a person with a right (of whatever description) to reside in or occupy housing accommodation owned or managed by a relevant landlord,
  - (b) a person with a right (of whatever description) to reside in or occupy other housing accommodation in the neighbourhood of housing accommodation mentioned in paragraph (a),
  - (c) a person engaged in lawful activity in, or in the neighbourhood of, housing accommodation mentioned in paragraph (a), or
  - (d) a person employed (whether or not by a relevant landlord) in connection with the exercise of a relevant landlord's housing management functions.
- (4) Without prejudice to the generality of the court's power under subsection (2), a kind of conduct may be described in an anti-social behaviour injunction by reference to a person or persons and, if it is, may (in particular) be described by reference—
  - (a) to persons generally,
  - (b) to persons of a description specified in the injunction, or
  - (c) to persons, or a person, specified in the injunction.”

#### Commencement Information

**I38** S. 26 in force at 6.4.2007 for E. by [S.I. 2007/709](#), [art. 4\(a\)](#) (with [art. 8](#))

## 27 Injunctions in local authority proceedings: power of arrest and remand

- (1) This section applies to proceedings in which a local authority is a party by virtue of section 222 of the Local Government Act 1972 (c. 70) (power of local authority to bring, defend or appear in proceedings for the promotion or protection of the interests of inhabitants of their area).
- (2) If the court grants an injunction which prohibits conduct which is capable of causing nuisance or annoyance to a person it may, if subsection (3) applies, attach a power of arrest to any provision of the injunction.
- (3) This subsection applies if the local authority applies to the court to attach the power of arrest and the court thinks that either—
  - (a) the conduct mentioned in subsection (2) consists of or includes the use or threatened use of violence, or
  - (b) there is a significant risk of harm to the person mentioned in that subsection.

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- (4) Where a power of arrest is attached to any provision of an injunction under subsection (2), a constable may arrest without warrant a person whom he has reasonable cause for suspecting to be in breach of that provision.
- (5) After making an arrest under subsection (4) the constable must as soon as is reasonably practicable inform the local authority.
- (6) Where a person is arrested under subsection (4)—
  - (a) he shall be brought before the court within the period of 24 hours beginning at the time of his arrest, and
  - (b) if the matter is not then disposed of forthwith, the court may remand him.
- (7) For the purposes of subsection (6), when calculating the period of 24 hours referred to in paragraph (a) of that subsection, no account shall be taken of Christmas Day, Good Friday or any Sunday.
- (8) Schedule 10 applies in relation to the power to remand under subsection (6).
- (9) If the court has reason to consider that a medical report will be required, the power to remand a person under subsection (6) may be exercised for the purpose of enabling a medical examination and report to be made.
- (10) If such a power is so exercised the adjournment shall not be in force—
  - (a) for more than three weeks at a time in a case where the court remands the accused person in custody, or
  - (b) for more than four weeks at a time in any other case.
- (11) If there is reason to suspect that a person who has been arrested under subsection (4) is suffering from [<sup>F13</sup>mental disorder within the meaning of the Mental Health Act 1983] the court shall have the same power to make an order under section 35 of [<sup>F14</sup>that Act] (remand for report on accused's mental condition) as the Crown Court has under that section in the case of an accused person within the meaning of that section.
- (12) For the purposes of this section—
  - (a) “harm” includes serious ill-treatment or abuse (whether physical or not);
  - (b) “local authority” has the same meaning as in section 222 of the Local Government Act 1972 (c. 70);
  - (c) “the court” means the High Court or a county court and includes—
    - (i) in relation to the High Court, a judge of that court, and
    - (ii) in relation to a county court, a judge or district judge of that court.

#### Textual Amendments

**F13** Words in s. 27(11) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), s. 56\(1\), Sch. 1 para. 26\(a\)](#); S.I. 2008/1900, art. 2(a) (with art. 3Sch.)

**F14** Words in s. 27(11) substituted (3.11.2008) by [Mental Health Act 2007 \(c. 12\), s. 56\(1\), Sch. 1 para. 26\(b\)](#); S.I. 2008/1900, art. 2(a) (with art. 3Sch.)

#### Commencement Information

**I39** S. 27 in force at 6.4.2007 for E. by [S.I. 2007/709, art. 4\(b\)](#) (with art. 8)

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## PART 4

### INSPECTORATES

#### 28 Her Majesty's Chief Inspector of Prisons

(1) In section 5A of the Prison Act 1952 (c. 52) (appointment and functions of Her Majesty's Chief Inspector of Prisons), after subsection (6) there is inserted—

“(7) Schedule A1 to this Act (which makes further provision about the Chief Inspector) has effect.”

(2) At the beginning of the Schedules to that Act there is inserted—

“SCHEDULE A1

Section 5A

#### FURTHER PROVISION ABOUT HER MAJESTY'S CHIEF INSPECTOR OF PRISONS

##### *Delegation of functions*

- 1 (1) The Chief Inspector may delegate any of his functions (to such extent as he may determine) to another public authority.
- (2) If the carrying out of an inspection is delegated under sub-paragraph (1) above it is nevertheless to be regarded for the purposes of section 5A of this Act and this Schedule as carried out by the Chief Inspector.
- (3) In this Schedule “public authority” includes any person certain of whose functions are functions of a public nature.

##### *Inspection programmes and inspection frameworks*

- 2 (1) The Chief Inspector shall from time to time, or at such times as the Secretary of State may specify by order, prepare—
  - (a) a document setting out what inspections he proposes to carry out (an “inspection programme”);
  - (b) a document setting out the manner in which he proposes to carry out his functions of inspecting and reporting (an “inspection framework”).
- (2) Before preparing an inspection programme or an inspection framework the Chief Inspector shall consult the Secretary of State and (subject to sub-paragraph (3) below)—
  - (a) Her Majesty's Chief Inspector of Constabulary,
  - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service,
  - (c) Her Majesty's Chief Inspector of the National Probation Service for England and Wales,
  - (d) Her Majesty's Chief Inspector of Court Administration,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
  - (f) the Commission for Healthcare Audit and Inspection,
  - (g) the Commission for Social Care Inspection,

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- (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
- (i) the Auditor General for Wales, and
- (j) any other person or body specified by an order made by the Secretary of State,

and he shall send to each of those persons or bodies a copy of each programme or framework once it is prepared.

- (3) The requirement in sub-paragraph (2) above to consult, and to send copies to, a person or body listed in paragraphs (a) to (j) of that sub-paragraph is subject to any agreement made between the Chief Inspector and that person or body to waive the requirement in such cases or circumstances as may be specified in the agreement.
- (4) The Secretary of State may by order specify the form that inspection programmes or inspection frameworks are to take.
- (5) Nothing in any inspection programme or inspection framework is to be read as preventing the Chief Inspector from making visits without notice.

*Inspections by other inspectors of organisations within Chief Inspector's remit*

- 3 (1) If—
  - (a) a person or body within sub-paragraph (2) below is proposing to carry out an inspection that would involve inspecting a specified organisation, and
  - (b) the Chief Inspector considers that the proposed inspection would impose an unreasonable burden on that organisation, or would do so if carried out in a particular manner,the Chief Inspector shall, subject to sub-paragraph (7) below, give a notice to that person or body not to carry out the proposed inspection, or not to carry it out in that manner.
- (2) The persons or bodies within this sub-paragraph are—
  - (a) Her Majesty's Inspectorate of the National Probation Service for England and Wales;
  - (b) Her Majesty's Chief Inspector of Education, Children's Services and Skills;
  - (c) the Commission for Healthcare Audit and Inspection;
  - (d) the Commission for Social Care Inspection;
  - (e) the Audit Commission for Local Government and the National Health Service in England and Wales.
- (3) The Secretary of State may by order amend sub-paragraph (2) above.
- (4) In sub-paragraph (1)(a) above "specified organisation" means a person or body specified by an order made by the Secretary of State.
- (5) A person or body may be specified under sub-paragraph (4) above only if it exercises functions in relation to any prison or other institution or matter falling within the scope of the Chief Inspector's duties under section 5A of this Act.

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- (6) A person or body may be specified under sub-paragraph (4) above in relation to particular functions that it has.

In the case of a person or body so specified, sub-paragraph (1)(a) above is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.

- (7) The Secretary of State may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.
- (8) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.

This is subject to sub-paragraph (9) below.

- (9) The Secretary of State, if satisfied that the proposed inspection—
- (a) would not impose an unreasonable burden on the organisation in question, or
  - (b) would not do so if carried out in a particular manner,
- may give consent to the inspection being carried out, or being carried out in that manner.
- (10) The Secretary of State may by order make provision supplementing that made by this paragraph, including in particular—
- (a) provision about the form of notices;
  - (b) provision prescribing the period within which notices are to be given;
  - (c) provision prescribing circumstances in which notices are, or are not, to be made public;
  - (d) provision for revising or withdrawing notices;
  - (e) provision for setting aside notices not validly given.

#### *Co-operation*

- 4 The Chief Inspector shall co-operate with—
- (a) Her Majesty's Inspectors of Constabulary,
  - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service,
  - (c) Her Majesty's Inspectorate of the National Probation Service for England and Wales,
  - (d) Her Majesty's Inspectorate of Court Administration,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
  - (f) the Commission for Healthcare Audit and Inspection,
  - (g) the Commission for Social Care Inspection,
  - (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
  - (i) the Auditor General for Wales, and
  - (j) any other public authority specified by an order made by the Secretary of State,

where it is appropriate to do so for the efficient and effective discharge of his functions.



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#### *Joint action*

- 5
- (1) The Chief Inspector may act jointly with another public authority where it is appropriate to do so for the efficient and effective discharge of his functions.
  - (2) The Chief Inspector, acting jointly with the chief inspectors within sub-paragraph (3) below, shall prepare a document (a “joint inspection programme”) setting out—
    - (a) what inspections he proposes to carry out in the exercise of the power conferred by sub-paragraph (1) above, and
    - (b) what inspections the chief inspectors within sub-paragraph (3) below (or their inspectorates) propose to carry out in the exercise of any corresponding powers conferred on them.
  - (3) The chief inspectors within this sub-paragraph are—
    - (a) Her Majesty's Chief Inspector of Constabulary;
    - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service;
    - (c) Her Majesty's Chief Inspector of the National Probation Service for England and Wales;
    - (d) Her Majesty's Chief Inspector of Court Administration.
  - (4) A joint inspection programme shall be prepared from time to time or at such times as the Secretary of State, the Lord Chancellor and the Attorney General may jointly direct.
  - (5) Sub-paragraphs (2), (3) and (5) of paragraph 2 above apply to a joint inspection programme as they apply to a document prepared under that paragraph.
  - (6) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction specify the form that a joint inspection programme is to take.

#### *Assistance for other public authorities*

- 6
- (1) The Chief Inspector may if he thinks it appropriate to do so provide assistance to any other public authority for the purpose of the exercise by that authority of its functions.
  - (2) Assistance under this paragraph may be provided on such terms (including terms as to payment) as the Chief Inspector thinks fit.”

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#### **Commencement Information**

**140** S. 28 in force at 1.4.2007 by S.I. 2007/709, art. 3(m) (with arts. 6, 7)

## **29 Her Majesty's Inspectors of Constabulary**

- (1) In section 54 of the Police Act 1996 (c. 16) (appointment and functions of Her Majesty's Inspectors of Constabulary), after subsection (5) there is inserted—
  - “(6) Schedule 4A (which makes further provision about the inspectors of constabulary) has effect.”

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(2) After Schedule 4 to that Act there is inserted—

“SCHEDULE 4A

Section 54

FURTHER PROVISION ABOUT HER MAJESTY'S INSPECTORS OF CONSTABULARY

*Delegation of functions*

- 1 (1) An inspector of constabulary may delegate any of his functions (to such extent as he may determine) to another public authority.
- (2) If an inspector of constabulary delegates the carrying out of an inspection under sub-paragraph (1) it is nevertheless to be regarded for the purposes of section 54 and this Schedule as carried out by the inspector.
- (3) In this Schedule “public authority” includes any person certain of whose functions are functions of a public nature.

*Inspection programmes and inspection frameworks*

- 2 (1) The chief inspector of constabulary shall from time to time, or at such times as the Secretary of State may specify by order, prepare—
  - (a) a document setting out what inspections he proposes to carry out (an “inspection programme”);
  - (b) a document setting out the manner in which he proposes to carry out his functions of inspecting and reporting (an “inspection framework”).
- (2) Before preparing an inspection programme or an inspection framework the chief inspector of constabulary shall consult the Secretary of State and (subject to sub-paragraph (3))—
  - (a) Her Majesty's Chief Inspector of Prisons,
  - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service,
  - (c) Her Majesty's Chief Inspector of the National Probation Service for England and Wales,
  - (d) Her Majesty's Chief Inspector of Court Administration,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
  - (f) the Commission for Healthcare Audit and Inspection,
  - (g) the Commission for Social Care Inspection,
  - (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
  - (i) the Auditor General for Wales, and
  - (j) any other person or body specified by an order made by the Secretary of State,

and he shall send to each of those persons or bodies a copy of each programme or framework once it is prepared.
- (3) The requirement in sub-paragraph (2) to consult, and to send copies to, a person or body listed in paragraphs (a) to (j) of that sub-paragraph is subject to any agreement made between the chief inspector and that person or body

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to waive the requirement in such cases or circumstances as may be specified in the agreement.

- (4) The Secretary of State may by order specify the form that inspection programmes or inspection frameworks are to take.
- (5) Nothing in any inspection programme or inspection framework is to be read as preventing the inspectors of constabulary from making visits without notice.

*Inspections by other inspectors of organisations  
within remit of inspectors of constabulary*

- 3 (1) If—
  - (a) a person or body within sub-paragraph (2) is proposing to carry out an inspection that would involve inspecting a specified organisation, and
  - (b) the chief inspector of constabulary considers that the proposed inspection would impose an unreasonable burden on that organisation, or would do so if carried out in a particular manner,the chief inspector of constabulary shall, subject to sub-paragraph (7), give a notice to that person or body not to carry out the proposed inspection, or not to carry it out in that manner.
- (2) The persons or bodies within this sub-paragraph are—
  - (a) Her Majesty's Chief Inspector of Prisons;
  - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service;
  - (c) Her Majesty's Inspectorate of the National Probation Service for England and Wales;
  - (d) the Commission for Healthcare Audit and Inspection;
  - (e) the Audit Commission for Local Government and the National Health Service in England and Wales.
- (3) The Secretary of State may by order amend sub-paragraph (2).
- (4) In sub-paragraph (1)(a) “specified organisation” means a person or body specified by an order made by the Secretary of State.
- (5) A person or body may be specified under sub-paragraph (4) only if it exercises functions in relation to any matter falling within the scope of the duties of the inspectors of constabulary under section 54 of this Act or any other enactment.
- (6) A person or body may be specified under sub-paragraph (4) in relation to particular functions that it has.

In the case of a person or body so specified, sub-paragraph (1)(a) is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.
- (7) The Secretary of State may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.
- (8) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.

This is subject to sub-paragraph (9).

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- (9) The Secretary of State, if satisfied that the proposed inspection—
- (a) would not impose an unreasonable burden on the organisation in question, or
  - (b) would not do so if carried out in a particular manner,
- may give consent to the inspection being carried out, or being carried out in that manner.
- (10) The Secretary of State may by order make provision supplementing that made by this paragraph, including in particular—
- (a) provision about the form of notices;
  - (b) provision prescribing the period within which notices are to be given;
  - (c) provision prescribing circumstances in which notices are, or are not, to be made public;
  - (d) provision for revising or withdrawing notices;
  - (e) provision for setting aside notices not validly given.

#### *Co-operation*

- 4 The inspectors of constabulary shall co-operate with—
- (a) Her Majesty's Chief Inspector of Prisons,
  - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service,
  - (c) Her Majesty's Inspectorate of the National Probation Service for England and Wales,
  - (d) Her Majesty's Inspectorate of Court Administration,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
  - (f) the Commission for Healthcare Audit and Inspection,
  - (g) the Commission for Social Care Inspection,
  - (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
  - (i) the Auditor General for Wales, and
  - (j) any other public authority specified by an order made by the Secretary of State,

where it is appropriate to do so for the efficient and effective discharge of the functions of the inspectors of constabulary.

#### *Joint action*

- 5 (1) The inspectors of constabulary may act jointly with another public authority where it is appropriate to do so for the efficient and effective discharge of their functions.
- (2) The chief inspector of constabulary, acting jointly with the chief inspectors within sub-paragraph (3), shall prepare a document (a “joint inspection programme”) setting out—
- (a) what inspections the inspectors of constabulary propose to carry out in the exercise of the power conferred by sub-paragraph (1), and

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- (b) what inspections the chief inspectors within paragraph (3) (or their inspectorates) propose to carry out in the exercise of any corresponding powers conferred on them.
- (3) The chief inspectors within this sub-paragraph are—
- (a) Her Majesty's Chief Inspector of Prisons;
  - (b) Her Majesty's Chief Inspector of the Crown Prosecution Service;
  - (c) Her Majesty's Chief Inspector of the National Probation Service for England and Wales;
  - (d) Her Majesty's Chief Inspector of Court Administration.
- (4) A joint inspection programme must be prepared from time to time or at such times as the Secretary of State, the Lord Chancellor and the Attorney General may jointly direct.
- (5) Sub-paragraphs (2), (3) and (5) of paragraph 2 apply to a joint inspection programme as they apply to a document prepared under that paragraph.
- (6) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction specify the form that a joint inspection programme is to take.

*Assistance for other public authorities*

- 6 (1) The chief inspector of constabulary may if he thinks it appropriate to do so provide assistance to any other public authority for the purpose of the exercise by that authority of its functions.
- (2) Assistance under this paragraph may be provided on such terms (including terms as to payment) as the chief inspector of constabulary thinks fit.

*Orders under this Schedule*

- 7 A statutory instrument containing an order under this Schedule shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

**Commencement Information**

**I41** S. 29 in force at 1.4.2007 by S.I. 2007/709, art. 3(m) (with arts. 6, 7)

**30 Her Majesty's Chief Inspector of the Crown Prosecution Service**

- (1) In section 2 of the Crown Prosecution Service Inspectorate Act 2000 (c. 10) (functions of Her Majesty's Chief Inspector of the Crown Prosecution Service), after subsection (4) there is inserted—
- “(5) The Schedule to this Act (which makes further provision about the Chief Inspector) has effect.”
- (2) At the end of that Act there is inserted—

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## “SCHEDULE

Section 2

FURTHER PROVISION ABOUT HER MAJESTY'S CHIEF  
INSPECTOR OF THE CROWN PROSECUTION SERVICE*Delegation of functions*

- 1 (1) The Chief Inspector may delegate any of his functions (to such extent as he may determine) to another public authority.
- (2) If the carrying out of an inspection is delegated under sub-paragraph (1) it is nevertheless to be regarded for the purposes of this Act as carried out by the Chief Inspector.
- (3) In this Schedule “public authority” includes any person certain of whose functions are functions of a public nature.

*Inspection programmes and inspection frameworks*

- 2 (1) The Chief Inspector shall from time to time, or at such times as the Attorney General may specify by order, prepare—
  - (a) a document setting out what inspections he proposes to carry out (an “inspection programme”);
  - (b) a document setting out the manner in which he proposes to carry out his functions of inspecting and reporting (an “inspection framework”).
- (2) Before preparing an inspection programme or an inspection framework the Chief Inspector shall consult the Attorney General and (subject to sub-paragraph (3))—
  - (a) Her Majesty's Chief Inspector of Prisons,
  - (b) Her Majesty's Chief Inspector of Constabulary,
  - (c) Her Majesty's Chief Inspector of the National Probation Service for England and Wales,
  - (d) Her Majesty's Chief Inspector of Court Administration,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
  - (f) the Commission for Healthcare Audit and Inspection,
  - (g) the Commission for Social Care Inspection,
  - (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
  - (i) the Auditor General for Wales, and
  - (j) any other person or body specified by an order made by the Attorney General,

and he shall send to each of those persons or bodies a copy of each programme or framework once it is prepared.
- (3) The requirement in sub-paragraph (2) to consult, and to send copies to, a person or body listed in paragraphs (a) to (j) of that sub-paragraph is subject to any agreement made between the Chief Inspector and that person or body

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to waive the requirement in such cases or circumstances as may be specified in the agreement.

- (4) The Attorney General may by order specify the form that inspection programmes or inspection frameworks are to take.
- (5) Nothing in any inspection programme or inspection framework is to be read as preventing the Chief Inspector from making visits, or causing visits to be made, without notice.

#### *Inspections by other inspectors of organisations within remit of Chief Inspector*

- 3 (1) If—
  - (a) a person or body within sub-paragraph (2) is proposing to carry out an inspection that would involve inspecting a specified organisation, and
  - (b) the Chief Inspector considers that the proposed inspection would impose an unreasonable burden on that organisation, or would do so if carried out in a particular manner,the Chief Inspector shall, subject to sub-paragraph (6), give a notice to that person or body not to carry out the proposed inspection, or not to carry it out in that manner.
- (2) The persons or bodies within this sub-paragraph are those that are specified by an order made by the Attorney General.
- (3) In sub-paragraph (1)(a) “specified organisation” means a person or body specified by an order made by the Attorney General.
- (4) A person or body may be specified under sub-paragraph (3) only if it exercises functions in relation to any matter falling within the scope of the duties of the Chief Inspector under this Act or any other enactment.
- (5) A person or body may be specified under sub-paragraph (3) in relation to particular functions that it has.

In the case of a person or body so specified, sub-paragraph (1)(a) is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.
- (6) The Attorney General may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.
- (7) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.

This is subject to sub-paragraph (8).
- (8) The Attorney General, if satisfied that the proposed inspection—
  - (a) would not impose an unreasonable burden on the organisation in question, or
  - (b) would not do so if carried out in a particular manner,may give consent to the inspection being carried out, or being carried out in that manner.

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- (9) The Attorney General may by order make provision supplementing that made by this paragraph, including in particular—
- (a) provision about the form of notices;
  - (b) provision prescribing the period within which notices are to be given;
  - (c) provision prescribing circumstances in which notices are, or are not, to be made public;
  - (d) provision for revising or withdrawing notices;
  - (e) provision for setting aside notices not validly given.

#### *Co-operation*

- 4 The Chief Inspector shall co-operate with—
- (a) Her Majesty's Chief Inspector of Prisons,
  - (b) Her Majesty's Inspectors of Constabulary,
  - (c) Her Majesty's Inspectorate of the National Probation Service for England and Wales,
  - (d) Her Majesty's Inspectorate of Court Administration,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
  - (f) the Commission for Healthcare Audit and Inspection,
  - (g) the Commission for Social Care Inspection,
  - (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
  - (i) the Auditor General for Wales, and
  - (j) any other public authority specified by an order made by the Attorney General,

where it is appropriate to do so for the efficient and effective discharge of his functions.

#### *Joint action*

- 5 (1) The Chief Inspector may act jointly with another public authority where it is appropriate to do so for the efficient and effective discharge of his functions.
- (2) The Chief Inspector, acting jointly with the chief inspectors within sub-paragraph (3), shall prepare a document (a “joint inspection programme”) setting out—
- (a) what inspections he proposes to carry out in the exercise of the power conferred by sub-paragraph (1), and
  - (b) what inspections the chief inspectors within sub-paragraph (3) (or their inspectorates) propose to carry out in the exercise of any corresponding powers conferred on them.
- (3) The chief inspectors within this sub-paragraph are—
- (a) Her Majesty's Chief Inspector of Prisons;
  - (b) Her Majesty's Chief Inspector of Constabulary;
  - (c) Her Majesty's Chief Inspector of the National Probation Service for England and Wales;
  - (d) Her Majesty's Chief Inspector of Court Administration.



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- (4) A joint inspection programme must be prepared from time to time or at such times as the Secretary of State, the Lord Chancellor and the Attorney General may jointly direct.
- (5) Sub-paragraphs (2), (3) and (5) of paragraph 2 apply to a joint inspection programme as they apply to a document prepared under that paragraph.
- (6) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction specify the form that a joint inspection programme is to take.

#### *Assistance for other public authorities*

- 6 (1) The Chief Inspector may if he thinks it appropriate to do so provide assistance to any other public authority for the purpose of the exercise by that authority of its functions.
- (2) Assistance under this paragraph may be provided on such terms (including terms as to payment) as the Chief Inspector thinks fit.

#### *Powers of inspectors regarding documents*

- 7 (1) An inspector may for the purposes of an inspection under this Act—
  - (a) require documents to be produced;
  - (b) inspect, copy or take away any documents produced;
  - (c) require an explanation to be given of any document produced;
  - (d) require any other information to be provided.
- (2) A reference in sub-paragraph (1) to the production of a document includes a reference to the production of—
  - (a) a legible and intelligible copy of information recorded otherwise than in legible form, or
  - (b) information in a form from which it can readily be produced in legible and intelligible form.
- (3) A person exercising the power under sub-paragraph (1) to inspect documents—
  - (a) is entitled to have access to, and inspect and check the operation of, any computer and associated apparatus or material that is or has been in use in connection with the documents in question;
  - (b) may require—
    - (i) the person by whom or on whose behalf the computer is or has been used, or
    - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material,to afford him such reasonable assistance as he may require.

#### *Orders under this Schedule*

- 8 (1) The power to make an order under this Schedule is exercisable by statutory instrument.

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- (2) A statutory instrument containing such an order shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

**Commencement Information**

I42 S. 30 in force at 1.4.2007 by S.I. 2007/709, art. 3(m) (with arts. 6, 7)

**31 Her Majesty's Inspectorate of the National Probation Service for England and Wales**

- (1) In section 7 of the Criminal Justice and Court Services Act 2000 (c. 43) (functions of Her Majesty's Inspectorate of the National Probation Service for England and Wales), after subsection (6) there is inserted—

“(7) Schedule 1A (which makes further provision about the inspectorate) has effect.”

- (2) After Schedule 1 to that Act there is inserted—

“SCHEDULE 1A

Section 7

FURTHER PROVISION ABOUT THE INSPECTORATE

*Delegation of functions*

- 1 (1) A member of the inspectorate may delegate any of his functions (to such extent as he may determine) to another public authority.
- (2) If a member of the inspectorate delegates the carrying out of an inspection under sub-paragraph (1) it is nevertheless to be regarded for the purposes of section 7 and this Schedule as carried out by that member.
- (3) In this Schedule “public authority” includes any person certain of whose functions are functions of a public nature.

*Inspection programmes and inspection frameworks*

- 2 (1) The chief inspector shall from time to time, or at such times as the Secretary of State may specify by order, prepare—
- (a) a document setting out what inspections he proposes to carry out (an “inspection programme”);
- (b) a document setting out the manner in which he proposes to carry out his functions of inspecting and reporting (an “inspection framework”).
- (2) Before preparing an inspection programme or an inspection framework the chief inspector shall consult the Secretary of State and (subject to sub-paragraph (3))—
- (a) Her Majesty's Chief Inspector of Prisons,
- (b) Her Majesty's Chief Inspector of Constabulary,
- (c) Her Majesty's Chief Inspector of the Crown Prosecution Service,
- (d) Her Majesty's Chief Inspector of Court Administration,

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- (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
- (f) the Commission for Healthcare Audit and Inspection,
- (g) the Commission for Social Care Inspection,
- (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
- (i) the Auditor General for Wales, and
- (j) any other person or body specified by an order made by the Secretary of State,

and he shall send to each of those persons or bodies a copy of each programme or framework once it is prepared.

- (3) The requirement in sub-paragraph (2) to consult, and to send copies to, a person or body listed in paragraphs (a) to (j) of that sub-paragraph is subject to any agreement made between the chief inspector and that person or body to waive the requirement in such cases or circumstances as may be specified in the agreement.
- (4) The Secretary of State may by order specify the form that inspection programmes or inspection frameworks are to take.
- (5) Nothing in any inspection programme or inspection framework is to be read as preventing the inspectorate from making visits without notice.

*Inspections by other inspectors of organisations within inspectorate's remit*

- 3 (1) If—
  - (a) a person or body within sub-paragraph (2) is proposing to carry out an inspection that would involve inspecting a specified organisation, and
  - (b) the chief inspector considers that the proposed inspection would impose an unreasonable burden on that organisation, or would do so if carried out in a particular manner,the chief inspector shall, subject to sub-paragraph (7), give a notice to that person or body not to carry out the proposed inspection, or not to carry it out in that manner.
- (2) The persons or bodies within this sub-paragraph are—
  - (a) Her Majesty's Chief Inspector of Prisons;
  - (b) Her Majesty's Chief Inspector of Education, Children's Services and Skills;
  - (c) the Commission for Healthcare Audit and Inspection;
  - (d) the Commission for Social Care Inspection;
  - (e) the Audit Commission for Local Government and the National Health Service in England and Wales.
- (3) The Secretary of State may by order amend sub-paragraph (2).
- (4) In sub-paragraph (1)(a) “specified organisation” means a person or body specified by an order made by the Secretary of State.

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- (5) A person or body may be specified under sub-paragraph (4) only if it exercises functions in relation to any matter falling within the scope of the duties of the inspectorate under section 7.
- (6) A person or body may be specified under sub-paragraph (4) in relation to particular functions that it has.

In the case of a person or body so specified, sub-paragraph (1)(a) is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.

- (7) The Secretary of State may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.
- (8) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.

This is subject to sub-paragraph (9).

- (9) The Secretary of State, if satisfied that the proposed inspection—
  - (a) would not impose an unreasonable burden on the organisation in question, or
  - (b) would not do so if carried out in a particular manner,
 may give consent to the inspection being carried out, or being carried out in that manner.
- (10) The Secretary of State may by order make provision supplementing that made by this paragraph, including in particular—
  - (a) provision about the form of notices;
  - (b) provision prescribing the period within which notices are to be given;
  - (c) provision prescribing circumstances in which notices are, or are not, to be made public;
  - (d) provision for revising or withdrawing notices;
  - (e) provision for setting aside notices not validly given.

#### *Co-operation*

- 4 The inspectorate shall co-operate with—
  - (a) Her Majesty's Chief Inspector of Prisons,
  - (b) Her Majesty's Inspectors of Constabulary,
  - (c) Her Majesty's Inspectorate of the Crown Prosecution Service,
  - (d) Her Majesty's Chief Inspector of Court Administration,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
  - (f) the Commission for Healthcare Audit and Inspection,
  - (g) the Commission for Social Care Inspection,
  - (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
  - (i) the Auditor General for Wales, and

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- (j) any other public authority specified by an order made by the Secretary of State,  
where it is appropriate to do so for the efficient and effective discharge of the functions of the inspectorate.

*Joint action*

- 5 (1) The inspectorate may act jointly with another public authority where it is appropriate to do so for the efficient and effective discharge of the inspectorate's functions.
- (2) The chief inspector, acting jointly with the chief inspectors within sub-paragraph (3), shall prepare a document (a “joint inspection programme”) setting out—
- (a) what inspections the inspectorate proposes to carry out in the exercise of the power conferred by sub-paragraph (1), and
- (b) what inspections the chief inspectors within sub-paragraph (3) (or their inspectorates) propose to carry out in the exercise of any corresponding powers conferred on them.
- (3) The chief inspectors within this sub-paragraph are—
- (a) Her Majesty's Chief Inspector of Prisons;
- (b) Her Majesty's Chief Inspector of Constabulary;
- (c) Her Majesty's Chief Inspector of the Crown Prosecution Service;
- (d) Her Majesty's Chief Inspector of Court Administration.
- (4) A joint inspection programme must be prepared from time to time or at such times as the Secretary of State, the Lord Chancellor and the Attorney General may jointly direct.
- (5) Sub-paragraphs (2), (3) and (5) of paragraph 2 apply to a joint inspection programme as they apply to a document prepared under that paragraph.
- (6) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction specify the form that a joint inspection programme is to take.

*Assistance for other public authorities*

- 6 (1) The chief inspector may if he thinks it appropriate to do so provide assistance to any other public authority for the purpose of the exercise by that authority of its functions.
- (2) Assistance under this paragraph may be provided on such terms (including terms as to payment) as the chief inspector thinks fit.”

**Commencement Information**

**I43** S. 31 in force at 1.4.2007 by S.I. 2007/709, art. 3(m) (with arts. 6, 7)

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## 32 Her Majesty's Inspectorate of Court Administration

- (1) In Part 5 of the Courts Act 2003 (c. 39) (inspectors of court administration), after section 61 there is inserted—

### “61A Further provision about the inspectorate

Schedule 3A (further provision about the inspectorate) has effect.”

- (2) After Schedule 3 to that Act there is inserted—

#### “SCHEDULE 3A

Section 61A

#### FURTHER PROVISION ABOUT THE INSPECTORS OF COURT ADMINISTRATION

##### *Delegation of functions*

- 1 (1) An inspector of court administration may delegate any of his functions (to such extent as he may determine) to another public authority.
- (2) If an inspector of court administration delegates the carrying out of an inspection under sub-paragraph (1) it is nevertheless to be regarded for the purposes of this Part as carried out by the inspector.
- (3) In this Schedule “public authority” includes any person certain of whose functions are functions of a public nature.

##### *Inspection programmes and inspection frameworks*

- 2 (1) The Chief Inspector shall from time to time, or at such times as the Lord Chancellor may specify by order, prepare—
  - (a) a document setting out what inspections he proposes to carry out (an “inspection programme”);
  - (b) a document setting out the manner in which he proposes to carry out his functions of inspecting and reporting (an “inspection framework”).
- (2) Before preparing an inspection programme or an inspection framework the Chief Inspector shall consult the Lord Chancellor, the Lord Chief Justice of England and Wales and (subject to sub-paragraph (3))—
  - (a) Her Majesty's Chief Inspector of Prisons,
  - (b) Her Majesty's Chief Inspector of Constabulary,
  - (c) Her Majesty's Chief Inspector of the Crown Prosecution Service,
  - (d) Her Majesty's Chief Inspector of the National Probation Service for England and Wales,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
  - (f) the Commission for Healthcare Audit and Inspection,
  - (g) the Commission for Social Care Inspection,
  - (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
  - (i) the Auditor General for Wales, and

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- (j) any other person or body specified by an order made by the Lord Chancellor,  
and he shall send to each of those persons or bodies a copy of each programme or framework once it is prepared.
- (3) The requirement in sub-paragraph (2) to consult, and to send copies to, a person or body listed in paragraphs (a) to (j) of that sub-paragraph is subject to any agreement made between the Chief Inspector and that person or body to waive the requirement in such cases or circumstances as may be specified in the agreement.
- (4) The Lord Chancellor may by order specify the form that inspection programmes or inspection frameworks are to take.
- (5) Nothing in any inspection programme or inspection framework is to be read as preventing the inspectors of court administration from making visits without notice.

*Inspections by other inspectors of organisations within inspectors' remit*

- 3 (1) If—
- (a) a person or body within sub-paragraph (2) is proposing to carry out an inspection that would involve inspecting a specified organisation, and
  - (b) the Chief Inspector considers that the proposed inspection would impose an unreasonable burden on that organisation, or would do so if carried out in a particular manner,
- the Chief Inspector shall, subject to sub-paragraph (6), give a notice to that person or body not to carry out the proposed inspection, or not to carry it out in that manner.
- (2) The persons or bodies within this sub-paragraph are—
    - (a) the Audit Commission for Local Government and the National Health Service in England and Wales;
    - (b) any other person or body specified by an order made by the Lord Chancellor.
  - (3) In sub-paragraph (1)(a) “specified organisation” means a person or body specified by an order made by the Lord Chancellor.
  - (4) A person or body may be specified under sub-paragraph (3) only if it exercises functions in relation to any matter falling within the scope of the duties of the inspectors of court administration under section 59 of this Act.
  - (5) A person or body may be specified under sub-paragraph (3) in relation to particular functions that it has.  
  
In the case of a person or body so specified, sub-paragraph (1)(a) is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.
  - (6) The Lord Chancellor may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph.

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**Status:** Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.  
**Changes to legislation:** Police and Justice Act 2006 is up to date with all changes known to be in force on or before 02 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

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- (7) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.

This is subject to sub-paragraph (8).

- (8) The Lord Chancellor, if satisfied that the proposed inspection—
- (a) would not impose an unreasonable burden on the organisation in question, or
  - (b) would not do so if carried out in a particular manner,
- may give consent to the inspection being carried out, or being carried out in that manner.
- (9) The Lord Chancellor may by order make provision supplementing that made by this paragraph, including in particular—
- (a) provision about the form of notices;
  - (b) provision prescribing the period within which notices are to be given;
  - (c) provision prescribing circumstances in which notices are, or are not, to be made public;
  - (d) provision for revising or withdrawing notices;
  - (e) provision for setting aside notices not validly given.

#### *Co-operation*

- 4 The inspectors of court administration shall co-operate with—
- (a) Her Majesty's Chief Inspector of Prisons,
  - (b) Her Majesty's Inspectors of Constabulary,
  - (c) Her Majesty's Chief Inspector of the Crown Prosecution Service,
  - (d) Her Majesty's Inspectorate of the National Probation Service for England and Wales,
  - (e) Her Majesty's Chief Inspector of Education, Children's Services and Skills,
  - (f) the Commission for Healthcare Audit and Inspection,
  - (g) the Commission for Social Care Inspection,
  - (h) the Audit Commission for Local Government and the National Health Service in England and Wales,
  - (i) the Auditor General for Wales, and
  - (j) any other public authority specified by an order made by the Lord Chancellor,

where it is appropriate to do so for the efficient and effective discharge of the inspectors' functions.

#### *Joint action*

- 5 (1) The inspectors of court administration may act jointly with another public authority where it is appropriate to do so for the efficient and effective discharge of the inspectors' functions.



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- (2) The Chief Inspector, acting jointly with the chief inspectors within sub-paragraph (3), shall prepare a document (a “joint inspection programme”) setting out—
  - (a) what inspections the inspectors of court administration propose to carry out in the exercise of the power conferred by sub-paragraph (1), and
  - (b) what inspections the chief inspectors within sub-paragraph (3) (or their inspectorates) propose to carry out in the exercise of any corresponding powers conferred on them.
- (3) The chief inspectors within this sub-paragraph are—
  - (a) Her Majesty's Chief Inspector of Prisons;
  - (b) Her Majesty's Chief Inspector of Constabulary;
  - (c) Her Majesty's Chief Inspector of the Crown Prosecution Service;
  - (d) Her Majesty's Chief Inspector of the National Probation Service for England and Wales.
- (4) A joint inspection programme must be prepared from time to time or at such times as the Secretary of State, the Lord Chancellor and the Attorney General may jointly direct.
- (5) Sub-paragraphs (2), (3) and (5) of paragraph 2 apply to a joint inspection programme as they apply to a document prepared under that paragraph.
- (6) The Secretary of State, the Lord Chancellor and the Attorney General may by a joint direction specify the form that a joint inspection programme is to take.

*Assistance for other public authorities*

- 6 (1) The inspectors of court administration may if they think it appropriate to do so provide assistance to any other public authority for the purpose of the exercise by that authority of its functions.
- (2) Assistance under this paragraph may be provided on such terms (including terms as to payment) as the Chief Inspector thinks fit.”

**Commencement Information**

**I44** S. 32 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(m)** (with [arts. 6, 7](#))

### 33 Transitional provision

In relation to any time before the commencement of the provision in Part 8 of the Education and Inspections Act 2006 (c. 40) establishing the office of Her Majesty's Chief Inspector of Education, Children's Services and Skills, a reference to that inspector in any provision inserted by this Part is to be read as a reference to—

- (a) Her Majesty's Chief Inspector of Schools in England, and
- (b) the Adult Learning Inspectorate.

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#### Commencement Information

**I45** S. 33 in force at 1.4.2007 by S.I. 2007/709, **art. 3(m)** (with arts. 6, 7)

## PART 5

### MISCELLANEOUS

PROSPECTIVE

#### *Bail offences*

#### <sup>F15</sup>34 Sentences of imprisonment for bail offences

.....

#### Textual Amendments

**F15** S. 34 omitted (3.12.2012) by virtue of [Legal Aid, Sentencing and Punishment of Offenders Act 2012](#) (c. 10), **ss. 118(3)**, 151(1) (with [Sch. 15](#)); S.I. 2012/2906, art. 2(d)

#### *Computer misuse*

#### 35 Unauthorised access to computer material

(1) In the Computer Misuse Act 1990 (c. 18) (“the 1990 Act”), section 1 (offence of unauthorised access to computer material) is amended as follows.

<sup>F16</sup>(2) .....

(3) For subsection (3) there is substituted—

“(3) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
- (c) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.”

#### Textual Amendments

**F16** S. 35(2) repealed (1.10.2008) by [Serious Crime Act 2007](#) (c. 27), **ss. 61(2)**, 94(1), **Sch. 14** (with [Sch. 13](#) para. 5); S.I. 2008/2504, art. 2(a)(i)

**Status:** Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

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#### Commencement Information

**I46** S. 35 in force at 1.10.2007 for S. by S.S.I. 2007/434, art. 2(a)

**I47** S. 35 in force at 1.10.2008 for E.W.N.I. by S.I. 2008/2503, art. 2(a)

### 36 Unauthorised acts with intent to impair operation of computer, etc

For section 3 of the 1990 Act (unauthorised modification of computer material) there is substituted—

#### “3 Unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer, etc.

- (1) A person is guilty of an offence if—
  - (a) he does any unauthorised act in relation to a computer;
  - (b) at the time when he does the act he knows that it is unauthorised; and
  - (c) either subsection (2) or subsection (3) below applies.
- (2) This subsection applies if the person intends by doing the act—
  - (a) to impair the operation of any computer;
  - (b) to prevent or hinder access to any program or data held in any computer; <sup>F17</sup>or
  - (c) to impair the operation of any such program or the reliability of any such data; <sup>F18</sup>or
  - (d) to enable any of the things mentioned in paragraphs (a) to (c) above to be done.]
- (3) This subsection applies if the person is reckless as to whether the act will do any of the things mentioned in paragraphs (a) <sup>F19</sup>to (d)] <sup>F19</sup>to (c)] of subsection (2) above.
- (4) The intention referred to in subsection (2) above, or the recklessness referred to in subsection (3) above, need not relate to—
  - (a) any particular computer;
  - (b) any particular program or data; or
  - (c) a program or data of any particular kind.
- (5) In this section—
  - (a) a reference to doing an act includes a reference to causing an act to be done;
  - (b) “act” includes a series of acts;
  - (c) a reference to impairing, preventing or hindering something includes a reference to doing so temporarily.
- (6) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;

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- (c) on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine or to both.”

#### Textual Amendments

- F17** Word in s. 36 inserted (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 61\(3\)\(a\)\(i\)](#), [94\(1\)](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)](#)
- F18** Words in s. 36 repealed (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 61\(3\)\(a\)\(ii\)](#), [94\(1\)](#), [Sch. 14](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)\(i\)](#)
- F19** Words in s. 36 substituted (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 61\(3\)\(b\)](#), [94\(1\)](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)\(i\)\(viii\)](#)

#### Commencement Information

- I48** S. 36 in force at 1.10.2007 for S. by [S.S.I. 2007/434](#), [art. 2\(a\)](#)
- I49** S. 36 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(a\)](#)

### 37 Making, supplying or obtaining articles for use in computer misuse offences

After section 3 of the 1990 Act there is inserted—

#### “3A Making, supplying or obtaining articles for use in offence under section 1 or 3

- (1) A person is guilty of an offence if he makes, adapts, supplies or offers to supply any article intending it to be used to commit, or to assist in the commission of, an offence under section 1 or 3.
- (2) A person is guilty of an offence if he supplies or offers to supply any article believing that it is likely to be used to commit, or to assist in the commission of, an offence under section 1 or 3.
- (3) A person is guilty of an offence if he obtains any article with a view to its being supplied for use to commit, or to assist in the commission of, an offence under section 1 or 3.
- (4) In this section “article” includes any program or data held in electronic form.
- (5) A person guilty of an offence under this section shall be liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
  - (c) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.”

#### Commencement Information

- I50** S. 37 in force at 1.10.2007 for S. by [S.S.I. 2007/434](#), [art. 2\(a\)](#)
- I51** S. 37 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(a\)](#)

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### 38 Transitional and saving provision

- (1) [<sup>F20</sup>The amendments made by—
- (a) subsection (2) of section 35, and
  - (b) paragraphs 19(2), 25(2) and 29(2) of Schedule 14,
- apply only where every act or other event proof of which is required for conviction of an offence under section 1 of the 1990 Act takes place after that subsection comes into force.]
- (2) The amendments made by—
- (a) subsection (3) of section 35, and
  - (b) paragraphs 23, 24, 25(4) and (5), 26, 27(2) and (7) and 28 of Schedule 14,
- do not apply in relation to an offence committed before that subsection comes into force.
- (3) An offence is not committed under the new section 3 unless every act or other event proof of which is required for conviction of the offence takes place after section 36 above comes into force.
- (4) In relation to a case where, by reason of subsection (3), an offence is not committed under the new section 3—
- (a) section 3 of the 1990 Act has effect in the form in which it was enacted;
  - (b) paragraphs 19(3), 25(3) to (5), 27(4) and (5) and 29(3) and (4) of Schedule 14 do not apply.
- (5) An offence is not committed under the new section 3A unless every act or other event proof of which is required for conviction of the offence takes place after section 37 above comes into force.
- (6) In the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 (c. 44) comes into force, the following provisions have effect as if for “12 months” there were substituted “six months”
- (a) paragraph (a) of the new section 1(3);
  - (b) paragraph (a) of the new section 2(5);
  - (c) subsection (6)(a) of the new section 3;
  - (d) subsection (5)(a) of the new section 3A.
- (7) In this section—
- (a) “the new section 1(3)” means the subsection (3) substituted in section 1 of the 1990 Act by section 35 above;
  - (b) “the new section 2(5)” means the subsection (5) substituted in section 2 of the 1990 Act by paragraph 17 of Schedule 14 to this Act;
  - (c) “the new section 3” means the section 3 substituted in the 1990 Act by section 36 above;
  - (d) “the new section 3A” means the section 3A inserted in the 1990 Act by section 37 above.

#### Textual Amendments

**F20** S. 38(1) repealed (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 61(4), 94(1), [Sch. 14](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), art. 2(a)(i)

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#### Commencement Information

**I52** S. 38 in force at 1.10.2007 for S. by [S.S.I. 2007/434](#), **art. 2(a)**

**I53** S. 38 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), **art. 2(a)**

### *Forfeiture of indecent photographs of children*

#### **39 Forfeiture of indecent photographs of children: England and Wales**

(1) The Protection of Children Act 1978 (c. 37) is amended as follows.

(2) In section 4 (entry, search and seizure)—

- (a) subsection (3) is omitted;
- (b) for subsection (4) there is substituted—

“(4) In this section “premises” has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 23 of that Act).”

(3) For section 5 (forfeiture) there is substituted—

##### **“5 Forfeiture**

The Schedule to this Act makes provision about the forfeiture of indecent photographs and pseudo-photographs.”

(4) At the end of the Act there is inserted the Schedule set out in Schedule 11 to this Act.

(5) The amendment made by paragraph (b) of subsection (2) has effect only in relation to warrants issued under section 4 of the Protection of Children Act 1978 after the commencement of that paragraph.

(6) The amendments made by subsections (2)(a), (3) and (4) and Schedule 11 have effect whether the property in question was lawfully seized before or after the coming into force of those provisions.

This is subject to subsection (7).

(7) Those amendments do not have effect in a case where the property has been brought before a justice of the peace under section 4(3) of the Protection of Children Act 1978 before the coming into force of those provisions.

#### Commencement Information

**I54** [S. 39](#) in force at 1.4.2008 by [S.I. 2008/790](#), **art. 2(e)**

#### **40 Forfeiture of indecent photographs of children: Northern Ireland**

(1) The Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) is amended as follows.

(2) In Article 4 (entry, search and seizure), for paragraph (2) there is substituted—

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“(2) In this Article “premises” has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (see Article 25 of that Order).”

(3) For Articles 5 and 6 (forfeiture) there is substituted—

“5 **Forfeiture**

The Schedule to this Order makes provision about the forfeiture of indecent photographs and pseudo-photographs.”

(4) At the end of the Order there is inserted the Schedule set out in Schedule 12.

(5) The amendment made by subsection (2) has effect only in relation to warrants granted under Article 4(1) of the Protection of Children (Northern Ireland) Order 1978 after the commencement of that subsection.

(6) The amendments made by subsections (3) and (4) and Schedule 12 have effect whether the property in question was lawfully seized before or after the coming into force of those provisions.

This is subject to subsection (7).

(7) Those amendments do not have effect in a case where the property has been brought before a resident magistrate under Article 5(1) of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) before the coming into force of those provisions.

**Commencement Information**

**I55** S. 40 in force at 1.4.2008 by S.I. 2008/790, art. 3(a)

*Independent Police Complaints Commission*

**41 Immigration and asylum enforcement functions [<sup>F21</sup> and customs functions]:  
complaints and misconduct**

(1) The Secretary of State may make regulations conferring functions on the Independent Police Complaints Commission in relation to—

- (a) the exercise by immigration officers of specified enforcement functions;
- (b) the exercise by officials of the Secretary of State of specified enforcement functions relating to immigration or asylum;

[<sup>F22</sup>(c) the provision of services pursuant to arrangements relating to the discharge of a function within paragraph (a) or (b).]

(2) In subsection (1) the reference to enforcement functions includes, in particular, reference to—

- (a) powers of entry,
- (b) powers to search persons or property,
- (c) powers to seize or detain property,
- (d) powers to arrest persons,

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- (e) powers to detain persons,
  - (f) powers to examine persons or otherwise to obtain information (including powers to take fingerprints or to acquire other personal data), and
  - (g) powers in connection with the removal of persons from the United Kingdom.
- [<sup>F23</sup>(2A) The Secretary of State may make regulations conferring functions on the Independent Police Complaints Commission in relation to—
- (a) the exercise by designated customs officials, and officials of the Secretary of State, of customs functions within the meaning of Part 1 of the Borders, Citizenship and Immigration Act 2009;
  - (b) the exercise by the Director of Border Revenue, and any person exercising functions of the Director, of customs revenue functions within the meaning of that Part of that Act;
  - (c) the provision of services pursuant to arrangements relating to the discharge of a function within paragraph (a) or (b).]

(3) Regulations under subsection (1) may not confer functions on the Independent Police Complaints Commission in relation to the exercise by any person of a function conferred on him by or under Part 8 of the Immigration and Asylum Act 1999 (c. 33).

(4) Regulations under subsection (1) [<sup>F24</sup>or (2A)]—

    - (a) may apply (with or without modification) or make provision similar to any provision of or made under Part 2 of the Police Reform Act 2002 (c. 30) (complaints);
    - (b) may make provision for payment by the Secretary of State to or in respect of the Independent Police Complaints Commission.

(5) The Independent Police Complaints Commission and the Parliamentary Commissioner for Administration may disclose information to each other for the purposes of the exercise of a function—

    - (a) by virtue of this section, or
    - (b) under the Parliamentary Commissioner Act 1967 (c. 13).

(6) The Independent Police Complaints Commission and the Parliamentary Commissioner for Administration may jointly investigate a matter in relation to which—

    - (a) the Independent Police Complaints Commission has functions by virtue of this section, and
    - (b) the Parliamentary Commissioner for Administration has functions by virtue of the Parliamentary Commissioner Act 1967 (c. 13).

(7) Regulations under subsection (1) [<sup>F25</sup>or (2A)] shall relate only to the exercise of functions in or in relation to England and Wales.

(8) In this section “immigration officer” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971 (c. 77).

#### Textual Amendments

**F21** Words in s. 41 inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), **ss. 30(3), 58(1)** (with [s. 36\(4\)](#))

**F22** S. 41(1)(c) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), **ss. 30(1)(a), 58(1)** (with [s. 36\(4\)](#))



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- F23** S. 41(2A) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), **ss. 30(1)(b), 58(1)** (with s. 36(4))
- F24** Words in s. 41(4) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), **ss. 30(2), 58(1)** (with s. 36(4))
- F25** Words in s. 41(7) inserted (21.7.2009) by [Borders, Citizenship and Immigration Act 2009 \(c. 11\)](#), **ss. 30(2), 58(1)** (with s. 36(4))

#### Commencement Information

- I56** S. 41 in force at 29.6.2007 for E.W. by [S.I. 2007/1614](#), **art. 2(f)**
- I57** S. 41 in force at 10.10.2007 for S.N.I. by [S.I. 2007/2754](#), **art. 2**

### Extradition

#### 42 Amendments to the Extradition Act 2003 etc

Schedule 13 (which in Part 1 makes amendments to the Extradition Act 2003 (c. 41) and in Part 2 makes other amendments concerning extradition) has effect.

#### Commencement Information

- I58** S. 42 in force at 15.1.2007 for specified purposes by [S.I. 2006/3364](#), **art. 2(d)**

#### 43 Designation of United States of America

- (1) In article 3(2) of the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 (S.I. 2003/3334) (territories designated for the purposes of sections 71, 73, 84 and 86 of the Extradition Act 2003) the entry for the United States of America is omitted.
- (2) An order bringing subsection (1) into force is not to be made—
- within the period of 12 months beginning with the day on which this Act is passed, or
  - if instruments of ratification of the 2003 treaty have been exchanged.
- In this subsection “the 2003 treaty” means the Extradition Treaty between the United Kingdom of Great Britain and Northern Ireland and the United States of America signed at Washington on 31st March 2003.
- (3) Subject to subsection (2), if after the end of the period mentioned in subsection (2)(a) a resolution is made by each House of Parliament that subsection (1) should come into force, the Secretary of State shall make an order under section 53 bringing it into force.
- (4) An order made by virtue of subsection (3) must bring subsection (1) into force no later than one month after the day on which the resolutions referred to in subsection (3) are made or, if they are made on different days, the day on which the later resolution is made.
- (5) If subsection (1) is brought into force, it does not affect the power of the Secretary of State to make a further order under section 71(4), 73(5), 84(7) or 86(7) of the Extradition Act 2003 amending article 3 of the Extradition Act 2003 (Designation of Part 2 Territories) Order 2003 so as to add a reference to the United States of America.

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(6) An order such as is mentioned in subsection (5) may include provision repealing this section.

**Commencement Information**  
**I59** S. 43 partly in force; s. 43(2)-(6) in force at Royal Assent see s. 53(1)(2)

*Repatriation of prisoners*

**44 Transfer of prisoner under international arrangements not requiring his consent**

(1) Section 1 of the Repatriation of Prisoners Act 1984 (c. 47) (issue of warrant for transfer) is amended as follows.

(2) In subsection (1), for paragraph (c) there is substituted—  
“(c) in a case in which the terms of those arrangements provide for the prisoner to be transferred only with his consent, the prisoner's consent has been given.”.

(3) In subsection (5), for the words from the beginning to “was given” there is substituted “In such a case as is referred to in subsection (1)(c) above, the relevant Minister shall not issue a warrant under this Act unless he is satisfied that the prisoner's consent was given”.

<sup>F26</sup>(4) .....

**Textual Amendments**  
**F26** S. 44(4) repealed (14.7.2008) by Criminal Justice and Immigration Act 2008 (c. 4), s. 153(7), Sch. 28 Pt. 6; S.I. 2008/1586, art. 2(1), Sch. 1 para. 50(6)  
**Commencement Information**  
**I60** S. 44 in force at 15.1.2007 by S.I. 2006/3364, art. 2(f)

*Live links*

**45 Attendance by accused at certain preliminary or sentencing hearings**

For section 57 of the Crime and Disorder Act 1998 (c. 37) (use of live television links at preliminary hearings) there is substituted—

**“PART 3A**

LIVE LINKS FOR ACCUSED'S ATTENDANCE AT  
CERTAIN PRELIMINARY AND SENTENCING HEARINGS

**57A Introductory**

(1) This Part—

**Status:** Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

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- (a) applies to preliminary hearings and sentencing hearings in the course of proceedings for an offence; and
  - (b) enables the court in the circumstances provided for in sections 57B, 57C and 57E to direct the use of a live link for securing the accused's attendance at a hearing to which this Part applies.
- (2) The accused is to be treated as present in court when, by virtue of a live link direction under this Part, he attends a hearing through a live link.
- (3) In this Part—
- “custody”—
- (a) includes local authority accommodation to which a person is remanded or committed by virtue of section 23 of the Children and Young Persons Act 1969; but
  - (b) does not include police detention;
- “live link” means an arrangement by which a person (when not in the place where the hearing is being held) is able to see and hear, and to be seen and heard by, the court during a hearing (and for this purpose any impairment of eyesight or hearing is to be disregarded);
- “police detention” has the meaning given by section 118(2) of the Police and Criminal Evidence Act 1984;
- “preliminary hearing” means a hearing in the proceedings held before the start of the trial (within the meaning of subsection (11A) or (11B) of section 22 of the 1985 Act) including, in the case of proceedings in the Crown Court, a preparatory hearing held under—
- (a) section 7 of the Criminal Justice Act 1987 (cases of serious or complex fraud); or
  - (b) section 29 of the Criminal Procedure and Investigations Act 1996 (other serious, complex or lengthy cases);
- “sentencing hearing” means any hearing following conviction which is held for the purpose of—
- (a) proceedings relating to the giving or rescinding of a direction under section 57E;
  - (b) proceedings (in a magistrates' court) relating to committal to the Crown Court for sentencing; or
  - (c) sentencing the offender or determining how the court should deal with him in respect of the offence.

### **57B Use of live link at preliminary hearings where accused is in custody**

- (1) This section applies in relation to a preliminary hearing in a magistrates' court or the Crown Court.
- (2) Where it appears to the court before which the preliminary hearing is to take place that the accused is likely to be held in custody during the hearing, the court may give a live link direction under this section in relation to the attendance of the accused at the hearing.
- (3) A live link direction under this section is a direction requiring the accused, if he is being held in custody during the hearing, to attend it through a live link from the place at which he is being held.

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- (4) If a hearing takes place in relation to the giving or rescinding of such a direction, the court may require or permit a person attending the hearing to do so through a live link.
- (5) The court shall not give or rescind such a direction (whether at a hearing or otherwise) unless the parties to the proceedings have been given the opportunity to make representations.
- (6) If in a case where it has power to do so a magistrates' court decides not to give a live link direction under this section, it must—
  - (a) state in open court its reasons for not doing so; and
  - (b) cause those reasons to be entered in the register of its proceedings.

### **57C Use of live link at preliminary hearings where accused is at police station**

- (1) This section applies in relation to a preliminary hearing in a magistrates' court.
- (2) Where subsection (3) or (4) applies to the accused, the court may give a live link direction in relation to his attendance at the preliminary hearing.
- (3) This subsection applies to the accused if—
  - (a) he is in police detention at a police station in connection with the offence; and
  - (b) it appears to the court that he is likely to remain at that station in police detention until the beginning of the preliminary hearing.
- (4) This subsection applies to the accused if he is at a police station in answer to live link bail in connection with the offence.
- (5) A live link direction under this section is a direction requiring the accused to attend the preliminary hearing through a live link from the police station.
- (6) But a direction given in relation to an accused to whom subsection (3) applies has no effect if he does not remain in police detention at the police station until the beginning of the preliminary hearing.
- (7) A live link direction under this section may not be given unless the accused has given his consent to the court.
- (8) A magistrates' court may rescind a live link direction under this section at any time before or during a hearing to which it relates.
- (9) A magistrates' court may require or permit—
  - (a) the accused to give or withhold consent under subsection (7) through a live link; and
  - (b) any party to the proceedings who wishes to make representations in relation to the giving or rescission of a live link direction under this section to do so through a live link.
- (10) Where a live link direction under this section is given in relation to an accused person who is answering to live link bail he is to be treated as having surrendered to the custody of the court (as from the time when the direction is given).

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- (11) In this section, “live link bail” means bail granted under Part 4 of the Police and Criminal Evidence Act 1984 subject to the duty mentioned in section 47(3)(b) of that Act.”

### **57D Continued use of live link for sentencing hearing following a preliminary hearing**

- (1) Subsection (2) applies where—
- (a) a live link direction under section 57B or 57C is in force;
  - (b) the accused is attending a preliminary hearing through a live link by virtue of the direction;
  - (c) the court convicts him of the offence in the course of that hearing (whether by virtue of a guilty plea or an indication of an intention to plead guilty); and
  - (d) the court proposes to continue the hearing as a sentencing hearing in relation to the offence.
- (2) The accused may continue to attend through the live link by virtue of the direction if—
- (a) the hearing is continued as a sentencing hearing in relation to the offence;
  - (b) the accused consents to his continuing to attend through the live link; and
  - (c) the court is satisfied that it is not contrary to the interests of justice for him to do so.
- (3) But the accused may not give oral evidence through the live link during a continued hearing under subsection (2) unless—
- (a) he consents to give evidence in that way; and
  - (b) the court is satisfied that it is not contrary to the interests of justice for him to give it in that way.

### **57E Use of live link in sentencing hearings**

- (1) This section applies where the accused is convicted of the offence.
- (2) If it appears to the court by or before which the accused is convicted that it is likely that he will be held in custody during any sentencing hearing for the offence, the court may give a live link direction under this section in relation to that hearing.
- (3) A live link direction under this section is a direction requiring the accused, if he is being held in custody during the hearing, to attend it through a live link from the place at which he is being held.
- (4) Such a direction—
- (a) may be given by the court of its own motion or on an application by a party; and
  - (b) may be given in relation to all subsequent sentencing hearings before the court or to such hearing or hearings as may be specified or described in the direction.

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- (5) The court may not give such a direction unless—
- (a) the offender has given his consent to the direction; and
  - (b) the court is satisfied that it is not contrary to the interests of justice to give the direction.
- (6) The court may rescind such a direction at any time before or during a hearing to which it relates if it appears to the court to be in the interests of justice to do so (but this does not affect the court's power to give a further live link direction in relation to the offender).
- The court may exercise this power of its own motion or on an application by a party.
- (7) The offender may not give oral evidence while attending a hearing through a live link by virtue of this section unless—
- (a) he consents to give evidence in that way; and
  - (b) the court is satisfied that it is not contrary to the interests of justice for him to give it in that way.
- (8) The court must—
- (a) state in open court its reasons for refusing an application for, or for the rescission of, a live link direction under this section; and
  - (b) if it is a magistrates' court, cause those reasons to be entered in the register of its proceedings.”

#### Commencement Information

- I61** S. 45 in force at 15.1.2007 for specified purposes by S.I. 2006/3364, art. 2(g) (with art. 4)
- I62** S. 45 in force at 1.4.2007 for specified purposes by S.I. 2007/709, art. 3(n) (with arts. 6, 7)
- I63** S. 45 in force at 14.11.2008 for specified purposes by S.I. 2008/2785, art. 2

## 46 Live link bail

- (1) The Police and Criminal Evidence Act 1984 (c. 60) is amended as follows.
- (2) After section 34(7) (persons who are to be treated as arrested) there is inserted—
- “(8) Subsection (7) does not apply in relation to a person who is granted bail subject to the duty mentioned in section 47(3)(b) and who either—
- (a) attends a police station to answer to such bail, or
  - (b) is arrested under section 46A for failing to do so,
- (provision as to the treatment of such persons for the purposes of this Part being made by section 46ZA).”
- (3) After section 46 (detention after charge) there is inserted—

### “46ZA Persons granted live link bail

- (1) This section applies in relation to bail granted under this Part subject to the duty mentioned in section 47(3)(b) (“live link bail”).

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- (2) An accused person who attends a police station to answer to live link bail is not to be treated as in police detention for the purposes of this Act.
- (3) Subsection (2) does not apply in relation to an accused person if—
- (a) at any time before the beginning of proceedings in relation to a live link direction under section 57C of the Crime and Disorder Act 1998 in relation to him, he informs a constable that he does not intend to give his consent to the direction;
  - (b) at any such time, a constable informs him that a live link will not be available for his use for the purposes of that section;
  - (c) proceedings in relation to a live link direction under that section have begun but he does not give his consent to the direction; or
  - (d) the court determines for any other reason not to give such a direction.
- (4) If any of paragraphs (a) to (d) of subsection (3) apply in relation to a person, he is to be treated for the purposes of this Part—
- (a) as if he had been arrested for and charged with the offence in connection with which he was granted bail, and
  - (b) as if he had been so charged at the time when that paragraph first applied in relation to him.
- (5) An accused person who is arrested under section 46A for failing to attend at a police station to answer to live link bail, and who is brought to a police station in accordance with that section, is to be treated for the purposes of this Part—
- (a) as if he had been arrested for and charged with the offence in connection with which he was granted bail, and
  - (b) as if he had been so charged at the time when he is brought to the station.
- (6) Nothing in subsection (4) or (5) affects the operation of section 47(6).”
- (4) In section 46A (power of arrest for failure to answer to police bail) after subsection (1) there is inserted—
- “(1ZA) The reference in subsection (1) to a person who fails to attend at a police station at the time appointed for him to do so includes a reference to a person who—
- (a) attends at a police station to answer to bail granted subject to the duty mentioned in section 47(3)(b), but
  - (b) leaves the police station at any time before the beginning of proceedings in relation to a live link direction under section 57C of the Crime and Disorder Act 1998 in relation to him, without informing a constable that he does not intend to give his consent to the direction.”

(5) In section 47 (bail after arrest) —

    - (a) in subsection (3), for paragraphs (a) and (b) and the words following them there is substituted—
      - “(a) to appear before a magistrates' court at such time and such place as the custody officer may appoint;
      - (b) to attend at such police station as the custody officer may appoint at such time as he may appoint for the purposes of—

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- (i) proceedings in relation to a live link direction under section 57C of the Crime and Disorder Act 1998 (use of live link direction at preliminary hearings where accused is at police station); and
- (ii) any preliminary hearing in relation to which such a direction is given; or
- (c) to attend at such police station as the custody officer may appoint at such time as he may appoint for purposes other than those mentioned in paragraph (b).”;
- (b) in subsection (7), at the end there is inserted “ or to a person to whom section 46ZA(4) or (5) applies ”.
- (6) In section 54 (searches of detained persons), in subsection (1)(b), after “37 above” there is inserted “ or as a person to whom section 46ZA(4) or (5) applies ”.

#### Commencement Information

**I64** S. 46 in force at 1.4.2007 for specified purposes by S.I. 2007/709, art. 3(n) (with arts. 6, 7)

**I65** S. 46 in force at 14.11.2008 for specified purposes by S.I. 2008/2785, art. 2

## 47 Evidence of vulnerable accused

After section 33 of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (interpretation etc of Chapter 1 of Part 2) there is inserted—

### “CHAPTER 1A

#### USE OF LIVE LINK FOR EVIDENCE OF CERTAIN ACCUSED PERSONS

##### 33A Live link directions

- (1) This section applies to any proceedings (whether in a magistrates' court or before the Crown Court) against a person for an offence.
- (2) The court may, on the application of the accused, give a live link direction if it is satisfied—
  - (a) that the conditions in subsection (4) or, as the case may be, subsection (5) are met in relation to the accused, and
  - (b) that it is in the interests of justice for the accused to give evidence through a live link.
- (3) A live link direction is a direction that any oral evidence to be given before the court by the accused is to be given through a live link.
- (4) Where the accused is aged under 18 when the application is made, the conditions are that—
  - (a) his ability to participate effectively in the proceedings as a witness giving oral evidence in court is compromised by his level of intellectual ability or social functioning, and



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- (b) use of a live link would enable him to participate more effectively in the proceedings as a witness (whether by improving the quality of his evidence or otherwise).
- (5) Where the accused has attained the age of 18 at that time, the conditions are that—
- (a) he suffers from a mental disorder (within the meaning of the Mental Health Act 1983) or otherwise has a significant impairment of intelligence and social function,
  - (b) he is for that reason unable to participate effectively in the proceedings as a witness giving oral evidence in court, and
  - (c) use of a live link would enable him to participate more effectively in the proceedings as a witness (whether by improving the quality of his evidence or otherwise).
- (6) While a live link direction has effect the accused may not give oral evidence before the court in the proceedings otherwise than through a live link.
- (7) The court may discharge a live link direction at any time before or during any hearing to which it applies if it appears to the court to be in the interests of justice to do so (but this does not affect the power to give a further live link direction in relation to the accused).

The court may exercise this power of its own motion or on an application by a party.

- (8) The court must state in open court its reasons for—
- (a) giving or discharging a live link direction, or
  - (b) refusing an application for or for the discharge of a live link direction,
- and, if it is a magistrates' court, it must cause those reasons to be entered in the register of its proceedings.

### **33B Section 33A: meaning of “live link”**

- (1) In section 33A “live link” means an arrangement by which the accused, while absent from the place where the proceedings are being held, is able—
- (a) to see and hear a person there, and
  - (b) to be seen and heard by the persons mentioned in subsection (2),
- and for this purpose any impairment of eyesight or hearing is to be disregarded.
- (2) The persons are—
- (a) the judge or justices (or both) and the jury (if there is one),
  - (b) where there are two or more accused in the proceedings, each of the other accused,
  - (c) legal representatives acting in the proceedings, and
  - (d) any interpreter or other person appointed by the court to assist the accused.

### **33C Saving**

Nothing in this Chapter affects—

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- (a) any power of a court to make an order, give directions or give leave of any description in relation to any witness (including an accused), or
- (b) the operation of any rule of law relating to evidence in criminal proceedings.”

**Commencement Information**

**I66** S. 47 in force at 15.1.2007 by S.I. 2006/3364, art. 2(h)

**48 Appeals under Part 1 of the Criminal Appeal Act 1968**

- (1) In section 22 of the Criminal Appeal Act 1968 (c. 19) (right of appellant to be present at criminal appeal hearings in Court of Appeal), after subsection (3) there is inserted—

“(4) The Court of Appeal may give a live link direction in relation to a hearing at which the appellant is expected to be in custody but is entitled to be present (by virtue of subsection (1) or leave given under subsection (2)) at any time before the beginning of that hearing.

- (5) For this purpose—

- (a) a “live link direction” is a direction that the appellant (if he is being held in custody at the time of the hearing) is to attend the hearing through a live link from the place at which he is held; and
- (b) “live link” means an arrangement by which the appellant is able to see and hear, and to be seen and heard by, the Court of Appeal (and for this purpose any impairment of eyesight or hearing is to be disregarded).

- (6) The Court of Appeal—

- (a) must not give a live link direction unless the parties to the appeal have had the opportunity to make representations about the giving of such a direction; and
- (b) may rescind a live link direction at any time before or during any hearing to which it applies (whether of its own motion or on the application of a party).”

- (2) In section 23 of that Act (giving of evidence), after subsection (4) there is inserted—

“(5) A live link direction under section 22(4) does not apply to the giving of oral evidence by the appellant at any hearing unless that direction, or any subsequent direction of the court, provides expressly for the giving of such evidence through a live link.”

- (3) In section 31(2) of that Act (powers exercisable by single judge), after paragraph (c) there is inserted—

“(ca) to give a live link direction under section 22(4);”.

**Commencement Information**

**I67** S. 48 in force at 15.1.2007 by S.I. 2006/3364, art. 2(i)

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## PART 6

### SUPPLEMENTAL

#### 49 Orders and regulations

(1) Subsections (2) to (5) apply to any power to make an order or regulations that is conferred by this Act on—

- (a) the Secretary of State, [<sup>F27</sup> or]
- (b) the Registrar General, <sup>F28</sup>...
- <sup>F28</sup>(c) .....

Subsections (2) and (3) also apply to any power to make an order that is conferred by this Act on the Scottish Ministers or the National Assembly for Wales.

(2) The power is exercisable by statutory instrument.

(3) The power may be exercised so as—

- (a) to make different provision for different purposes or different areas;
- (b) to make provision generally or for specified cases or circumstances;
- (c) to make incidental, supplemental, consequential, saving or transitional provision.

(4) A statutory instrument containing an order or regulations made under any power to which this subsection applies, other than—

- (a) an order to which subsection (5) applies, or
- (b) an order under section 53,

is subject to annulment in pursuance of a resolution of either House of Parliament.

(5) A statutory instrument containing—

- (a) an order under paragraph 48 of Schedule 1, or
  - (b) an order that includes provision made by virtue of section 51(3)(b)(i) or (ii),
- may not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.

(6) A statutory instrument containing an order under paragraph 48 of Schedule 1 made by the Scottish Ministers may not be made unless a draft has been laid before, and approved by a resolution of, the Scottish Parliament.

(7) A statutory instrument containing an order under section 51 made by the Scottish Ministers, other than an order to which subsection (8) applies, is subject to annulment in pursuance of a resolution of the Scottish Parliament.

(8) A statutory instrument containing an order under section 51 made by the Scottish Ministers that includes provision made by virtue of subsection (3)(b)(i) of that section may not be made unless a draft has been laid before, and approved by a resolution of, the Scottish Parliament.

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#### Textual Amendments

**F27** Word in s. 49(1)(a) inserted (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 81\(2\)\(a\)](#); S.I. 2008/1586, art. 2(1), Sch. 1 para. 48(u)

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**F28** S. 49(1)(c) and preceding word repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), Sch. 26 para. 81(2)(b), **Sch. 28 Pt. 8**; S.I. 2008/1586, art. 2(1), Sch. 1 paras. 48(u), 50(7)(b)

## 50 Money

- (1) There is to be paid out of money provided by Parliament—
  - (a) any expenditure incurred by a Minister of the Crown by virtue of this Act;
  - (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.
- (2) Sums received by a Minister of the Crown by virtue of this Act are to be paid into the Consolidated Fund.

## 51 Power to make consequential and transitional provision etc

- (1) The Secretary of State may by order make—
  - (a) any supplementary, incidental or consequential provision, and
  - (b) any transitional or saving provision,
 that he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Act.
- (2) The power conferred by subsection (1) is exercisable by the Scottish Ministers (rather than the Secretary of State) where the provision to be made is within the legislative competence of the Scottish Parliament.
- (3) An order under this section may in particular—
  - (a) provide for any provision of this Act which comes into force before another provision has come into force to have effect, until that other provision has come into force, with specified modifications;
  - (b) amend or repeal—
    - (i) any Act (including this Act and any Act passed in the same Session as this Act) or any Act of the Scottish Parliament;
    - (ii) Northern Ireland legislation;
    - (iii) subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) made before the passing of this Act.
- (4) Nothing in this section limits the power under section 49 to include transitional or saving provision in a commencement order under section 53.
- (5) The amendments that may be made by virtue of subsection (3)(b) are in addition to those that are made by, or may be made under, any other provision of this Act.

## 52 Amendments and repeals

Schedules 14 (minor and consequential amendments) and 15 (repeals and revocations) have effect.

### Commencement Information

**I68** S. 52 partly in force; s. 52 in force for specified purposes at Royal Assent see s. 53(1)(2)

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- I69** S. 52 in force at 15.1.2007 for specified purposes by S.I. 2006/3364, **art. 2(j)**
- I70** S. 52 in force at 1.4.2007 for specified purposes by S.I. 2007/709, **art. 3(o)** (with arts. 6, 7)
- I71** S. 52 in force at 6.4.2007 for specified purposes for E. by S.I. 2007/709, **art. 4(c)** (with art. 8)
- I72** S. 52 in force at 29.6.2007 for specified purposes for E.W. by S.I. 2007/1614, **art. 2(g)**
- I73** S. 52 in force at 1.8.2007 for specified purposes for E. by S.I. 2007/1614, **art. 3(c)**
- I74** S. 52 in force at 1.10.2007 for specified purposes for S. by S.I. 2007/434, **art. 2(b)**
- I75** S. 52 in force at 19.11.2007 for specified purposes for W. by S.I. 2007/3073, **art. 2(b)**
- I76** S. 52 in force at 1.12.2007 for specified purposes by S.I. 2007/3203, **art. 2(d)**
- I77** S. 52 in force at 14.3.2008 for specified purposes by S.I. 2008/311, **art. 2(c)**
- I78** S. 52 in force at 1.4.2008 for specified purposes for E.W. by S.I. 2008/790, **art. 2(d)**
- I79** S. 52 in force at 1.4.2008 for specified purposes for N.I. by S.I. 2008/790, **art. 3(b)**
- I80** S. 52 in force at 1.10.2008 for specified purposes for N.I. by S.I. 2008/2503, **art. 3(a)**
- I81** S. 52 in force at 1.10.2008 for specified purposes for E.W.N.I. by S.I. 2008/2503, **art. 2(b)**
- I82** S. 52 in force at 14.11.2008 for specified purposes by S.I. 2008/2785, **art. 3(a)**

### 53 Commencement

- (1) Subject to subsections (2) to (9)—
  - (a) Parts 1 to 5, and
  - (b) section 52 (and Schedules 14 and 15),come into force in accordance with provision made by order by the Secretary of State.
- (2) Subsection (1) does not apply to—
  - (a) section 43(2) to (6);
  - (b) paragraph 6 of Schedule 13;
  - (c) paragraphs 7(3)(a), 14, 15 and 24 to 26 of Schedule 2 (and section 2 so far as relating to those paragraphs);
  - (d) paragraphs 34, 39, 47, 49 and 59 of Schedule 14;
  - (e) the repeals in Part 1(B) of Schedule 15 that relate to the paragraphs mentioned in paragraphs (c) and (d);
  - (f) section 52 so far as relating to any of those paragraphs and repeals.
- (3) An order bringing the following provisions into force may be made only with the consent of the Scottish Ministers—
  - (a) section 1(2)(b);
  - (b) Parts 5 and 6 of Schedule 1 and paragraphs 51 to 53 of that Schedule (and section 1(3) so far as relating to those provisions);
  - (c) in Part 1(A) of Schedule 15, the repeals in or of the following provisions (and section 52 so far as relating to those repeals)—
    - (i) the Police (Scotland) Act 1967 (c. 77);
    - (ii) sections 109 to 111 of the Police Act 1997 (c. 50), Schedule 8 to that Act and paragraphs 10, 12 and 14 of Schedule 9 to that Act;
    - (iii) the Scottish Public Services Ombudsman Act 2002 (asp 11).
- (4) The following provisions come into force in accordance with provision made by order by the Scottish Ministers—
  - (a) sections 35 to 38 so far as they extend to Scotland;
  - (b) paragraphs 17 to 19 and 29 of Schedule 14 so far as they extend to Scotland;
  - (c) paragraph 25 of that Schedule;
  - (d) the repeals in Part 5 of Schedule 15 of—

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- (i) provisions in section 13 of the Computer Misuse Act 1990 (c. 18);
    - (ii) section 17(7) of that Act so far as it extends to Scotland;
    - (iii) paragraph 77 of Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40);
  - (e) section 52 so far as relating to those paragraphs and repeals.
- (5) Paragraph 7(2) of Schedule 9 (and section 22 so far as relating to that paragraph), so far as relating to fire and rescue authorities in Wales, comes into force in accordance with provision made by order by the National Assembly for Wales.
- (6) The following provisions, so far as relating to local authorities in Wales, come into force in accordance with provision made by order by the National Assembly for Wales—
- (a) sections 19 and 20 and Schedule 8;
  - (b) paragraph 38 of Schedule 14 (and section 52 so far as relating to that paragraph);
  - (c) section 27 and Schedule 10;
  - (d) the repeal in Part 3 of Schedule 15 of section 91 of the Anti-social Behaviour Act 2003 (c. 38) (and section 52 so far as relating to that repeal).
- (7) The following provisions, so far as relating to local authorities in Wales or registered social landlords on the register maintained by the National Assembly for Wales, come into force in accordance with provision made by order by the Assembly—
- (a) sections 23 to 25;
  - (b) paragraphs 53 to 57 of Schedule 14 (and section 52 so far as relating to those paragraphs).
- (8) The following provisions—
- (a) so far as relating to the granting of injunctions on the application of a relevant Welsh landlord—
    - (i) section 26,
    - (ii) paragraph 32 of Schedule 14,
    - (iii) in Part 3 of Schedule 15, the repeal of section 13(4)(b) of the Anti-social Behaviour Act 2003 (c. 38), and
    - (iv) section 52 so far as relating to that paragraph and that repeal,
  - (b) so far as relating to any tenancy where the landlord is a relevant Welsh landlord—
    - (i) paragraphs 12, 13 and 15 of Schedule 14, and
    - (ii) section 52 so far as relating to those paragraphs, and
  - (c) so far as relating to a relevant Welsh landlord—
    - (i) paragraph 33 of Schedule 14, and
    - (ii) section 52 so far as relating to that paragraph,
- come into force in accordance with provision made by order by the National Assembly for Wales.
- (9) For the purposes of subsection (8), each of the following is a “relevant Welsh landlord”—
- (a) a Welsh county council or county borough council;
  - (b) a registered social landlord on the register maintained by the National Assembly for Wales;

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(c) a housing action trust for an area in Wales.

(10) The provision that may (by virtue of section 49(3)(c)) be made in an order under this section bringing section 4 into force includes provision prescribing modifications of Part 1 of the Local Government Act 1999 (c. 27) in its application to police authorities.

## 54 Extent

- (1) Subject to subsections (2) to (6), Parts 1 to 5 extend to England and Wales only.
- (2) The following provisions extend also to Scotland and Northern Ireland—
  - section 1(2)(b);
  - Parts 5 and 6 of Schedule 1 (and section 1(3) so far as relating to those Parts);
  - section 5 and Schedule 3;
  - section 38;
  - section 41.
- (3) Sections 6 and 13 extend also to Northern Ireland.
- (4) Section 40 and Schedule 12 extend to Northern Ireland only.
- (5) Any amendment or repeal made by this Act extends to the same part or parts of the United Kingdom as the provision to which it relates.
- (6) Subsection (5) does not apply to the amendments made by paragraphs 14 and 37 of Schedule 14, which do not extend to Scotland.
- (7) In section 63 of the Immigration, Asylum and Nationality Act 2006 (c. 13) (extent), after subsection (3) (power to extend Act to Channel Islands or Isle of Man with or without modification or adaptation) there is inserted—
  - “(3A) In subsection (3), the reference to this Act includes—
    - (a) a reference to this Act as it has effect with the amendments and repeals made in it by the Police and Justice Act 2006, and
    - (b) a reference to this Act as it has effect without those amendments and repeals.”

## 55 Short title

This Act may be cited as the Police and Justice Act 2006.

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## SCHEDULES

### SCHEDULE 1

Section 1

#### NATIONAL POLICING IMPROVEMENT AGENCY

#### PART 1

#### OBJECTS AND POWERS

##### *The Agency's objects*

- 1 The objects of the Agency are—
- (a) the identification, development and promulgation of good practice in policing;
  - (b) the provision to listed police forces of expert advice about, and expert assistance in connection with, operational and other policing matters;
  - (c) the identification and assessment of—
    - (i) opportunities for, and
    - (ii) threats to,
 police forces within the meaning given by section 101 of the Police Act 1996 (c. 16) (police forces for police areas in England and Wales), and the making of recommendations to the Secretary of State in the light of its assessment of any opportunities and threats;
  - (d) the international sharing of understanding of policing issues;
  - (e) the provision of support to listed police forces in connection with—
    - (i) information technology,
    - (ii) the procurement of goods, other property and services, and
    - (iii) training and other personnel matters;
  - [<sup>F29</sup>(ea) the carrying out of its functions under section 3 of the Proceeds of Crime Act 2002 (c. 29) (accreditation and training of financial investigators);]
  - (f) the doing of all such other things as are incidental or conducive to the attainment of any of the objects mentioned in paragraphs (a) to [<sup>F30</sup>(ea)].

#### Textual Amendments

**F29** Sch. 1 para. 1(ea) inserted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 177\(2\)\(a\)](#); [S.I. 2008/755](#), art. 2(1)(a) (with arts. 3-14)

**F30** Word in Sch. 1 para. 1(f) substituted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 177\(2\)\(b\)](#); [S.I. 2008/755](#), art. 2(1)(a) (with arts. 3-14)

#### Commencement Information

**I83** Sch. 1 para. 1 in force at 1.4.2007 by [S.I. 2007/709](#), art. 3(a) (with arts. 6, 7)



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### *The Agency's principal power*

- 2 (1) The Agency may do anything it considers appropriate for the attainment of its objects, subject to sub-paragraphs (4) and (5).
- (2) In exercise of the power under sub-paragraph (1), the Agency—
- (a) for the purpose of providing such support to listed police forces as is mentioned in paragraph 1(e)—
    - (i) may carry on activities itself with a view to forces making use of what is provided through the carrying-on of the activities,
    - (ii) may support forces in their carrying-on of activities themselves, and
    - (iii) may support forces in any other way the Agency considers appropriate; and
  - (b) may (subject to sub-paragraph (4)) accept gifts, and loans, of money and other property.
- (3) The terms on which the Agency accepts a gift or loan of money or other property may (in particular) include provision for the commercial sponsorship of any activity of the Agency.
- (4) The Agency may borrow money or other property only with the consent of the Secretary of State.
- (5) In the case of a restrictedly listed police force, the Agency may provide advice, assistance or support to or for the force only with the agreement of—
- (a) the entity within paragraph 3(3)(k) to (r) that is comprised in the force,
  - (b) the person whose control that entity is under, or
  - (c) the authority responsible for maintaining that entity.
- (6) Sub-paragraphs (2) and (3) are to be taken not to prejudice the generality of sub-paragraph (1).

#### **Commencement Information**

**I84** Sch. 1 para. 2 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

#### *Meaning of “listed police force” and “restrictedly listed police force” in paragraphs 1 and 2*

- 3 (1) In paragraphs 1 and 2(2) “listed police force” means an entity within sub-paragraph (3), together with persons employed for the purposes of the entity.
- (2) In paragraph 2(5) “restrictedly listed police force” means an entity within sub-paragraph (3)(k) to (r), together with persons employed for the purposes of the entity.
- (3) Those entities are—
- (a) any police force within the meaning given by section 101 of the Police Act 1996 (c. 16) (police forces for police areas in England and Wales), including the cadets and special constables under the control of the chief officer of police of that force,
  - (b) the Serious Organised Crime Agency,
  - (c) the Ministry of Defence Police,
  - (d) the Royal Navy Regulating Branch,
  - (e) the Royal Military Police,

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- (f) the Royal Air Force Police,
  - (g) the Royal Marines Police,
  - (h) the British Transport Police Force, including the cadets and special constables under the direction and control of the chief constable of that force,
  - (i) the Civil Nuclear Constabulary,
  - (j) any person who under sub-paragraph (4) is to be treated as a listed police force,
  - (k) any police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77), including the cadets under the control of the chief constable of that force,
  - (l) the Scottish Police Services Authority and any institution, organisation or other body established and maintained by the Authority,
  - (m) the Police Service of Northern Ireland,
  - (n) the Police Service of Northern Ireland Reserve,
  - (o) the States of Jersey Police Force,
  - (p) the salaried police force of the Island of Guernsey,
  - (q) the Isle of Man Constabulary, and
  - (r) any person who is engaged outside the United Kingdom in the carrying-on of activities similar to any carried on by a police force within the meaning given by section 101 of the Police Act 1996 (c. 16).
- (4) The Secretary of State may by order provide for a person specified in the order, or of a description so specified, to be treated as being a listed police force for the purposes of paragraphs 1 and 2(2).

#### **Commencement Information**

**185** Sch. 1 para. 3 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

#### *Consultation: exercise of powers in relation to Scotland or Northern Ireland*

- 4 (1) The Agency must consult the Scottish consultees—
- (a) before doing anything in relation to any of the persons mentioned in sub-paragraph (2) in exercise of its power under paragraph 2(1), and
  - (b) before doing anything in exercise of that power that may or will affect what it may do in relation to any of those persons in future exercise of that power.
- (2) Those persons are—
- (a) a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77),
  - (b) cadets under the control of the chief constable of such a force,
  - (c) persons employed for the purposes of such a force,
  - (d) the Scottish Police Services Authority, and
  - (e) any institution, organisation or other body established and maintained by that Authority.
- (3) In sub-paragraph (1) “the Scottish consultees” means—
- (a) the Scottish Police Services Authority, and

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- (b) persons whom the Agency considers to represent the interests of chief constables of police forces in Scotland.
- (4) The Agency must consult the Secretary of State—
  - (a) before doing anything in relation to any of the persons mentioned in sub-paragraph (5) in exercise of its power under paragraph 2(1), and
  - (b) before doing anything in exercise of that power that may or will affect what it may do in relation to any of those persons in future exercise of that power.
- (5) Those persons are—
  - (a) the Police Service of Northern Ireland,
  - (b) the Police Service of Northern Ireland Reserve, and
  - (c) persons employed for the purposes of either (or both) of those bodies.
- [<sup>F31</sup>(6) This paragraph does not apply to any exercise of the Agency's power under paragraph 2(1) which is for the purposes of attaining the object mentioned in paragraph 1(ea) (accreditation and training of financial investigators).]

#### Textual Amendments

**F31** Sch. 1 para. 4(6) inserted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 177\(3\)](#); [S.I. 2008/755](#), art. 2(1)(a) (with arts. 3-14)

#### Commencement Information

**I86** Sch. 1 para. 4 in force at 1.4.2007 by [S.I. 2007/709](#), art. 3(a) (with arts. 6, 7)

### *Annual plans*

- 5
- (1) Before the beginning of each financial year the Agency must prepare a plan setting out how it intends during that year to exercise its powers.
  - (2) The plan for a financial year (“the plan”) must state—
    - (a) any priorities that the Agency has determined for that year,
    - (b) any current strategic priorities determined by the Secretary of State under paragraph 6,
    - (c) any current performance targets established by the Agency, and
    - (d) the financial resources that are expected to be available to the Agency for that year.
  - (3) Priorities within sub-paragraph (2)(a)—
    - (a) may relate to matters to which strategic priorities determined under paragraph 6 also relate, or
    - (b) may relate to other matters,but in any event must be so framed as to be consistent with strategic priorities determined under that paragraph.
  - (4) The plan must state, in relation to each priority within sub-paragraph (2)(a) or (b), how the Agency intends to give effect to that priority.
  - (5) The Agency must arrange for the plan to be published in such manner as it considers appropriate.

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- (6) The Agency must send a copy of the plan to—
- (a) the Secretary of State,
  - (b) the police authority for each police area in England and Wales,
  - (c) the chief officer of police of each police force in England and Wales, and
  - (d) such other persons as the Agency considers appropriate.
- (7) Before finalising the plan, the Agency must consult—
- (a) the Secretary of State,
  - (b) the Association of Police Authorities,
  - (c) the Association of Chief Police Officers, and
  - (d) such other persons as the Agency considers appropriate.

**Modifications etc. (not altering text)**

**C2** Sch. 1 para. 5(1) modified (31.3.2007) by [Police and Justice Act 2006 \(Commencement No.2, Transitional and Saving Provisions\) Order 2007 \(S.I. 2007/709\)](#), **art. 6(1)**

**Commencement Information**

**I87** Sch. 1 para. 5 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Strategic priorities*

- 6 (1) The Secretary of State may determine strategic priorities for the Agency.
- (2) Before determining any such priorities the Secretary of State must consult—
- (a) the Agency,
  - (b) the Association of Chief Police Officers, and
  - (c) the Association of Police Authorities.
- (3) Sub-paragraph (2)(b) and (c) do not apply in relation to strategic priorities for the Agency so far as the priorities relate—
- (a) to the doing of things by the Agency in relation to any of the persons mentioned in sub-paragraph (4) in exercise of its power under paragraph 2(1), or
  - (b) to the doing of things by the Agency in exercise of that power that may or will affect what it may do in relation to any of those persons in future exercise of that power,
- but before determining any such priorities so far as so relating, the Secretary of State must consult the Scottish Ministers.
- (4) Those persons are—
- (a) a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77),
  - (b) cadets under the control of the chief constable of such a force,
  - (c) persons employed for the purposes of such a force,
  - (d) the Scottish Police Services Authority, and
  - (e) any institution, organisation or other body established and maintained by that Authority.

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[<sup>F32</sup>(4A) Before determining strategic priorities for the Agency in relation to its functions under section 3 of the Proceeds of Crime Act 2002 (c. 29) (accreditation and training of financial investigators), the Secretary of State must (in addition to those required above) consult such other persons as the Secretary of State considers appropriate.]

(5) The Secretary of State must arrange for any priorities determined under this paragraph to be published in such manner as he considers appropriate.

#### Textual Amendments

**F32** Sch. 1 para. 6(4A) inserted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\), s. 94\(1\), Sch. 8 para. 177\(4\); S.I. 2008/755, art. 2\(1\)\(a\)](#) (with arts. 3-14)

#### Commencement Information

**I88** Sch. 1 para. 6 in force at 1.4.2007 by [S.I. 2007/709, art. 3\(a\)](#) (with arts. 6, 7)

## PART 2

### MEMBERSHIP ETC

#### *Chairman and other members*

- 7 (1) The Agency is to consist of—
- (a) a chairman appointed by the Secretary of State,
  - (b) the chief executive of the Agency, and
  - (c) other members appointed by the Secretary of State.
- (2) Before appointing the chairman of the Agency, the Secretary of State must consult—
- (a) the Association of Police Authorities, and
  - (b) the Association of Chief Police Officers.
- (3) The Secretary of State may not appoint a person to be chairman of the Agency for more than five years at a time.
- (4) The Secretary of State must exercise his power under sub-paragraph (1)(c) to ensure that at all times the members appointed under that provision include—
- (a) at least one member nominated by the Association of Police Authorities,
  - (b) at least one member nominated by the Association of Chief Police Officers, and
  - (c) at least one member of Her Majesty's Home Civil Service.
- (5) The Secretary of State may not under sub-paragraph (1)(c) appoint a person to be a member of the Agency for more than five years at a time.
- (6) In this Part of this Schedule “appointed member” means—
- (a) the chairman of the Agency, or
  - (b) a member appointed under sub-paragraph (1)(c).

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**Commencement Information**

**I89** Sch. 1 para. 7 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with arts. 6, 7)

*Tenure*

8 Subject to paragraphs 9 and 10, an appointed member of the Agency shall hold and vacate office in accordance with the terms of his appointment.

**Commencement Information**

**I90** Sch. 1 para. 8 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with arts. 6, 7)

9 An appointed member may resign by giving written notice to the Secretary of State.

**Commencement Information**

**I91** Sch. 1 para. 9 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with arts. 6, 7)

10 The Secretary of State may remove a person from office as an appointed member if the Secretary of State is satisfied that—

- (a) the person has been absent from meetings of the Agency, without its permission, for a period longer than four months,
- (b) the person has been convicted of an offence in the British Islands or elsewhere,
- (c) a bankruptcy order has been made against the person, or the person's estate has been sequestrated, or the person has made a composition or arrangement with, or granted a trust deed for, his creditors,
- (d) the person has failed to comply with the terms of his appointment, or
- (e) the person is unable or unfit to carry out his functions.

**Commencement Information**

**I92** Sch. 1 para. 10 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with arts. 6, 7)

*Re-appointment*

11 Previous service as an appointed member of the Agency does not affect a person's eligibility for re-appointment.

**Commencement Information**

**I93** Sch. 1 para. 11 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with arts. 6, 7)

*Remuneration, pensions etc of appointed members*

12 (1) The Agency must pay to the appointed members such remuneration and allowances as the Secretary of State may determine.

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- (2) The Agency must, if required to do so by the Secretary of State—
  - (a) pay to or in respect of a person who is or has been an appointed member such pensions or gratuities as the Secretary of State may determine;
  - (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions or gratuities to or in respect of a person who is or has been an appointed member.
- (3) Sub-paragraph (4) applies if—
  - (a) a person ceases to be an appointed member of the Agency, and
  - (b) it appears to the Secretary of State that there are special circumstances which make it appropriate for the person to receive compensation.
- (4) The Secretary of State may require the Agency to pay to the person such amount as the Secretary of State may determine.

**Commencement Information**

**I94** Sch. 1 para. 12 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Chief executive*

- 13 (1) The Secretary of State must appoint a person to be chief executive of the Agency.
- (2) Before doing so, the Secretary of State must consult the chairman of the Agency.
- (3) Sub-paragraph (2) does not apply to the first appointment of a chief executive of the Agency.
- (4) The chief executive of the Agency is a member of its staff.
- (5) The Agency must pay to its chief executive such remuneration and allowances as the Secretary of State may determine.

**Commencement Information**

**I95** Sch. 1 para. 13 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Staff remuneration*

- 14 (1) The Agency shall pay to members of its staff such remuneration and allowances as it may determine.
- (2) Sub-paragraph (1) does not apply in relation to the chief executive of the Agency.
- (3) In relation to a person seconded to the Agency to serve as a member of its staff, sub-paragraph (1) has effect subject to the arrangements under which the person is seconded.
- (4) Arrangements under which a person is seconded to the Agency to serve as a member of its staff may (in particular) contain provision for the making of payments by the Agency in respect of remuneration and allowances paid to the person by another.

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**Commencement Information**

**I96** Sch. 1 para. 14 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Staff pensions*

- 15 (1) The Agency may pay, or make payments in respect of, such pensions or gratuities to or in respect of persons who are, or have been, members of its staff as the Agency may determine, including pensions or gratuities by way of compensation to or in respect of members of the Agency's staff who suffer loss of employment or loss or diminution of emoluments.
- (2) In Schedule 1 to the Superannuation Act 1972 (c. 11) (kinds of employment to which section 1 of that Act applies), at the appropriate place under the heading "Other Bodies" there is inserted— "Employment as a member of the staff of the National Policing Improvement Agency."
- (3) The Agency must pay to the Minister for the Civil Service, at such times as that Minister may direct, such sums as that Minister may determine in respect of any increase attributable to this paragraph in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

**Commencement Information**

**I97** Sch. 1 para. 15 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

- 16 (1) Sub-paragraph (2) applies where—
- (a) a person is, by reference to employment as a member of the Agency's staff, a participant in a scheme under section 1 of the Superannuation Act 1972, and
  - (b) the person becomes an appointed member of the Agency.
- (2) The Minister for the Civil Service may determine that the person's service as an appointed member of the Agency is to be treated for the purposes of the scheme as employment as a member of the Agency's staff (whether or not any benefits are payable to or in respect of him under paragraph 12).

**Commencement Information**

**I98** Sch. 1 para. 16 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Status of staff members as constables*

- 17 (1) This paragraph applies where a person who is a constable is appointed as a member of the Agency's staff.
- (2) The person continues to be a constable for the period during which he is a member of that staff.
- (3) If the person is appointed as chief executive, he holds the rank of chief constable for the period during which he is chief executive.



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(4) The person shall, as holder of the office of constable, be under the direction and control of the chief executive of the Agency.

(5) Sub-paragraph (4) does not apply to the chief executive of the Agency.

#### Commencement Information

**I99** Sch. 1 para. 17 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

#### *Constables employed by the Agency: conditions of service*

18 (1) In relation to the terms and conditions of the contracts of employment of employed constables, the Agency shall comply with rules or principles contained in any document issued to it for the purpose by the Secretary of State.

(2) Rules or principles under sub-paragraph (1) may (in particular)—

- (a) require the adoption of specified scales or ranges of pay or allowances;
- (b) require a specified class of employed constable to be treated for specified purposes in the same way as a specified class of employee (whether of the Agency or not) or office-holder;
- (c) require the approval of the Secretary of State for changes in the policy or practice of the Agency;
- (d) require compliance with future rules or principles, including future rules or principles specified by a person other than the Secretary of State;
- (e) make different provision for different purposes.

(3) In this paragraph “employed constable” means a member of the Agency's staff who is—

- (a) a constable, and
- (b) an employee of the Agency.

#### Commencement Information

**I100** Sch. 1 para. 18 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

#### *Regulations for constables employed by, or seconded to, the Agency*

19 (1) The Secretary of State may by regulations make provision as to the government, administration and conditions of service of employed or seconded constables.

(2) Regulations under sub-paragraph (1) may (in particular) make provision with respect to any of the following—

- (a) ranks to be held by employed or seconded constables,
- (b) qualifications for promotion of employed or seconded constables,
- (c) voluntary retirement of a seconded constable from membership of the Agency's staff and from membership of the body of constables from which he was seconded to the Agency,
- (d) the conduct, efficiency and effectiveness of employed or seconded constables and the maintenance of discipline amongst them,
- (e) suspension of employed or seconded constables from the office of constable,

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- (f) suspension of seconded constables from membership of the Agency's staff,
  - (g) maintenance of personal records of employed or seconded constables,
  - (h) duties which are or are not to be performed by employed or seconded constables,
  - (i) powers which may be, or are not to be, exercised by employed or seconded constables,
  - (j) treating attendance by seconded constables—
    - (i) at meetings of the Police Federation for England and Wales, or
    - (ii) at meetings of any body recognised by the Secretary of State for the purposes of section 64 of the Police Act 1996 (c. 16) (bodies representing members of police forces who are not members of the Police Federation),
 as occasions when they are performing duties as members of the staff of the Agency,
  - (k) the hours of duty of seconded constables, their leave and, subject to paragraph 14, their pay and allowances,
  - (l) the issue to seconded constables, and the use and return by seconded constables, of Agency clothing, personal equipment and accoutrements, and
  - (m) the disapplication, in relation to a seconded constable who is seconded to the Agency from a body of constables that is not a police force within the meaning given by section 101 of the Police Act 1996 (police forces for police areas in England and Wales), of provisions—
    - (i) made by or under an Act, and
    - (ii) relating to the government, administration and conditions of service of that body of constables.
- (3) Regulations under sub-paragraph (1) as to the conduct of employed or seconded constables, or as to the maintenance of discipline amongst them, may—
- (a) authorise or require provision to be made by, or confer discretionary powers on, the Agency, the Agency's chief executive or other persons, or
  - (b) authorise or require the delegation by any person of functions conferred on that person by or under the regulations.
- (4) Regulations under sub-paragraph (1) for regulating pay and allowances may be made with retrospective effect to any date specified in the regulations, but nothing in this sub-paragraph shall be read as authorising pay or allowances payable to any person to be reduced retrospectively.
- (5) In this paragraph—
- “employed constable” has the same meaning as in paragraph 18;
  - “seconded constable” has the same meaning as in paragraph 20.

#### **Commencement Information**

**I101** Sch. 1 para. 19 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

#### *Liability for acts of police members of staff*

- 20 (1) The Agency is liable for unlawful conduct of seconded constables in the carrying out, or purported carrying out, of their functions as members of the Agency's staff

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in the same manner as an employer is liable for unlawful conduct of his employees in the course of their employment.

- (2) In the case of any such conduct by a seconded constable which is a tort, the Agency is accordingly to be treated as a joint tortfeasor.
- (3) In this paragraph “seconded constable” means a constable serving as a member of the Agency's staff without being an employee of the Agency.

#### Commencement Information

**I102** Sch. 1 para. 20 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

#### *Payment of amounts in connection with unlawful conduct of any staff*

- 21 The Agency may, in such cases and to such extent as appear to it to be appropriate—
- (a) pay damages or costs awarded against a member of the Agency's staff in proceedings for any unlawful conduct of that person,
  - (b) pay any costs incurred and not recovered by such a person in such proceedings, and
  - (c) pay any sum required in connection with the settlement of a claim that has, or might have, given rise to such proceedings.

#### Commencement Information

**I103** Sch. 1 para. 21 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

#### *Delegation to committees, sub-committees and staff*

- 22
- (1) The Agency may delegate any of its functions (to such extent as the Agency may determine) to a committee of the Agency or to a member of the Agency's staff.
  - (2) A committee of the Agency may delegate any functions conferred on it (to such extent as the committee may determine) to a sub-committee of the Agency or to a member of the Agency's staff.
  - (3) A sub-committee of the Agency may delegate any functions conferred on it (to such extent as the sub-committee may determine) to a member of the Agency's staff.
  - (4) A committee or sub-committee of the Agency may include persons who are not members of the Agency.
  - (5) The Agency may pay remuneration and allowances to any person who—
    - (a) is a member of a committee or sub-committee of the Agency, but
    - (b) is not a member of the Agency or a member of its staff.
  - (6) Delegation of a function under this paragraph does not prevent the Agency or, as the case may be, the committee or sub-committee from exercising the function.

#### Commencement Information

**I104** Sch. 1 para. 22 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

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### *Procedure*

- 23 (1) The Agency may—
- (a) regulate its own procedure (including quorum), and
  - (b) regulate the procedure (including quorum) of its committees and sub-committees.
- (2) But the Agency must make provision for a quorum for meetings of each of its committees and sub-committees to include at least one person who is a member of the Agency or a member of its staff.

#### **Commencement Information**

**I105** Sch. 1 para. 23 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

- 24 Proceedings of the Agency are not invalidated—
- (a) by any vacancy among the Agency's members;
  - (b) by any defect in the appointment of a member of the Agency.

#### **Commencement Information**

**I106** Sch. 1 para. 24 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

### *Application of seal and proof of documents*

- 25 The application of the Agency's seal must be authenticated by the signature of—
- (a) a member of the Agency, or
  - (b) any other person who has been authorised by the Agency (whether generally or specially) for that purpose.

#### **Commencement Information**

**I107** Sch. 1 para. 25 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

- 26 A document purporting to be duly executed under the seal of the Agency or to be signed on the Agency's behalf—
- (a) shall be received in evidence, and
  - (b) unless the contrary is proved, shall be treated as so executed or signed.

#### **Commencement Information**

**I108** Sch. 1 para. 26 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

### *Status*

- 27 (1) The Agency is not to be regarded—
- (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, privilege or immunity of the Crown.

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- (2) Accordingly, the Agency's property is not to be regarded as property of, or held on behalf of, the Crown.

**Commencement Information**

**I109** Sch. 1 para. 27 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

**PART 3**

ACCOUNTABILITY AND SUPERVISION

*Annual reports*

- 28 (1) As soon as possible after the end of each financial year the Agency must prepare a report on the carrying out of its functions during that year.
- (2) The report for a financial year (“the report”) must include an assessment of the extent to which the annual plan for that year under paragraph 5 has been carried out.
- (3) The Agency must arrange for the report to be published in such manner as it considers appropriate.
- (4) The Agency must send a copy of the report to—
- (a) the Secretary of State,
  - (b) the police authority for each police area in England and Wales,
  - (c) the chief officer of police of each police force in England and Wales, and
  - (d) such other persons as the Agency considers appropriate.
- (5) The Secretary of State must lay a copy of the report before each House of Parliament.

**Commencement Information**

**I110** Sch. 1 para. 28 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Reports to Secretary of State*

- 29 (1) The Secretary of State may require the Agency to submit a report to him on specified matters—
- (a) connected with the carrying out of its functions, or
  - (b) otherwise connected with any of its activities.
- (2) A report under sub-paragraph (1) must be in such form as the Secretary of State may specify.
- (3) The Secretary of State may arrange, or require the Agency to arrange, for a report under this paragraph to be published in such manner as he considers appropriate.
- (4) The Secretary of State may exclude any part of a report from publication under sub-paragraph (3) if he considers that publication of that part—
- (a) would be against the interests of national security,

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- (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.
- (5) For the purposes of sub-paragraph (4)(b) “the detection of crime” shall be taken to include establishing by whom, for what purpose, by what means and generally in what circumstances any crime was committed.
- (6) For the purposes of sub-paragraphs (4)(b) and (5) “crime” means conduct—
- (a) which constitutes one or more criminal offences under the law of a part of the United Kingdom, or
  - (b) which is, or corresponds to, any conduct which, if it all took place in one part of the United Kingdom, would constitute one or more criminal offences under the law of that part.

#### Commencement Information

**I111** Sch. 1 para. 29 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

#### *Inspections*

- 30 (1) The Secretary of State may require Her Majesty's Chief Inspector of Constabulary to inspect, and report on, the efficiency and effectiveness of the Agency.
- (2) A requirement under sub-paragraph (1) may be general or relate to a particular matter.
- <sup>F33</sup>(3) .....

#### Textual Amendments

**F33** Sch. 1 para. 30(3) repealed (14.7.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), s. 153(7), [Sch. 26 para. 81\(3\)](#), **Sch. 28 Pt. 8**; [S.I. 2008/1586](#), art. 2(1), [Sch. 1 paras. 48\(u\), 50\(7\)\(b\)](#)

#### Commencement Information

**I112** Sch. 1 para. 30(1)(2) in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

#### *Inspection reports*

- 31 (1) The Secretary of State must arrange for a report under paragraph 30(1) to be published in such manner as he considers appropriate.
- (2) The Secretary of State may exclude any part of a report from publication under sub-paragraph (1) if he considers that publication of that part—
- (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.
- (3) The Secretary of State must send a copy of the published report to the Agency.
- (4) The Agency must—
- (a) prepare comments on the published report, and

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- (b) arrange for its comments to be published in such manner as it considers appropriate.
- (5) The Agency must send a copy of any document published under sub-paragraph (4) to the Secretary of State.
- (6) For the purposes of sub-paragraph (2)(b) “the detection of crime” shall be taken to include establishing by whom, for what purpose, by what means and generally in what circumstances any crime was committed.
- (7) For the purposes of sub-paragraphs (2)(b) and (6) “crime” means conduct—
  - (a) which constitutes one or more criminal offences under the law of a part of the United Kingdom, or
  - (b) which is, or corresponds to, any conduct which, if it all took place in one part of the United Kingdom, would constitute one or more criminal offences under the law of that part.

**Commencement Information**

**I113** Sch. 1 para. 31 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

*Post-inspection directions*

- 32 (1) Sub-paragraph (2) applies where a report made to the Secretary of State under paragraph 30(1) states—
- (a) that the Agency is failing to carry out any of its functions efficiently and effectively, whether generally or in particular respects, or
  - (b) that, unless remedial measures are taken, the Agency will cease to carry out any of its functions efficiently and effectively, whether generally or in particular respects.
- (2) The Secretary of State may direct the Agency to take such measures as may be specified in the direction.

**Commencement Information**

**I114** Sch. 1 para. 32 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

**PART 4**

FINANCIAL PROVISION

*Payments by Secretary of State to the Agency*

- 33 The Secretary of State may make payments to the Agency.

**Commencement Information**

**I115** Sch. 1 para. 33 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

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### *Charges by the Agency and other receipts*

- 34 (1) The Agency may make such charges as it considers appropriate in connection with the carrying out of any of its functions.
- (2) The Agency must pay to the Secretary of State all sums received by it in the course of, or in connection with, the carrying out of its functions.
- (3) Sub-paragraph (2)—
- (a) does not apply to sums received by the Agency under paragraph 33, and
  - (b) does not apply where the Secretary of State so directs.

#### **Commencement Information**

**I116** Sch. 1 para. 34 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with arts. 6, 7)

### *Payments by Agency to police authorities*

- 35 The Agency may, for purposes it considers are related to any of its objects [<sup>F34</sup>(other than the object mentioned in paragraph 1(ea): accreditation and training of financial investigators)], make payments to—
- (a) the police authority for a police area in England and Wales;
  - (b) the police authority for a police area in Scotland;
  - (c) a joint police board constituted under an amalgamation scheme under the Police (Scotland) Act 1967 (c. 77);
  - (d) the Scottish Police Services Authority.

#### **Textual Amendments**

**F34** Words in Sch. 1 para. 35 inserted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 177\(5\)](#); [S.I. 2008/755](#), [art. 2\(1\)\(a\)](#) (with arts. 3-14)

#### **Commencement Information**

**I117** Sch. 1 para. 35 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with arts. 6, 7)

### *Accounts*

- 36 (1) The Agency must—
- (a) keep proper accounts and proper records in relation to the accounts, and
  - (b) prepare a statement of accounts in respect of each financial year.
- (2) The statement of accounts for a financial year must be in such form, and contain such information, as the Secretary of State may direct.
- (3) The Agency must, within such period following the end of each financial year as the Secretary of State may direct, send copies of the statement of accounts for that year—
- (a) to the Secretary of State, and
  - (b) to the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General must—



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- (a) examine, certify and report on each statement of accounts sent to him under sub-paragraph (3), and
- (b) lay a copy of each such statement, and of his report on it, before each House of Parliament.

**Commencement Information**

**I118** Sch. 1 para. 36 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with arts. 6, 7)

**PART 5**

TRANSFER SCHEMES

*Meaning of “scheme”*

- 37 In this Part of this Schedule “scheme” means a scheme made by the Secretary of State.

**Commencement Information**

**I119** Sch. 1 para. 37 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with arts. 6, 7)

*Property, rights and liabilities*

- 38 A scheme may make provision for the transfer to the Agency or the Secretary of State—
- (a) of property, rights and liabilities of the Central Police Training and Development Authority;
  - (b) of property, rights and liabilities of the Police Information Technology Organisation.

**Commencement Information**

**I120** Sch. 1 para. 38 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with arts. 6, 7)

- 39 (1) The property, rights and liabilities for whose transfer a scheme under paragraph 38 may provide include (in particular)—
- (a) property, rights and liabilities that could not otherwise be transferred;
  - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
  - (c) rights and liabilities under contracts of employment, subject to sub-paragraph (2).
- (2) A scheme under paragraph 38 may not provide for the transfer to the Secretary of State of rights and liabilities under contracts of employment.
- (3) Before making a scheme under paragraph 38 that provides for the transfer of rights and liabilities under contracts of employment, the Secretary of State must consult

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such persons appearing to represent the interests of the employees concerned as the Secretary of State considers appropriate.

**Commencement Information**

**I121** Sch. 1 para. 39 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

- 40 A scheme may make provision for the creation, in favour of the Agency or the Secretary of State, of interests in, or rights in relation to, anything that could be transferred by a scheme under paragraph 38.

**Commencement Information**

**I122** Sch. 1 para. 40 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

- 41 (1) A scheme under paragraph 38 may make provision for the creation of interests in or rights in relation to, or for the imposition of liabilities in relation to, anything that is or could be transferred by the scheme.
- (2) A scheme under paragraph 40 may make provision for the imposition of liabilities in relation to anything created by the scheme.
- (3) A scheme under paragraph 38 or 40 may contain provision about enforcement of a right or liability whose transfer, creation or imposition is provided for by the scheme.

**Commencement Information**

**I123** Sch. 1 para. 41 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

- 42 (1) At the time appointed for the purpose by a scheme under paragraph 38 or 40—
- (a) property, rights and liabilities for whose transfer the scheme provides,
  - (b) interests and rights for whose creation the scheme provides, and
  - (c) liabilities for whose imposition the scheme provides,
- shall, by virtue of this sub-paragraph, be transferred or (as the case may be) created or imposed in accordance with the scheme.
- (2) A scheme under paragraph 38 or 40 may appoint different times for the transfer, creation or imposition of different things.

**Commencement Information**

**I124** Sch. 1 para. 42 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Effect of transfer of employees*

- 43 (1) This paragraph applies if a scheme under paragraph 38 provides for the transfer of rights and liabilities under a contract of employment.
- (2) The contract—
- (a) is not terminated by the transfer, and

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- (b) has effect from the appointed time as if made between the employee and the Agency.
- (3) The rights, powers, duties and liabilities of the old employer under or in connection with the contract are (by virtue of paragraph 42(1)) transferred to the Agency at the appointed time.
- (4) Anything done before the appointed time by or in relation to the old employer in respect of the contract or the employee is to be treated from that time as having been done by or in relation to the Agency.
- (5) Sub-paragraphs (2) to (4) have effect subject to sub-paragraph (6).
- (6) If the employee informs the old employer or the Agency that he objects to the transfer—
  - (a) the rights, powers, duties and liabilities under or in connection with the contract are not transferred by virtue of the scheme, and
  - (b) the contract is terminated immediately before the appointed time, but the employee is not to be treated, for any purpose, as having been dismissed.
- (7) In this paragraph “the appointed time” means the time appointed by or under the scheme for the transfer of rights and liabilities under the contract.
- (8) Nothing in this Part of this Schedule affects any right the employee has to terminate his contract of employment if (apart from the change of employer) a substantial change is made to his detriment in his working conditions.

#### Commencement Information

**1125** Sch. 1 para. 43 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

#### *Staff on secondment*

- 44
- (1) A scheme may make provision—
    - (a) for an existing secondment to have effect, from a time appointed by the scheme, as a secondment to the Agency, and
    - (b) for the seconded person to serve from that time as a member of the staff of the Agency.
  - (2) If the seconded person informs the Agency, or the body to which he is seconded or the body by which he is seconded, that he objects to the existing secondment becoming a secondment to the Agency—
    - (a) the scheme does not cause the existing secondment to become a secondment to the Agency, and
    - (b) the existing secondment is terminated immediately before the time mentioned in sub-paragraph (1)(a) (so that the person returns at that time to the body by which he was seconded).
  - (3) In this paragraph “existing secondment” means a secondment by virtue of which—
    - (a) a person is the chief executive or another member of the staff of the Central Police Training and Development Authority, or
    - (b) a person is the chief executive or another member of the staff of the Police Information Technology Organisation.

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**Changes to legislation:** Police and Justice Act 2006 is up to date with all changes known to be in force on or before 02 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**Commencement Information**

**I126** Sch. 1 para. 44 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Deciding matters under scheme*

- 45 A scheme under this Part of this Schedule may contain provision—
- (a) for the Secretary of State, or any other person nominated by or in accordance with the scheme, to decide any matter requiring decision under or in consequence of the scheme, and
  - (b) as to the payment of fees charged, or expenses incurred, by any person nominated to decide any matter under paragraph (a).

**Commencement Information**

**I127** Sch. 1 para. 45 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Supplementary provision*

- 46 A scheme under this Part of this Schedule may contain supplementary, incidental, transitional and consequential provision.

**Commencement Information**

**I128** Sch. 1 para. 46 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

**PART 6**

INTERPRETATION AND MODIFICATION

*Interpretation*

- 47 (1) In Parts 1 to 5, and this Part, of this Schedule—
- “the Agency” means the National Policing Improvement Agency;
- “the Association of Chief Police Officers” means the Association of Chief Police Officers of England, Wales and Northern Ireland.
- (2) In Parts 1 to 5 of this Schedule “financial year” means—
- (a) the period beginning with the day on which the Agency is established and ending with the following 31st March, and
  - (b) each subsequent period of 12 months ending with 31st March.
- (3) In Part 2 of this Schedule “appointed member” has the meaning given by paragraph 7(6).

**Commencement Information**

**I129** Sch. 1 para. 47 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Status:* Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

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*Power to modify objects, functions and structure of the Agency*

- 48 (1) The appropriate authority (see sub-paragraph (4)) may by order make provision—
- (a) for modifying the objects, powers and duties of the Agency;
  - (b) for modifying the constitution of the Agency and any provision regulating its management and control;
  - (c) for conferring powers on the Secretary of State in relation to—
    - (i) the objects, powers and duties of the Agency,
    - (ii) the constitution of the Agency and the regulation of its management and control, and
    - (iii) members of the Agency's staff;
  - (d) for imposing, on persons in relation to whom the Agency has or is given powers or duties, obligations to consult with the Agency or to do other things in relation to the Agency.
- (2) In sub-paragraph (1) “modifying” includes adding to, varying and diminishing.
- (3) Power under sub-paragraph (1) may be exercised to give the Agency objects, powers or duties in relation to persons who have no functions in relation to, nor any connection with, policing if—
- (a) they carry out functions in, or in relation to, prisons in England or Wales,
  - (b) they are officers of a local probation board [<sup>F35</sup>or officers of a provider of probation services], or
  - (c) they are persons falling within neither of paragraphs (a) and (b) who carry out functions for the purposes of the criminal justice system in England and Wales.
- (4) Power of the appropriate authority under sub-paragraph (1)—
- (a) so far as it is power to make provision falling within sub-paragraph (5), is power of the Scottish Ministers, and
  - (b) so far as it is power to make provision not falling within sub-paragraph (5), is power of the Secretary of State.
- (5) The provision falling within this sub-paragraph is provision that would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament.
- (6) Power of the Scottish Ministers under sub-paragraph (1) is exercisable only with the consent of the Secretary of State.
- (7) Power of the Secretary of State under sub-paragraph (1)(a), (b) and (c), so far as it is power to make provision falling within sub-paragraph (8), is exercisable only with the consent of the Scottish Ministers.
- (8) The provision falling within this sub-paragraph is provision—
- (a) that affects, or may affect, any of the persons mentioned in paragraph 4(2) (police forces, and other policing bodies, in Scotland), or
  - (b) that affects, or may affect, the rights and powers of the Scottish Ministers.
- (9) Power of the Secretary of State under sub-paragraph (1)(d), so far as it is power to impose obligations on any of the persons mentioned in paragraph 4(2), is exercisable only with the consent of the Scottish Ministers.

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- (10) Before making an order under sub-paragraph (1), the Secretary of State must consult—
- (a) the Agency,
  - (b) the Association of Police Authorities, and
  - (c) the Association of Chief Police Officers.
- (11) Before making an order under sub-paragraph (1), the Scottish Ministers must consult—
- (a) the Agency,
  - (b) the Scottish Police Services Authority,
  - (c) persons whom the Scottish Ministers consider to represent the interests of chief constables of police forces in Scotland, and
  - (d) persons whom the Scottish Ministers consider to represent the interests of bodies within sub-paragraph (13).
- (12) Before deciding whether to give consent for the purposes of sub-paragraph (7) or (9), the Scottish Ministers must consult—
- (a) the Scottish Police Services Authority,
  - (b) persons whom the Scottish Ministers consider to represent the interests of chief constables of police forces in Scotland, and
  - (c) persons whom the Scottish Ministers consider to represent the interests of bodies within sub-paragraph (13).
- (13) A body is within this sub-paragraph if it is—
- (a) the police authority for a police area in Scotland that is not combined, by virtue of an amalgamation scheme under the Police (Scotland) Act 1967 (c. 77), with any other police area in Scotland, or
  - (b) a joint police board constituted under such a scheme.
- (14) An order under sub-paragraph (1) may—
- (a) make provision for the making of determinations, or the giving of approvals, by the Secretary of State under the order;
  - (b) contain provision framed by reference to determinations made or approvals given under provision such as is mentioned in paragraph (a);
  - (c) contain provision framed by reference to the Secretary of State's opinion, from time to time, as to any matter.
- (15) Provision under sub-paragraph (1) (including, without prejudice to the generality of section 20(2) of the Interpretation Act 1978 (c. 30), provision made under sub-paragraph (1) in reliance on section 49(3)) may take the form of amendments of enactments whenever passed or made, including—
- (a) enactments comprised in, or in instruments made under, Acts of the Scottish Parliament,
  - (b) enactments comprised in, or in instruments made under, Northern Ireland legislation, and
  - (c) enactments comprised in subordinate legislation (within the meaning of the Interpretation Act 1978).

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**Changes to legislation:** Police and Justice Act 2006 is up to date with all changes known to be in force on or before 02 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

#### Textual Amendments

**F35** Words in Sch. 1 para. 48(3)(b) inserted (1.4.2008) by [The Offender Management Act 2007 \(Consequential Amendments\) Order 2008 \(S.I. 2008/912\)](#), art. 1, [Sch. 1 para. 22](#)

#### Commencement Information

**I130** Sch. 1 para. 48 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with arts. 6, 7)

## PART 7

### CONSEQUENTIAL AMENDMENTS

#### *Public Records Act 1958 (c. 51)*

- 49 In Part 2 of the Table at the end of paragraph 3 of Schedule 1 to the Public Records Act 1958 (bodies whose records are public records), at the appropriate place there is inserted— “ National Policing Improvement Agency. ”

#### Commencement Information

**I131** Sch. 1 para. 49 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with arts. 6, 7)

#### *Parliamentary Commissioner Act 1967 (c. 13)*

- 50 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place there is inserted— “ National Policing Improvement Agency. ”

#### Commencement Information

**I132** Sch. 1 para. 50 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with arts. 6, 7)

#### *Police (Scotland) Act 1967 (c. 77)*

- 51 The Police (Scotland) Act 1967 is amended as follows.

#### Commencement Information

**I133** Sch. 1 para. 51 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with arts. 6, 7)

- 52 In section 38(3A) (status of certain constables on secondment), after “(bb)” there is inserted “ or (bh) ”.

#### Commencement Information

**I134** Sch. 1 para. 52 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with arts. 6, 7)

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- 53 (1) Section 38A (constables engaged on service outside their force) is amended as follows.
- (2) In subsection (1) (meaning of “relevant service”), after paragraph (bg) there is inserted—
- “(bh) temporary service with the National Policing Improvement Agency on which a person is engaged with the consent of the appropriate authority;”.
- (3) In subsection (6)(a) (which provides for relevant service to be treated for certain purposes as service in constable's home force), after “(bg)” there is inserted “, (bh),”.

**Commencement Information**

**I135** Sch. 1 para. 53 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Health and Safety at Work etc. Act 1974 (c. 37)*

- 54 In section 51A(2E) of the Health and Safety at Work etc. Act 1974 (provisions which impose liability on others for unlawful conduct of constables but which do not apply to liability under Part 1 of the 1974 Act), after paragraph (f) there is inserted—
- “(g) paragraph 20 of Schedule 1 to the Police and Justice Act 2006;”.

**Commencement Information**

**I136** Sch. 1 para. 54 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*House of Commons Disqualification Act 1975 (c. 24)*

- 55 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies whose members are disqualified), at the appropriate place there is inserted— “ The National Policing Improvement Agency. ”

**Commencement Information**

**I137** Sch. 1 para. 55 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

- 56 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified), at the appropriate place there is inserted — “ The National Policing Improvement Agency. ”

**Commencement Information**

**I138** Sch. 1 para. 56 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))



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*Police Pensions Act 1976 (c. 35)*

57 The Police Pensions Act 1976 is amended as follows.

**Commencement Information**

**I139** Sch. 1 para. 57 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

58 In section 7(2) (persons eligible for police pensions), after paragraph (ce) there is inserted—

“(cf) a member of the staff of the National Policing Improvement Agency who holds the office of constable;”.

**Commencement Information**

**I140** Sch. 1 para. 58 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

59 (1) Section 11 (interpretation) is amended as follows.

(2) In subsection (1) (references to membership of a police force etc), after paragraph (be) there is inserted—

“(bf) service, by a person holding the office of constable, as a member of the staff of the National Policing Improvement Agency;”.

(3) In subsection (2) (meaning of “police authority”), after paragraph (e) there is inserted—

“(f) in relation to any service such as is mentioned in subsection (1)(bf), it means the National Policing Improvement Agency;”.

(4) In subsection (3) (meaning of “police force”), in paragraph (b), after “(be),” there is inserted “ (bf), ”.

**Commencement Information**

**I141** Sch. 1 para. 59 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Race Relations Act 1976 (c. 74)*

60 In Part 2 of Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty), at the appropriate place under the heading “Police” there is inserted— “ The National Policing Improvement Agency. ”

**Commencement Information**

**I142** Sch. 1 para. 60 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Police Act 1996 (c. 16)*

61 The Police Act 1996 is amended as follows.

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**Commencement Information**

**I143** Sch. 1 para. 61 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

- 62 (1) Section 39A (power of Secretary of State to issue codes of practice for chief officers) is amended as follows.
- (2) In subsection (3) (preparation of drafts and revisions)—
- (a) for “Central Police Training and Development Authority” there is substituted “National Policing Improvement Agency”, and
- (b) for “that Authority” there is substituted “that Agency”.
- (3) In subsection (4) (consultation), for “Central Police Training and Development Authority” there is substituted “National Policing Improvement Agency”.

**Commencement Information**

**I144** Sch. 1 para. 62 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

- 63 (1) Section 53A (regulation of procedures and practices of police forces) is amended as follows.
- (2) In subsection (2) (advice), for paragraph (b) there is substituted—
- “(b) the National Policing Improvement Agency.”
- (3) In subsection (5) (consultation), for “Central Police Training and Development Authority” there is substituted “National Policing Improvement Agency”.
- (4) In subsection (6)(a) (consideration of advice etc), for “Central Police Training and Development Authority” there is substituted “National Policing Improvement Agency”.

**Commencement Information**

**I145** Sch. 1 para. 63 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

- 64 In section 57(5) (consultation about regulations requiring police forces to use specified facilities or services), for “Police Information Technology Organisation” there is substituted “National Policing Improvement Agency”.

**Commencement Information**

**I146** Sch. 1 para. 64 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

- 65 In section 59 (Police Federations), after subsection (7) there is inserted—
- “(7A) For the purposes of subsection (1), a member of the staff of the National Policing Improvement Agency who is—
- (a) a constable, and
- (b) an employee of the Agency,
- shall be treated as a member of a police force in England and Wales, and references in this section to police service shall be construed accordingly.”

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#### Commencement Information

**I147** Sch. 1 para. 65 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

- 66 In section 61(1) (Police Negotiating Board), before paragraph (c) there is inserted—  
“(bb) the members of the staff of the National Policing Improvement Agency who are constables.”

#### Commencement Information

**I148** Sch. 1 para. 66 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

- 67 (1) Section 62 (functions of the Police Negotiating Board) is amended as follows.
- (2) In subsection (1) (duty to consult Board before making regulations about certain matters), after paragraph (c) there is inserted “or  
(d) regulations under paragraph 19 of Schedule 1 to the Police and Justice Act 2006 (regulations as to constables who are members of the staff of the National Policing Improvement Agency),”.
- (3) Before subsection (2) there is inserted—  
“(1D) Before issuing a document under paragraph 18 of Schedule 1 to the Police and Justice Act 2006 (rules and principles for contents of contracts of employment of constables employed as members of the staff of the National Policing Improvement Agency), the Secretary of State shall—  
(a) consult the Police Negotiating Board for the United Kingdom about any provision in the document which relates to any of the matters mentioned in section 61(1) (other than pensions), and  
(b) take into consideration any recommendation made by the Board.  
(1E) Before determining the terms and conditions on which a constable is to be appointed to the staff of the National Policing Improvement Agency as an employee of the Agency, the Secretary of State (where the constable is to be appointed as the chief executive of the Agency) or the Agency (in any other case) shall—  
(a) consult the Police Negotiating Board for the United Kingdom about any term or condition which relates to any of the matters mentioned in section 61(1) (other than pensions), and  
(b) take into consideration any recommendation made by the Board.”
- (4) In subsection (2) (arrangements under section 61(3) apply in relation to recommendations under section 62), for “subsection (1) or (1A)” there is substituted “subsection (1), (1A), (1D) or (1E)”.

#### Commencement Information

**I149** Sch. 1 para. 67 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

- 68 (1) Section 63 (Police Advisory Boards) is amended as follows.
- (2) Before subsection (2) there is inserted—

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“(1C) The Police Advisory Board for England and Wales shall also advise the Secretary of State on general questions affecting members of the staff of the National Policing Improvement Agency who are constables.”

(3) In subsection (3) (Board to be consulted on certain regulations), after paragraph (b) there is inserted “or

(c) regulations under paragraph 19 of Schedule 1 to the Police and Justice Act 2006 (regulations as to constables who are members of the staff of the National Policing Improvement Agency), other than regulations with respect to any of the matters mentioned in section 61(1),”.

**Commencement Information**

**I150** Sch. 1 para. 68 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

69 In section 64 (membership of trade unions), before subsection (5) there is inserted—

“(4C) This section applies to a member of the staff of the National Policing Improvement Agency who is—

- (a) a constable, and
- (b) an employee of the Agency,

as it applies to a member of a police force, and references to a police force or to service in a police force shall be construed accordingly.

(4D) In its application by virtue of subsection (4C), subsection (2) shall have effect as if the reference to the chief officer of police were a reference to the chief executive of the National Policing Improvement Agency.”

**Commencement Information**

**I151** Sch. 1 para. 69 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

70 In section 90(4) (impersonation etc: interpretation), for the words after paragraph (a) and before paragraph (b) (paragraph (aa) having been superseded by section 68(2) of the Railways and Transport Safety Act 2003) there is substituted—

“(ab) “member of a police force” includes a member of the staff of the National Policing Improvement Agency who is a constable, and”.

**Commencement Information**

**I152** Sch. 1 para. 70 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

71 In section 91(2) (offence under subsection (1) of causing disaffection etc amongst members of police forces applies also in relation to certain other police personnel), after paragraph (a) there is inserted—

“(aa) members of the staff of the National Policing Improvement Agency who are constables,”.

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#### Commencement Information

**I153** Sch. 1 para. 71 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

- 72 (1) Section 97 (police officers engaged on service outside their force) is amended as follows.
- (2) In subsection (1) (meaning of “relevant service”), after paragraph (cf) there is inserted—
- “(cg) temporary service with the National Policing Improvement Agency on which a person is engaged with the consent of the appropriate authority;”.
- (3) In subsections (6)(a) and (8), after “(cf)” there is inserted “ , (cg) ”.

#### Commencement Information

**I154** Sch. 1 para. 72 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

#### *Police (Northern Ireland) Act 1998 (c. 32)*

- 73 (1) Section 27 of the Police (Northern Ireland) Act 1998 (members of the Police Service of Northern Ireland engaged on other police service) is amended as follows.
- (2) In subsection (1) (meaning of “relevant service”), after paragraph (cb) there is inserted—
- “(cc) temporary service with the National Policing Improvement Agency on which a member of the Police Service of Northern Ireland is engaged with the consent of the Chief Constable;”.
- (3) In subsection (5)(b), after “(cb),” there is inserted “ (cc), ”.
- (4) In subsection (7)—
- (a) for “(1)(c), (ca)” there is substituted “ (1)(ca) ”;
- (b) for “or (cb)” there is substituted “ , (cb) or (cc) ”.

#### Commencement Information

**I155** Sch. 1 para. 73 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

#### *Freedom of Information Act 2000 (c. 36)*

- 74 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public bodies and offices), at the appropriate place there is inserted— “ The National Policing Improvement Agency. ”

#### Commencement Information

**I156** Sch. 1 para. 74 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

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*Criminal Justice and Court Services Act 2000 (c. 43)*

- 75 (1) Section 71 of the Criminal Justice and Court Services Act 2000 (access to driver licensing records) is amended as follows.
- (2) In subsection (1), for “Police Information Technology Organisation” there is substituted “ National Policing Improvement Agency ”.
- (3) In subsection (2), for “Organisation” there is substituted “ National Policing Improvement Agency ”.

**Commencement Information**

**I157** Sch. 1 para. 75 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with arts. 6, 7)

*Vehicles (Crime) Act 2001 (c. 3)*

- 76 The Vehicles (Crime) Act 2001 is amended as follows.

**Commencement Information**

**I158** Sch. 1 para. 76 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with arts. 6, 7)

- 77 In section 18(7) (access to information contained in register of registration plate suppliers), for “Police Information Technology Organisation” there is substituted “ National Policing Improvement Agency ”.

**Commencement Information**

**I159** Sch. 1 para. 77 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with arts. 6, 7)

<sup>F36</sup>78 .....

**Textual Amendments**

**F36** Sch. 1 para. 78 repealed (12.1.2009) by [Policing and Crime Act 2009 \(c. 26\)](#), s. 116(6)(b), **Sch. 8 Pt. 13**

*Criminal Justice and Police Act 2001 (c. 16)*

- 79 (1) Section 97 of the Criminal Justice and Police Act 2001 (regulations for police forces as to training and qualifications for deployment) is amended as follows.
- (2) In subsection (4) (persons who must be consulted before regulations about training etc may be made), for paragraph (a) there is substituted—  
“(a) the National Policing Improvement Agency;”.
- (3) For subsection (6) (interpretation of section) there is substituted—  
“(6) In this section—  
(a) references to the provision of police training are references to the provision of training and opportunities for professional development

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- for persons serving or employed for policing purposes in England and Wales;
- (b) references to the provision of training include references to the provision of assessment and examination services;
  - (c) references to a person serving or employed for policing purposes in England and Wales are references to a person who is—
    - (i) a member of a police force in England and Wales,
    - (ii) a special constable appointed under section 27 of the 1996 Act, or
    - (iii) a person employed for the purposes of a police force in England and Wales.”

**Commencement Information**

**I160** Sch. 1 para. 79 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Police Reform Act 2002 (c. 30)*

80 The Police Reform Act 2002 is amended as follows.

**Commencement Information**

**I161** Sch. 1 para. 80 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

81 In section 9(3) (persons ineligible for membership of the Independent Police Complaints Commission), after paragraph (da) there is inserted—  
“(db) he is or has been—  
(i) the chairman or chief executive of, or  
(ii) another member of, or  
(iii) another member of the staff of,  
the National Policing Improvement Agency;”.

**Commencement Information**

**I162** Sch. 1 para. 81 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

82 (1) Section 10 (general functions of the Independent Police Complaints Commission) is amended as follows.

(2) In subsection (1) (general functions), after paragraph (g) there is inserted “; and  
(h) to carry out functions in relation to the National Policing Improvement Agency which correspond to those conferred on the Commission in relation to police forces by paragraph (e) of this subsection.”

(3) In subsection (3) (functions conferred by other provisions), after paragraph (ba) there is inserted—  
“(bb) any agreement under section 26B of this Act (National Policing Improvement Agency);”.

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- (4) In subsection (7)(c) (Commission may impose charges for making recommendations, and giving advice, for purposes of subsection (1)(g)), after “subsection (1)(g)” there is inserted “ or (h) ”.

**Commencement Information**

**I163** Sch. 1 para. 82 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

- 83 (1) Section 11 (reports) is amended as follows.
- (2) In subsection (6) (persons to whom Independent Police Complaints Commission must send copies of its annual reports), after paragraph (d) there is inserted “; and  
 (e) to the National Policing Improvement Agency.”
- (3) After subsection (9) there is inserted—
- “(9A) Where a report under subsection (3) relates to the National Policing Improvement Agency, the Commission shall send a copy of that report to the Agency.”
- (4) In subsection (10) (persons to whom reports under subsection (4) must be sent), after paragraph (g) there is inserted “; and  
 (h) the National Policing Improvement Agency.”

**Commencement Information**

**I164** Sch. 1 para. 83 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

- 84 (1) Section 15 (general duties of police authorities etc in relation to Part 2 of the Act) is amended as follows.
- (2) After subsection (1A) there is inserted—
- “(1B) It shall be the duty of the National Policing Improvement Agency to ensure that it is kept informed, in relation to the Agency, about all matters falling within subsection (2).”
- (3) For the second sentence of subsection (8) (meaning of “third force” in subsection (8)) there is substituted—
- “(8A) Where the person who requires assistance and co-operation under subsection (5) is a member of the staff of the National Policing Improvement Agency—
- (a) the chief officer of a third force, or
- (b) the police authority maintaining a third force,
- may be required to give that assistance and co-operation only with the approval of the chief executive of the National Policing Improvement Agency.
- (8B) In subsections (8) and (8A) “third force”, in relation to an investigation, means any police force other than the force to which the person whose conduct is under investigation belonged at the time of the conduct.”



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(4) In subsection (9) (approval that is needed before Director General of Serious Organised Crime Agency can be required to give assistance etc under subsection (5)), for the words after paragraph (b) there is substituted— “ the Agency may be required to give assistance and co-operation under subsection (5) only with the approval of the relevant directing officer. ”

(5) After subsection (9) there is inserted—

“(10) In subsection (9) “the relevant directing officer”—

- (a) in a case where the person who requires assistance and co-operation belongs to a police force, means the chief officer of that force; and
- (b) in a case where the person who requires assistance and co-operation is a member of the staff of the National Policing Improvement Agency, means the chief executive of that Agency.”

#### Commencement Information

**I165** Sch. 1 para. 84 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

85 After section 16 there is inserted—

#### “16A Investigations: National Policing Improvement Agency involvement

- (1) Where a police authority or chief officer requires the NPIA and its chief executive to provide a member of the NPIA's staff who is a constable for appointment under paragraph 16, 17 or 18 of Schedule 3, it shall be the duty of the NPIA and its chief executive to comply with the requirement.
- (2) It shall be the duty of the NPIA and its chief executive to ensure that a person appointed under paragraph 16, 17 or 18 of Schedule 3 to carry out an investigation is given all such assistance and co-operation in the carrying-out of that investigation as that person may reasonably require.
- (3) It shall be the duty of the NPIA and its chief executive to provide the Commission and every member of the Commission's staff with all such assistance as the Commission or that member of staff may reasonably require for the purposes of, or in connection with, the carrying-out of any investigation by the Commission under this Part.
- (4) Where the person who requires assistance and co-operation under subsection (2) is a person serving with the police, the NPIA and its chief executive may be required to give that assistance and co-operation only with the approval of the chief officer of the force to which that person belongs.
- (5) Where the person who requires assistance and co-operation under subsection (2) is a member of the staff of the Serious Organised Crime Agency, the NPIA and its chief executive may be required to give that assistance and co-operation only with the approval of the Director General of the Serious Organised Crime Agency.
- (6) Subsection (7) applies where the NPIA and its chief executive comply with a requirement under subsection (1) or (2) that is made in connection with—
  - (a) an investigation relating to the conduct of a person who, at the time of the conduct, was a member of a police force; or

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- (b) an investigation of a DSI matter in relation to which the relevant officer was, at the time of the death or serious injury, a member of a police force.
- (7) The police authority maintaining the police force mentioned in subsection (6)(a) or (b) shall pay to the NPIA such contribution (if any) towards the costs of compliance with the requirement—
- (a) as may be agreed between them; or
  - (b) in the absence of an agreement, as may be determined in accordance with any arrangements which—
    - (i) have been agreed to by police authorities generally and by the NPIA, and
    - (ii) are for the time being in force with respect to the making of contributions towards the costs of compliance by the NPIA and its chief executive with requirements of the kind mentioned in subsection (6); or
  - (c) in the absence of any such arrangements, as may be determined by the Secretary of State.
- (8) Where the NPIA and its chief executive comply with a requirement under subsection (3), the Commission shall pay to the NPIA such contribution (if any) towards the costs of compliance with the requirement—
- (a) as may be agreed between the Commission and the NPIA; or
  - (b) in the absence of an agreement, as may be determined in accordance with any arrangements which—
    - (i) have been agreed to by the Agency and by the Commission, and
    - (ii) are for the time being in force with respect to the making of contributions towards the costs of compliance by the NPIA and its chief executive with requirements under subsection (3); or
  - (c) in the absence of any such arrangements, as may be determined by the Secretary of State.
- (9) In this section “the NPIA” means the National Policing Improvement Agency.”

#### **Commencement Information**

**I166** Sch. 1 para. 85 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

86 In section 17 (provision of information to the Independent Police Complaints Commission), after subsection (5) there is inserted—

- “(6) In this section—
- “chief officer” includes the chief executive of the National Policing Improvement Agency;
  - “police authority” includes the National Policing Improvement Agency.”

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#### Commencement Information

**I167** Sch. 1 para. 86 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

87 After section 26A there is inserted—

#### “26B National Policing Improvement Agency

- (1) The Commission and the National Policing Improvement Agency must enter into an agreement for the establishment in relation to members of the Agency's staff of procedures corresponding or similar to those provided for by or under this Part.
- (2) An agreement under this section—
  - (a) must not be made or varied except with the approval of the Secretary of State; and
  - (b) must not be terminated unless—
    - (i) it is replaced by another such agreement, and
    - (ii) the Secretary of State approves.
- (3) An agreement under this section may contain provision for enabling the Commission to bring and conduct, or otherwise participate or intervene in, any proceedings which are identified by the agreement as disciplinary hearings in relation to members of the Agency's staff.
- (4) An agreement under this section must not confer any function on the Commission in relation to so much of any complaint or conduct matter as relates to the direction and control of the Agency by the Agency's chief executive or by other members of the Agency.
- (5) Procedures established in accordance with an agreement under this section shall have no effect in relation to anything done outside England and Wales by any member of the Agency's staff.”

#### Commencement Information

**I168** Sch. 1 para. 87 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

88 In section 29(3)(c) (meaning of references to a member of the public), for “Central Police Training and Development Authority” there is substituted “ National Policing Improvement Agency ”.

#### Commencement Information

**I169** Sch. 1 para. 88 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(a\)](#) (with [arts. 6, 7](#))

- 89 (1) Schedule 3 (handling of complaints and conduct matters etc) is amended as follows.
- (2) In paragraph 16(3) (investigations by the appropriate authority on its own behalf: appointment of person to conduct investigation), after paragraph (b) there is inserted “or

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- (c) a member of the staff of the National Policing Improvement Agency who is a constable,”.
- (3) In paragraph 17(2) (investigations supervised by the Independent Police Complaints Commission: appointment of person to conduct investigation), after paragraph (b) there is inserted “or
- (c) a member of the staff of the National Policing Improvement Agency who is a constable,”.
- (4) In paragraph 17(4) (power of Commission to require different person to be selected to conduct investigation), for “or (b)” there is substituted “, (b) or (c) ”.

**Commencement Information**

**I170** Sch. 1 para. 89 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Sexual Offences Act 2003 (c. 42)*

- 90 In section 94(3) of the Sexual Offences Act 2003 (supply of information to Secretary of State etc for verification), for paragraph (b) there is substituted—  
 “(b) the National Policing Improvement Agency,”.

**Commencement Information**

**I171** Sch. 1 para. 90 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Commissioners for Revenue and Customs Act 2005 (c. 11)*

- 91 In section 20(7)(a) of the Commissioners for Revenue and Customs Act 2005 (public interest disclosure), for “Police Information Technology Organisation” there is substituted “ National Policing Improvement Agency ”.

**Commencement Information**

**I172** Sch. 1 para. 91 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

*Serious Organised Crime and Police Act 2005 (c. 15)*

- 92 (1) Section 153 of the Serious Organised Crime and Police Act 2005 (disclosure of information about insurance status of vehicles) is amended as follows.
- (2) In subsections (1) and (3)(a) and (b), for “PITO” there is substituted “ NPIA ”.
- (3) In subsection (4), for the definition of “PITO” there is substituted—  
 ““NPPIA” means the National Policing Improvement Agency.”

**Commencement Information**

**I173** Sch. 1 para. 92 in force at 1.4.2007 by [S.I. 2007/709](#), **art. 3(a)** (with [arts. 6, 7](#))

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## SCHEDULE 2

Section 2

### AMENDMENTS TO THE POLICE ACT 1996

#### *Membership etc of police authorities*

- 1 In section 4 (membership of police authorities outside Greater London), in subsection (4), for “Schedules 2 and 3” there is substituted “ Schedule 2 ”.

#### **Commencement Information**

**I174** Sch. 2 para. 1 in force at 15.1.2007 by S.I. 2006/3364, art. 2(b) (with art. 3) (as amended (6.3.2008) by S.I. 2008/627, art. 2)

- 2 For Schedule 2 there is substituted—

#### “SCHEDULE 2

Section 4

### POLICE AUTHORITIES ESTABLISHED UNDER SECTION 3

#### *Membership of police authorities*

- 1 (1) The Secretary of State shall by regulations make provision in relation to the membership of police authorities established under section 3.
- (2) Regulations under this paragraph shall provide for a police authority to consist of—
- persons who are members of a relevant council, and
  - other persons, including at least one lay justice.
- (3) Those regulations shall—
- specify the number of members falling within paragraph (a) and paragraph (b) of sub-paragraph (2), and
  - secure that the majority of members of a police authority are persons falling within paragraph (a) of that sub-paragraph.
- (4) Those regulations may make further provision as to qualification for membership, and may provide for a specified number of the members of a police authority to be persons of a specified description.
- (5) Those regulations may include provision as to—
- how a member is to be appointed;
  - disqualification for membership;
  - the tenure of office of a member (including the circumstances in which a member ceases to hold office or may be removed or suspended from office);
  - re-appointment as a member;
  - the validity of acts and proceedings of a person appointed as a member in the event of his disqualification or lack of qualification;
  - the validity of proceedings of a police authority in the event of a vacancy in membership or of a defect in the appointment of a member or in the composition of the authority;

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- (g) the payment of remuneration and allowances to a member and the reimbursement of expenses.

*Appointment of councillor members*

- 2 Regulations under paragraph 1 shall provide that—
  - (a) in the case of a police authority in relation to which there is only one relevant council, the members falling within paragraph 1(2)(a) are to be appointed by that council;
  - (b) in any other case, those members are to be appointed by a joint committee consisting of persons appointed by the relevant councils from among their own members.

*Appointment of other members*

- 3 (1) Regulations under paragraph 1 shall provide that the members falling within paragraph 1(2)(b) are to be appointed—
  - (a) by the existing members of the authority,
  - (b) from among persons on a short-list prepared by a selection panel.
- (2) Those regulations may make provision as to qualification for membership of a selection panel, and may provide for a specified number of the members of a panel to be persons of a specified description.
- (3) Those regulations may include provision as to—
  - (a) the number of members of a selection panel;
  - (b) how and by whom a member of a panel is to be appointed;
  - (c) disqualification for membership;
  - (d) the tenure of office of a member of a panel (including the circumstances in which a member ceases to hold office or may be removed or suspended from office);
  - (e) re-appointment as a member of a panel;
  - (f) the conduct of proceedings of a panel, including any procedures that a panel is to follow;
  - (g) the validity of acts and proceedings of a person appointed as a member of a panel in the event of his disqualification or lack of qualification;
  - (h) the validity of proceedings of a panel in the event of a vacancy in membership or of a defect in the appointment of a member or in the composition of the panel;
  - (i) the payment of remuneration and allowances to a member of a panel and the reimbursement of expenses.

*Chairman and vice chairmen*

- 4 (1) The Secretary of State shall by regulations provide that—
  - (a) a police authority is to appoint a chairman from among its members at each annual meeting; and
  - (b) at an annual meeting a police authority may appoint one or more vice-chairmen from among its members.

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- (2) Regulations under this paragraph may make further provision about how a chairman or vice-chairman is to be appointed, and provision as to—
- (a) qualification and disqualification for appointment;
  - (b) the tenure of office of a chairman or vice-chairman (including the circumstances in which a chairman or vice-chairman ceases to hold office or may be removed or suspended from office);
  - (c) eligibility for re-appointment;
  - (d) the validity of acts and proceedings of a person appointed as chairman or vice-chairman in the event of his disqualification or lack of qualification;
  - (e) the validity of proceedings of a police authority in the event of a vacancy in the office of chairman or vice-chairman or of a defect in the appointment of a chairman or vice-chairman;
  - (f) the payment of remuneration and allowances to a chairman or vice-chairman and the reimbursement of expenses.

#### *Standards committees*

- 5 The Secretary of State may by regulations make provision as to the payment of remuneration and allowances to, and the reimbursement of expenses of, members of the standards committee of a police authority established under section 3.

#### *Consultation*

- 6 Before making regulations under this Schedule the Secretary of State shall consult—
- (a) the Association of Police Authorities,
  - (b) persons whom he considers to represent the interests of county and district councils in England and county and county borough councils in Wales,
  - (c) in the case of regulations that are not to apply to all police authorities established under section 3—
    - (i) any police authority to which the regulations are to apply, and
    - (ii) any relevant council in relation to such an authority,
  - (d) such other persons as he thinks fit.

#### *Supplementary*

- 7 (1) Regulations under this Schedule may make different provision for different police authorities.
- (2) Regulations under this Schedule may make transitional, consequential, incidental and supplemental provision or savings.
- (3) A statutory instrument containing regulations under this Schedule shall be subject to annulment in pursuance of a resolution of either House of Parliament.

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### *Interpretation*

- 8 (1) For the purposes of this Schedule a council is a “relevant council” in relation to a police authority in England if it is the council for—
- (a) a county, or
  - (b) a district comprised in an area for which there is no county council, which constitutes, or is wholly within, the authority's police area.
- (2) For the purposes of this Schedule a council is a “relevant council” in relation to a police authority in Wales if it is the council for a county or county borough which constitutes, or is wholly within, the authority's police area.
- 9 In this Schedule “lay justice” has the meaning given by section 9 of the Courts Act 2003.”

#### **Commencement Information**

**I175** Sch. 2 para. 2 in force at 15.1.2007 by S.I. 2006/3364, art. 2(b) (with art. 3) (as amended (6.3.2008) by S.I. 2008/627, art. 2)

- 3 In section 5C (membership etc of Metropolitan Police Authority), in subsection (6), for “Schedules 2A and 3” there is substituted “ Schedule 2A ”.

#### **Commencement Information**

**I176** Sch. 2 para. 3 in force at 15.1.2007 by S.I. 2006/3364, art. 2(b) (with art. 3) (as amended (6.3.2008) by S.I. 2008/627, art. 2)

- 4 For Schedule 2A there is substituted—

## “SCHEDULE 2A

Section 5C

### THE METROPOLITAN POLICE AUTHORITY

#### *Membership of Authority*

- 1 (1) The Secretary of State shall by regulations make provision in relation to the membership of the Metropolitan Police Authority.
- (2) Regulations under this paragraph shall provide for the Authority to consist of—
- (a) persons appointed from among the persons specified in sub-paragraph (3), and
  - (b) other persons, including at least one lay justice.
- (3) The persons referred to in sub-paragraph (2)(a) are—
- (a) the Mayor of London, and
  - (b) members of the London Assembly.
- (4) Regulations under this paragraph shall—



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- (a) specify the number of members falling within paragraph (a) and paragraph (b) of sub-paragraph (2), and
  - (b) secure that the majority of members of the Authority are persons falling within paragraph (a) of that sub-paragraph.
- (5) Those regulations may make further provision as to qualification for membership, and may provide for a specified number of the members of the Authority to be persons of a specified description.
- (6) Those regulations may include provision as to—
- (a) how a member is to be appointed;
  - (b) disqualification for membership;
  - (c) the tenure of office of a member (including the circumstances in which a member ceases to hold office or may be removed or suspended from office);
  - (d) re-appointment as a member;
  - (e) the validity of acts and proceedings of a person appointed as a member in the event of his disqualification or lack of qualification;
  - (f) the validity of proceedings of the Authority in the event of a vacancy in membership or of a defect in the appointment of a member or in the composition of the Authority;
  - (g) the payment of remuneration and allowances to a member and the reimbursement of expenses.

*Appointment of members from London Assembly etc*

- 2 Regulations under paragraph 1 shall provide that the members falling within paragraph 1(2)(a) are to be appointed by the Mayor of London.

*Appointment of other members*

- 3 (1) Regulations under paragraph 1 shall provide that—
- (a) one of the members falling within paragraph 1(2)(b) is to be appointed by the Secretary of State, and
  - (b) the other members are to be appointed by the existing members of the Metropolitan Police Authority from among persons on a short-list prepared by a selection panel.
- (2) Those regulations may make provision as to qualification for membership of a selection panel, and may provide for a specified number of the members of a panel to be persons of a specified description.
- (3) Those regulations may include provision as to—
- (a) the number of members of a selection panel;
  - (b) how and by whom a member of a panel is to be appointed;
  - (c) disqualification for membership;
  - (d) the tenure of office of a member of a panel (including the circumstances in which a member ceases to hold office or may be removed or suspended from office);
  - (e) re-appointment as a member of a panel;

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- (f) the conduct of proceedings of a panel, including any procedures that a panel is to follow;
- (g) the validity of acts and proceedings of a person appointed as a member of a panel in the event of his disqualification or lack of qualification;
- (h) the validity of proceedings of a panel in the event of a vacancy in membership or of a defect in the appointment of a member or in the composition of the panel;
- (i) the payment of remuneration and allowances to a member of a panel and the reimbursement of expenses.

#### *Chairman and vice chairmen*

- 4 (1) The Secretary of State shall by regulations provide that—
- (a) if the Mayor of London is a member of the Metropolitan Police Authority, he is to be the chairman;
  - (b) if not, the Mayor of London is to appoint a chairman from among the members of the Authority.
- (2) The Secretary of State shall by regulations provide that the Mayor of London may appoint one or more vice-chairmen from among the members of the Authority.
- (3) Regulations under this paragraph may make further provision about how a chairman or vice-chairman is to be appointed, and provision as to—
- (a) qualification and disqualification for appointment;
  - (b) the tenure of office of a chairman or vice-chairman (including the circumstances in which a chairman or vice-chairman ceases to hold office or may be removed or suspended from office);
  - (c) eligibility for re-appointment;
  - (d) the validity of acts and proceedings of a person appointed as chairman or vice-chairman in the event of his disqualification or lack of qualification;
  - (e) the validity of proceedings of the Authority in the event of a vacancy in the office of chairman or vice-chairman or of a defect in the appointment of a chairman or vice-chairman;
  - (f) the payment of remuneration and allowances to a chairman or vice-chairman and the reimbursement of expenses.

#### *Standards committees*

- 5 The Secretary of State may by regulations make provision as to the payment of remuneration and allowances to, and the reimbursement of expenses of, members of the Metropolitan Police Authority's standards committee.

#### *Consultation*

- 6 Before making any regulations under this Schedule, the Secretary of State shall consult—
- (a) the Metropolitan Police Authority,
  - (b) the Association of Police Authorities,

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- (c) the Greater London Authority,
- (d) persons whom he considers to represent the interests of London boroughs, and
- (e) such other persons as he thinks fit.

#### *Supplementary*

- 7 (1) Regulations under this Schedule may make transitional, consequential, incidental and supplemental provision or savings.
- (2) A statutory instrument containing regulations under this Schedule shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Interpretation*

- 8 In this Schedule “lay justice” has the meaning given by section 9 of the Courts Act 2003.”

#### **Commencement Information**

**I177** Sch. 2 para. 4 in force at 15.1.2007 by S.I. 2006/3364, art. 2(b) (with art. 3) (as amended (6.3.2008) by S.I. 2008/627, art. 2)

- 5 In section 19 (approval of decisions about precepts), in subsection (2)(b), for “appointed under paragraph 2 of Schedule 2” there is substituted “who are members of a relevant council as defined in paragraph 8 of Schedule 2”.

#### **Commencement Information**

**I178** Sch. 2 para. 5 in force at 15.1.2007 by S.I. 2006/3364, art. 2(b) (with art. 3) (as amended (6.3.2008) by S.I. 2008/627, art. 2)

- 6 Schedules 3 (police authorities: selection of independent members) and 3A (police authorities: selection of lay justice members) are repealed.

#### **Commencement Information**

**I179** Sch. 2 para. 6 in force at 15.1.2007 by S.I. 2006/3364, art. 2(b) (with art. 3) (as amended (6.3.2008) by S.I. 2008/627, art. 2)

#### *Functions of police authorities*

- 7 (1) Section 6 (general functions of police authorities) is amended as follows.
- (2) In subsection (1)—
- (a) the words after “section 3” become paragraph (a) of that subsection;
  - (b) at the end of that paragraph there is inserted “, and
  - (b) shall hold the chief officer of police of that force to account for the exercise of his functions and those of persons under his direction and control.”

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- (3) In subsection (2)—
- (a) in paragraph (a), for “objectives determined by the Secretary of State under section 37” there is substituted “ strategic priorities determined by the Secretary of State under section 37A ”;
  - (b) in paragraph (b), for “under section 7” there is substituted “ by virtue of section 6ZB ”;
  - (c) for paragraph (d) there is substituted—
    - “(d) any plan issued by the authority by virtue of section 6ZB.”
- (4) Subsection (4) (police authorities to comply with directions given under section 38 or 40) is omitted.

#### Commencement Information

**I180** Sch. 2 para. 7(3)(a) in force at Royal Assent see s. 53(1)(2)

**I181** Sch. 2 para. 7(1) (2) in force at 29.6.2007 by [S.I. 2007/1614](#), [art. 2\(b\)](#)

**I182** Sch. 2 para. 7(3)(b) (c) (4) in force at 1.4.2008 by [S.I. 2008/790](#), [art. 2\(b\)](#)

- 8 After section 6 there is inserted—

#### “6ZA Power to confer particular functions on police authorities

- (1) The Secretary of State may by order confer particular functions on police authorities.
- (2) Without prejudice to the generality of subsection (1), an order under this section may contain provision requiring a police authority—
  - (a) to monitor the performance of the police force maintained for its area in—
    - (i) complying with any duty imposed on the force by or under this Act, the Human Rights Act 1998 or any other enactment;
    - (ii) carrying out any plan issued by virtue of section 6ZB;
  - (b) to secure that arrangements are made for that force to co-operate with other police forces whenever necessary or expedient;
  - (c) to promote diversity within that force and within the authority.
- (3) Before making an order under this section the Secretary of State must consult—
  - (a) the Association of Police Authorities,
  - (b) the Association of Chief Police Officers, and
  - (c) such other persons as he thinks fit.
- (4) An order under this section may make different provision for different police authorities.
- (5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

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### Commencement Information

**I183** Sch. 2 para. 8 in force at 15.1.2007 by S.I. 2006/3364, art. 2(b) (with art. 3) (as amended (6.3.2008) by S.I. 2008/627, art. 2)

### *Police authorities: objectives, plans and reports*

9 After section 6ZA (inserted by paragraph 8) there is inserted—

#### **“6ZB Plans by police authorities**

- (1) Before the beginning of each financial year every police authority shall issue a plan (a “policing plan”) setting out—
  - (a) the authority's objectives (“policing objectives”) for the policing of its area during that year; and
  - (b) the proposed arrangements for the policing of that area for the period of three years beginning with that year.
- (2) Policing objectives shall be so framed as to be consistent with any strategic priorities determined under section 37A.
- (3) Before determining policing objectives, a police authority shall—
  - (a) consult the relevant chief officer of police, and
  - (b) consider any views obtained by the authority in accordance with arrangements made under section 96.
- (4) A draft of a policing plan required to be issued by a police authority under this section shall be prepared by the relevant chief officer of police and submitted by him to the authority for it to consider.

The authority shall consult the relevant chief officer of police before issuing a policing plan which differs from the draft submitted by him under this subsection.
- (5) The Secretary of State may by regulations make provision supplementing that made by this section.
- (6) The regulations may make provision (further to that made by subsection (3)) as to persons who are to be consulted, and matters that are to be considered, before determining policing objectives.
- (7) The regulations may contain provision as to—
  - (a) matters to be dealt with in policing plans (in addition to those mentioned in subsection (1));
  - (b) persons who are to be consulted, and matters that are to be considered, in preparing policing plans;
  - (c) modification of policing plans;
  - (d) persons to whom copies of policing plans are to be sent.
- (8) Before making regulations under this section the Secretary of State must consult—
  - (a) the Association of Police Authorities,
  - (b) the Association of Chief Police Officers, and

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- (c) such other persons as he thinks fit.
- (9) Regulations under this section may make different provision for different police authorities.
- (10) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section “the relevant chief officer of police”, in relation to a police authority, means the chief officer of police of the police force maintained by that authority.

### **6ZC Reports by police authorities**

- (1) The Secretary of State may by order require police authorities to issue reports concerning the policing of their areas.
- (2) An order under this section may contain provision as to—
  - (a) the periods to be covered by reports, and, as regards each period, the date by which reports are to be issued;
  - (b) the matters to be dealt with in reports;
  - (c) persons to whom copies of reports are to be sent.
- (3) Before making an order under this section the Secretary of State must consult—
  - (a) the Association of Police Authorities,
  - (b) the Association of Chief Police Officers, and
  - (c) such other persons as he thinks fit.
- (4) An order under this section may make different provision for different police authorities.
- (5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

#### **Commencement Information**

**I184** Sch. 2 para. 9 in force at 14.3.2008 by S.I. 2008/311, art. 2(b)

- 10 The following sections are repealed—
- section 6A (three-year strategy plans);
  - section 7 (local policing objectives);
  - section 8 (local policing plans);
  - section 9 (annual reports by police authorities).

#### **Commencement Information**

**I185** Sch. 2 para. 10 in force at 14.3.2008 by S.I. 2008/311, art. 2(b) (with art. 3)

- 11 In section 9A (general functions of Commissioner of Police of the Metropolis), in subsection (2), for the words after “shall have regard” there is substituted “to—

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- (a) any arrangements involving the metropolitan police force that are made by virtue of section 6ZA(2)(b);
- (b) the policing plan issued by the Metropolitan Police Authority under section 6ZB.”

**Commencement Information**

**I186** Sch. 2 para. 11 in force at 1.4.2008 by S.I. 2008/790, art. 2(b)

- 12 In section 10 (general functions of chief constables), in subsection (2), for the words after “shall have regard” there is substituted “to—
- (a) any arrangements involving his force that are made by virtue of section 6ZA(2)(b);
  - (b) the policing plan issued by the police authority for his area under section 6ZB.”

**Commencement Information**

**I187** Sch. 2 para. 12 in force at 1.4.2008 by S.I. 2008/790, art. 2(b)

- 13 (1) Section 96B (national and international functions: application of requirements relating to reports etc) is amended as follows.
- (2) In subsection (2), for “section 7(1) shall have effect as if the reference” there is substituted “ section 6ZB(1) shall have effect as if a reference ”.
- (3) Subsection (3) is repealed.
- (4) In subsection (4), for “section 9(1)” there is substituted “ section 6ZC(1) ”.

**Commencement Information**

**I188** Sch. 2 para. 13 in force at 1.4.2008 by S.I. 2008/790, art. 2(b)

*Appointment of deputy chief constables etc*

- 14 (1) Section 11A (appointment and removal of deputy chief constables) is amended as follows.
- (2) In subsection (1) (police forces to have a deputy chief constable), for “a deputy chief constable” there is substituted “ one or more deputy chief constables ”.
- (3) For subsection (2) there is substituted—
- “(2) The appointment of a person to be a deputy chief constable of a police force shall be made, in accordance with regulations under section 50, by the police authority responsible for maintaining that force.
- (2A) Where the police authority responsible for maintaining a police force—
- (a) proposes to increase the number of deputy chief constables that the force has, or
  - (b) proposes to appoint a particular person to be a deputy chief constable,

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it may do so only after consultation with the chief constable and subject to the approval of the Secretary of State.”

15 (1) Section 12A (power of deputy to exercise functions of chief constable) is amended as follows.

(2) In subsection (1), for “A deputy chief constable” there is substituted “ The appropriate deputy chief constable ”.

(3) After that subsection there is inserted—

“(1A) The appropriate deputy chief constable for the purposes of subsection (1) is—

- (a) in the case of a police force that has only one deputy chief constable, the deputy chief constable;
- (b) in the case of a police force that has more than one deputy chief constable, the most senior deputy chief constable.

(1B) The chief constable of a police force that has more than one deputy chief constable shall, after consulting the police authority responsible for maintaining the force, designate the deputy chief constables in order of seniority for the purposes of subsection (1A)(b).

(1C) During any absence, incapacity or suspension from duty of the person who—

- (a) is designated as the most senior deputy chief constable for the purposes of subsection (1A)(b), or
- (b) is treated under this subsection as the most senior deputy chief constable,

the person designated as the next most senior deputy chief constable shall be treated as the most senior one for those purposes.”

(4) For subsection (2) there is substituted—

“(2) The chief constable of a police force shall, after consulting the police authority responsible for maintaining the force, designate a person holding the rank of assistant chief constable in that force to exercise or perform any or all of the powers or duties of the chief constable during any period when—

- (a) the chief constable is absent, incapacitated or suspended from duty and—
  - (i) the deputy chief constable, or each of the deputy chief constables, is also absent, incapacitated or suspended from duty, or
  - (ii) the office of the deputy chief constable, or of each of the deputy chief constables, is vacant;

or

- (b) the office of the chief constable is vacant and—
  - (i) the office of the deputy chief constable, or of each of the deputy chief constables, is also vacant, or
  - (ii) the deputy chief constable, or each of the deputy chief constables, is absent, incapacitated or suspended from duty.”

(5) In subsection (5), for “subsections (1) and (2)” there is substituted “ subsections (1) to (2) ”.



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*Civilian employees of police authorities*

- 16 (1) Section 15 (civilian employees) is amended as follows.
- (2) For subsection (2) (civilians employed by police authority to be under direction and control of chief officer of police) there is substituted—
- “(2) A police authority shall exercise its powers under section 101 (and section 107) of the Local Government Act 1972 so as to secure that, subject to section 24(3A), any person employed by the authority under this section solely to assist the police force maintained by the authority is under the direction and control of the chief officer of police of that force.”
- (3) Subsection (3) (power to agree or determine exceptions to section 15(2)) is omitted.

**Commencement Information**

**I189** Sch. 2 para. 16 in force at 1.4.2007 by S.I. 2007/709, art. 3(c) (with arts. 6, 7)

- 17 In section 24 (aid of one police force by another), after subsection (3) there is inserted—
- “(3A) While a person employed by a police authority under section 15 solely to assist the police force maintained by that authority is provided under this section for the assistance of another police force, he shall, notwithstanding section 15(2), be under the direction and control of the chief officer of police of that other force.”

**Commencement Information**

**I190** Sch. 2 para. 17 in force at 1.4.2007 by S.I. 2007/709, art. 3(c) (with arts. 6, 7)

*Clerks to police authorities renamed chief executives*

- 18 (1) Section 16 (appointment of clerk by police authority) is amended as follows.
- (2) In subsections (1) and (2), for “clerk to” there is substituted “ chief executive of ”.
- (3) In the heading, for “clerk” there is substituted “ chief executive ”.

**Commencement Information**

**I191** Sch. 2 para. 18 in force at 1.4.2007 by S.I. 2007/709, art. 3(c) (with arts. 6, 7)

- 19 In Schedule 6 (appeals to police appeal tribunals), in paragraph 6(2), for “clerk” there is substituted “ chief executive ”.

**Commencement Information**

**I192** Sch. 2 para. 19 in force at 1.4.2007 by S.I. 2007/709, art. 3(c) (with arts. 6, 7)

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- 20 (1) A reference in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) to the clerk to a police authority has effect as a reference to the chief executive of the authority.
- (2) A person holding office as clerk to a police authority on the commencement of paragraph 18 continues in that office as chief executive of the authority.
- (3) In this paragraph “police authority” means—
- (a) a police authority established under section 3 of the Police Act 1996 (c. 16);
  - (b) the Metropolitan Police Authority.

**Commencement Information**

**I193** Sch. 2 para. 20 in force at 1.4.2007 by S.I. 2007/709, art. 3(c) (with arts. 6, 7)

*Jurisdiction of special constables*

- 21 (1) Section 30 (jurisdiction of constables) is amended as follows.
- (2) For subsection (2) (jurisdiction of special constables) there is substituted—
- “(2) A special constable shall have all the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters.”
- (3) Subsections (3) and (4) are omitted.

**Commencement Information**

**I194** Sch. 2 para. 21 in force at 1.4.2007 by S.I. 2007/709, art. 3(c) (with arts. 6, 7)

- 22 In section 24(3) (constable assisting another police force to be under direction and control of chief officer of that force), for “section 10(1)” there is substituted “sections 9A(1) and 10(1)”.

**Commencement Information**

**I195** Sch. 2 para. 22 in force at 1.4.2007 by S.I. 2007/709, art. 3(c) (with arts. 6, 7)

- 23 In section 27(2) (special constables to be under direction and control of chief officer), after “Subject to” there is inserted “section 24(3) and”.

**Commencement Information**

**I196** Sch. 2 para. 23 in force at 1.4.2007 by S.I. 2007/709, art. 3(c) (with arts. 6, 7)

*Secretary of State's strategic functions in relation to police authorities*

- 24 Sections 36A (National Policing Plan) and 37 (setting of objectives for police authorities) are repealed.
- 25 Before section 38 there is inserted—

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### **Setting of strategic priorities for police authorities**

“37A(1) The Secretary of State may determine strategic priorities for the policing of the areas of all police authorities to which this section applies.

(2) Before determining any such priorities the Secretary of State shall consult—

- (a) the Association of Police Authorities, and
- (b) the Association of Chief Police Officers.

(3) The Secretary of State shall arrange for any priorities determined under this section to be published in such manner as he considers appropriate.

(4) The police authorities to which this section applies are those established under section 3 and the Metropolitan Police Authority.”

26 (1) Section 38 (setting of performance targets) is amended as follows.

(2) In subsection (1)—

- (a) for “an objective has been determined under section 37” there is substituted “ a strategic priority has been determined under section 37A ”;
- (b) for “to achieve the objective” there is substituted “ to give effect to that priority ”.

(3) In subsection (2), for “section 37” there is substituted “ section 37A ”.

(4) After subsection (4) there is inserted—

“(5) A police authority that is given a direction under this section shall comply with it.”

### *Power to give directions to police authority or chief officer of police*

27 For section 40 (power to give directions to police authority) there is substituted—

### **“40 Power to give directions in relation to police force**

(1) Where the Secretary of State is satisfied that the whole or any part of a police force is failing to discharge any of its functions in an effective manner, whether generally or in particular respects, he may direct the police authority responsible for maintaining the force to take specified measures for the purpose of remedying the failure.

(2) Where the Secretary of State is satisfied that the whole or a part of a police force will fail to discharge any of its functions in an effective manner, whether generally or in particular respects, unless remedial measures are taken, he may direct the police authority responsible for maintaining the force to take specified measures in order to prevent such a failure occurring.

(3) The measures that may be specified in a direction under subsection (1) or (2) include the submission to the Secretary of State of an action plan setting out the measures which the person or persons submitting the plan propose to take for the purpose of remedying the failure in question or (as the case may be) preventing such a failure occurring.

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- (4) The Secretary of State shall not give a direction under this section in relation to any police force unless—
- (a) the police authority responsible for maintaining the force and the chief officer of police of that force 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) that police authority and chief officer have each been given an opportunity of making representations about those grounds;
  - (c) that police authority and chief officer have each 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.
- (5) Subsection (4) does not apply if the Secretary of State is satisfied that—
- (a) the police authority responsible for maintaining the force and the chief officer of police of that force have already been made aware of the matters constituting the Secretary of State's grounds for proposing to give a direction under this section;
  - (b) the information they had about those matters was sufficient to enable them to identify remedial measures that would have made the giving of the direction unnecessary; and
  - (c) they have each had a reasonable opportunity to take such measures.
- (6) The Secretary of State shall not give a direction under this section unless Her Majesty's Chief Inspector of Constabulary has been given—
- (a) the same information about the grounds for proposing to give that direction as is required to be given under subsection (4)(a) (or would be so required but for subsection (5)); and
  - (b) an opportunity of making written observations about those grounds.
- The Secretary of State shall publish any such observations in such manner as appears to him to be appropriate.
- (7) A police authority that is given a direction under this section shall comply with it.

#### **40A Power to give directions in relation to police authority**

- (1) Where the Secretary of State is satisfied that a police authority is failing to discharge any of its functions in an effective manner, whether generally or in particular respects, he may direct the police authority to take specified measures for the purpose of remedying the failure.
- (2) Where the Secretary of State is satisfied that a police authority will fail to discharge any of its functions in an effective manner, whether generally or in particular respects, unless remedial measures are taken, he may direct the police authority to take specified measures in order to prevent such a failure occurring.

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- (3) The measures that may be specified in a direction under subsection (1) or (2) include the submission to the Secretary of State of an action plan setting out the measures which the authority submitting the plan proposes to take for the purpose of remedying the failure in question or (as the case may be) preventing such a failure occurring.
- (4) The Secretary of State shall not give a direction under this section in relation to a police authority unless—
  - (a) the police authority has been given such information about the Secretary of State's grounds for proposing to give that direction as he considers appropriate for enabling it to make representations or proposals under the following paragraphs of this subsection;
  - (b) the police authority has been given an opportunity of making representations about those grounds;
  - (c) the police 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.
- (5) Subsection (4) does not apply if the Secretary of State is satisfied that—
  - (a) the police authority has already been made aware of the matters constituting the Secretary of State's grounds for proposing to give a direction under this section;
  - (b) the information the authority had about those matters was sufficient to enable it to identify remedial measures that would have made the giving of the direction unnecessary; and
  - (c) the authority has had a reasonable opportunity to take such measures.
- (6) The Secretary of State shall not give a direction under this section unless Her Majesty's Chief Inspector of Constabulary has been given—
  - (a) the same information about the grounds for proposing to give that direction as is required to be given under subsection (4)(a) (or would be so required but for subsection (5)); and
  - (b) an opportunity of making written observations about those grounds.

The Secretary of State shall publish any such observations in such manner as appears to him to be appropriate.
- (7) A police authority that is given a direction under this section shall comply with it.
- (8) Nothing in this section or in section 40 prevents the Secretary of State 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 40.

#### **40B Procedure for directions under section 40 or 40A**

- (1) The Secretary of State may by regulations make further provision as to the procedure to be followed in cases where—

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- (a) a proposal is made for the giving of a direction under section 40;
  - (b) a proposal is made for the giving of a direction under section 40A.
- (2) Before making any regulations under this section, the Secretary of State shall consult with—
- (a) the Association of Police Authorities;
  - (b) the Association of Chief Police Officers; and
  - (c) such other persons as he thinks fit.
- (3) Regulations under this section may make different provision for different cases and circumstances.
- (4) 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.
- (5) On giving a direction under section 40 or section 40A to a police authority, the Secretary of State shall notify the chief officer of police of the force in question that he has given that direction.
- (6) Where the Secretary of State gives a direction under section 40 or section 40A he shall lay before Parliament—
- (a) a copy of the direction; and
  - (b) a report about it.
- (7) A report under subsection (7)—
- (a) shall be prepared at such time as the Secretary of State considers appropriate; and
  - (b) may relate to more than one direction.”

**Commencement Information**

**I197** Sch. 2 para. 27 in force at 1.4.2007 by S.I. 2007/709, art. 3(c) (with arts. 6, 7)

- 28 In section 41 (directions as to minimum budget), in subsection (1), after “section 40” there is inserted “ or 40A ”.

**Commencement Information**

**I198** Sch. 2 para. 28 in force at 1.4.2007 by S.I. 2007/709, art. 3(c) (with arts. 6, 7)

*Power to give directions as to action plans*

- 29 Sections 41A and 41B (power to give directions as to action plans, and procedure for doing so) are repealed.

**Commencement Information**

**I199** Sch. 2 para. 29 in force at 1.4.2007 by S.I. 2007/709, art. 3(c) (with arts. 6, 7)

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VALID FROM 15/03/2010

*Arrangements for obtaining the views of the community on policing*

- 30 (1) Section 96 (arrangements for obtaining the views of the community on policing) is amended as follows.
- (2) In subsection (1)(b), after “crime” there is inserted “ and anti-social behaviour ”.
- (3) In subsection (2), for “subsection (6)” there is substituted “ provision made by virtue of subsection (6)(b) ”.
- (4) For subsections (6) to (10) there is substituted—
- “ (6) The Secretary of State may by regulations—
- (a) make provision supplementing that made by this section (or by regulations under paragraph (b));
- (b) make provision applying in place of subsection (2) in relation to the City of London police area.
- (7) Regulations under subsection (6)(a) may contain—
- (a) provision requiring a police authority to review arrangements made under this section from time to time;
- (b) provision (further to that made by subsection (2) or by regulations under subsection (6)(b)) as to persons whom a police authority is to consult in making or reviewing the arrangements;
- (c) provision as to matters to which a police authority is to have regard in making or reviewing the arrangements;
- (d) provision for the Secretary of State, if not satisfied with the adequacy of arrangements made under this section by a police authority, to require the authority—
- (i) to submit reports to him concerning the arrangements;
- (ii) to review the arrangements.
- (8) Before making regulations under this section the Secretary of State must consult—
- (a) the Association of Police Authorities,
- (b) the Association of Chief Police Officers, and
- (c) such other persons as he thinks fit.
- (9) Regulations under this section may make different provision for different police authorities.
- (10) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

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**Changes to legislation:** Police and Justice Act 2006 is up to date with all changes known to be in force on or before 02 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

## SCHEDULE 3

Section 5

### POWER TO MERGE POLICE PENSION SCHEMES

#### *Introduction*

1 In this Schedule—

“the 1976 Act” means the Police Pensions Act 1976 (c. 35);

“1976 Act scheme” means a pension scheme established by regulations under section 1 of the 1976 Act (pensions for police in Great Britain);

“the 1998 Act” means the Police (Northern Ireland) Act 1998 (c. 32);

“1998 Act scheme” means a pension scheme established by regulations under section 25(2)(k) of the 1998 Act (pensions for members of Police Service of Northern Ireland) or section 26(2)(g) of that Act (pensions for members of Police Service of Northern Ireland Reserve);

“police pension scheme” means a 1976 Act scheme or a 1998 Act scheme;

“police pensions regulations” means—

(a) regulations under section 1 of the 1976 Act;

(b) regulations under section 25(2)(k) or 26(2)(g) of the 1998 Act.

#### **Commencement Information**

**I200** Sch. 3 para. 1 in force at 31.12.2007 by S.I. 2007/3203, art. 3(b)

#### *Power to merge police pension schemes*

2 (1) Regulations may—

(a) revoke those provisions of the police pensions regulations that apply to persons who became members of a police pension scheme before 6th April 2006, and

(b) make equivalent provision establishing a single pension scheme for the benefit of those persons.

(2) In sub-paragraph (1)(b) “equivalent provision” means, subject to sub-paragraph (3), provision having the same effect as the provisions revoked.

(3) The regulations may make changes to the effect of the provisions revoked if the changes—

(a) are made as a result of consolidating the provisions of the different police pensions regulations into a single pension scheme, and

(b) do not make the scheme less beneficial to any member of it than the police pension scheme of which he was previously a member.

#### **Commencement Information**

**I201** Sch. 3 para. 2 in force at 31.12.2007 by S.I. 2007/3203, art. 3(b)

#### *Exercise of power to establish merged scheme*

3 (1) This paragraph applies to the first regulations under this Schedule.



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- (2) The power to make the regulations is exercisable by the Secretary of State with the consent of the Treasury.
- (3) Before exercising the power the Secretary of State shall consult with the Police Negotiating Board for the United Kingdom.
- (4) The regulations may be framed so as to have effect as from a date before the making of the regulations.

#### Commencement Information

**I202** Sch. 3 para. 3 in force at 31.12.2007 by [S.I. 2007/3203](#), [art. 3\(b\)](#)

#### *Exercise of power to amend merged scheme*

- 4 (1) The power to make amending regulations is exercisable as if—
  - (a) any provision of the 1976 Act applying to regulations under section 1 of that Act,
  - (b) any provision of Northern Ireland legislation applying to regulations under section 25(2)(k) of the 1998 Act, and
  - (c) any provision of Northern Ireland legislation applying to regulations under section 26(2)(g) of the 1998 Act,applied also to the amending regulations.
- (2) In this paragraph “amending regulations” means regulations amending regulations previously made under this Schedule.

#### Commencement Information

**I203** Sch. 3 para. 4 in force at 31.12.2007 by [S.I. 2007/3203](#), [art. 3\(b\)](#)

#### *Application of provisions of other Acts*

- 5 (1) The provisions of—
  - (a) section 8A of the 1976 Act (information in connection with police pensions etc),
  - (b) section 9 of that Act (assignment etc of pension to be void), and
  - (c) section 10 of that Act (obtaining pension by self-inflicted injury etc),apply to regulations under this Schedule, so far as relating to persons who are former members of a 1976 Act Scheme, as they apply to regulations under section 1 of the 1976 Act.
- (2) The Pensions (Increase) Act 1971 (c. 56) has effect as if a reference in paragraph 15 or 43 of Schedule 2 to a pension payable under the Police Pensions Act 1976 included a reference to a pension payable under regulations under this Schedule to a person who is a former member of a 1976 Act Scheme.

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**Commencement Information**

**I204** Sch. 3 para. 5 in force at 31.12.2007 by S.I. 2007/3203, art. 3(b)

*Transitional provision*

- 6 A reference, however expressed, in any document (including an enactment) to—
- (a) regulations under section 1 of the 1976 Act,
  - (b) regulations under section 25(2)(k) of the 1998 Act, or
  - (c) regulations under section 26(2)(g) of the 1998 Act,
- is to be read, where the context allows, as including a reference to regulations under this Schedule.

**Commencement Information**

**I205** Sch. 3 para. 6 in force at 31.12.2007 by S.I. 2007/3203, art. 3(b)

*Continuity of schemes for tax purposes*

- 7 A pension scheme established under this Schedule is to be regarded for the purposes of Part 4 of the Finance Act 2004 (c. 12) (taxation of pension schemes etc) as a continuation of each police pension scheme that it replaces, and not as a different scheme.

**Commencement Information**

**I206** Sch. 3 para. 7 in force at 31.12.2007 by S.I. 2007/3203, art. 3(b)

SCHEDULE 4

Section 6

CONSULTATION WITH APA AND ACPO

*Police and Criminal Evidence Act 1984 (c. 60)*

- 1 In section 67 of the Police and Criminal Evidence Act 1984 (supplementary provisions about codes), for paragraphs (a) and (b) of subsection (4) there is substituted—
- “(a) the Association of Police Authorities,
  - (b) the Association of Chief Police Officers of England, Wales and Northern Ireland,”.

**Commencement Information**

**I207** Sch. 4 para. 1 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

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*Police Act 1996 (c. 16)*

- 2 In section 8A of the Police Act 1996 (local policing summaries), for paragraphs (a) and (b) of subsection (6) there is substituted—
- “(a) the Association of Police Authorities;
  - (b) the Association of Chief Police Officers; and”.

**Commencement Information**

**I208** Sch. 4 para. 2 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

- 3 In section 39A of that Act (codes of practice for chief officers), for paragraphs (a) and (b) of subsection (4) there is substituted—
- “(a) the Association of Police Authorities;
  - (b) the Association of Chief Police Officers; and”.

**Commencement Information**

**I209** Sch. 4 para. 3 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

- 4 In section 42A of that Act (procedure in relation to removal of senior officers), for paragraphs (a) and (b) of subsection (2) there is substituted—
- “(a) the Association of Police Authorities;
  - (b) the Association of Chief Police Officers; and”.

**Commencement Information**

**I210** Sch. 4 para. 4 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

- 5 In section 53 of that Act (regulations as to standard of equipment), for paragraphs (a) and (b) of subsection (2) there is substituted—
- “(a) the Association of Police Authorities;
  - (b) the Association of Chief Police Officers; and”.

**Commencement Information**

**I211** Sch. 4 para. 5 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

- 6 (1) Section 53A of that Act (regulation of procedures and practices) is amended as follows.
- (2) For paragraphs (a) and (b) of subsection (3) there is substituted—
- “(a) the Association of Police Authorities; and
  - (b) the Association of Chief Police Officers.”
- (3) For paragraphs (a) and (b) of subsection (5) there is substituted—
- “(a) the Association of Police Authorities; and
  - (b) the Association of Chief Police Officers; and”.

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**Commencement Information**

**I212** Sch. 4 para. 6 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

- 7 In section 57 of that Act (common services), for paragraphs (a) and (b) of subsection (4) there is substituted—
- “(a) the Association of Police Authorities;
  - (b) the Association of Chief Police Officers; and”.

**Commencement Information**

**I213** Sch. 4 para. 7 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

- 8 In section 101 of that Act (interpretation), at the beginning of the list of definitions in subsection (1) there is inserted—
- ““the Association of Chief Police Officers” means the Association of Chief Police Officers of England, Wales and Northern Ireland;”.

**Commencement Information**

**I214** Sch. 4 para. 8 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

*Criminal Procedure and Investigations Act 1996 (c. 25)*

- 9 In section 21A of the Criminal Procedure and Investigations Act 1996 (code of practice for police interviews of certain witnesses), in subsection (4)—
- (a) before paragraph (a) there is inserted—
    - “(za) the Association of Chief Police Officers of England, Wales and Northern Ireland;”;
  - (b) sub-paragraph (i) of paragraph (a) is omitted.

**Commencement Information**

**I215** Sch. 4 para. 9 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

*Criminal Justice and Police Act 2001 (c. 16)*

- 10 In section 97 of the Criminal Justice and Police Act 2001 (regulations for police forces), for paragraphs (c) and (d) of subsection (4) there is substituted—
- “(c) the Association of Police Authorities; and
  - (d) the Association of Chief Police Officers of England, Wales and Northern Ireland.”

**Commencement Information**

**I216** Sch. 4 para. 10 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

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*Police Reform Act 2002 (c. 30)*

- 11 In section 22 of the Police Reform Act 2002 (power of Independent Police Complaints Commission to issue guidance), for paragraphs (a) and (b) of subsection (3) there is substituted—

“(a) the Association of Police Authorities;  
(b) the Association of Chief Police Officers; and”.

**Commencement Information**

**I217** Sch. 4 para. 11 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

- 12 In section 24 of that Act (consultation on regulations), for paragraphs (b) and (c) there is substituted—

“(b) the Association of Police Authorities;  
(c) the Association of Chief Police Officers; and”.

**Commencement Information**

**I218** Sch. 4 para. 12 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

- 13 In section 39 of that Act (police powers for contracted-out staff), for paragraphs (a) and (b) of subsection (11) there is substituted—

“(a) the Association of Police Authorities;  
(b) the Association of Chief Police Officers;”.

**Commencement Information**

**I219** Sch. 4 para. 13 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

- 14 In section 43 of that Act (railway safety accreditation scheme), in subsection (9)—

(a) for paragraph (a) there is substituted—  
“(a) the Association of Chief Police Officers;”;  
(b) for paragraph (c) there is substituted—  
“(c) the Association of Police Authorities;”.

**Commencement Information**

**I220** Sch. 4 para. 14 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

- 15 In section 45 of that Act (code of practice relating to chief officers' powers under Chapter 1 of Part 4), in subsection (3)—

(a) for paragraph (c) there is substituted—  
“(c) the Association of Police Authorities;”;  
(b) for paragraph (f) there is substituted—  
“(f) the Association of Chief Police Officers;”.

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**Commencement Information**

**I221** Sch. 4 para. 15 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

- 16 In section 51 of that Act (independent custody visitors for places of detention), for paragraphs (a) and (b) of subsection (7) there is substituted—
- “(a) the Association of Police Authorities;  
 (b) the Association of Chief Police Officers; and”.

**Commencement Information**

**I222** Sch. 4 para. 16 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

- 17 In section 96 of that Act (president of ACPO), the words “of England, Wales and Northern Ireland” are omitted.

**Commencement Information**

**I223** Sch. 4 para. 17 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

- 18 In section 106 of that Act (general interpretation), at the appropriate place there is inserted—
- “the Association of Chief Police Officers” means the Association of Chief Police Officers of England, Wales and Northern Ireland;”.

**Commencement Information**

**I224** Sch. 4 para. 18 in force at 1.4.2007 by S.I. 2007/709, art. 3(d) (with arts. 6, 7)

SCHEDULE 5

Section 9

EXERCISE OF POLICE POWERS BY CIVILIANS

- 1 The Police Reform Act 2002 (c. 30) is amended as follows.

**Commencement Information**

**I225** Sch. 5 para. 1 in force at 1.12.2007 by S.I. 2007/3203, art. 2(c)

- 2 (1) Section 38 (police powers for police authority employees) is amended as follows.
- (2) In subsection (4)(c) (person not to be designated unless adequately trained), after “conferred” there is inserted “ or imposed ”.
- (3) Before subsection (6) there is inserted—
- “(5B) The reference in subsection (4)(c) to the powers and duties to be conferred or imposed on a person by virtue of his designation, so far as it is a reference to the standard powers and duties of a community support officer, is a reference

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to the powers and duties that at the time of the person's designation are the standard powers and duties of a community support officer.”

(4) After subsection (6) there is inserted—

“(6A) Subsection (6) has effect subject to subsections (5A) and (8).”

#### Commencement Information

I226 Sch. 5 para. 2 in force at 1.12.2007 by S.I. 2007/3203, art. 2(c)

3 (1) Section 42 (supplementary provisions relating to designations etc) is amended as follows.

(2) Before subsection (1) there is inserted—

“(A1) A person who exercises or performs any power or duty in relation to any person in reliance on his designation under section 38 as a community support officer, or who purports to do so, shall produce to that person evidence of his designation, if requested to do so.

(B1) A person who exercises or performs any non-standard power or non-standard duty in relation to any person in reliance on his designation under section 38 as a community support officer, or who purports to do so, shall produce to that person evidence that the power or duty has been conferred or imposed on him, if requested to do so.

(C1) For the purposes of subsection (B1), a power or duty is “non-standard” if it is not one of the standard powers and duties of a community support officer.”

(3) After subsection (1) there is inserted—

“(1A) Subsection (1) does not apply to a person who exercises or performs any power or duty in reliance on his designation under section 38 as a community support officer, or who purports to do so.”

#### Commencement Information

I227 Sch. 5 para. 3 in force at 1.12.2007 by S.I. 2007/3203, art. 2(c)

4 In section 105 (orders and regulations), in subsection (3)(b), after “section 19(3)” there is inserted “, 38A(4) ”.

#### Commencement Information

I228 Sch. 5 para. 4 in force at 1.4.2007 by S.I. 2007/709, art. 3(h) (with arts. 6, 7)

5 (1) Schedule 4 (powers exercisable by police civilians) is amended as follows.

(2) In paragraph 1(3) (community support officers: power to issue fixed penalty notices: definition of “relevant fixed penalty offence”)—

(a) in paragraph (a), for “1(2)(a) to (d)” there is substituted “ (2)(a) to (e) ”;

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- (b) in paragraph (b), for “that person's designation as an offence he” there is substituted “ a designation by which this paragraph is applied to the designated person as an offence which the designated person ”.
- (3) In paragraph 1A(2) (community support officers: power to require name and address: confining the power), for “Such a designation may specify that, in relation to that person, the application of sub-paragraph (3)” there is substituted “ A designation by which this paragraph is applied to a person may specify that the application of sub-paragraph (3) by that designation to that person ”.
- (4) In paragraph 2(3A)(b) (community support officers: powers under byelaws to remove persons from places), for “under paragraph 1A” there is substituted “ applying paragraph 1A to the CSO, ”.
- (5) In paragraph 2(4) (person required to wait with community support officer may be given choice to go to police station), for “this Part of this Schedule applies” there is substituted “ this paragraph is applied ”.
- (6) In paragraph 2(6) (meaning of “relevant offence”), in the words after paragraph (b), after “may provide that” there is inserted “ , for the purposes of this paragraph as applied to that person by that designation, ”.
- (7) In paragraph 2(8) (application of paragraph 2 by other provisions effective only where paragraph 2 is itself applied to community support officer)—
  - (a) for “or 7A(8)” there is substituted “ , 7A(8) or 7C(2) ”;
  - (b) “under this paragraph” is omitted.
- (8) In paragraph 4 (power to use reasonable force to detain or control person required to wait with community support officer)—
  - (a) in sub-paragraph (1), for “This paragraph applies” there is substituted “ Sub-paragraph (3) applies ”;
  - (b) in sub-paragraph (1)(b), for “sets out the matters” there is substituted “ sets out matters ”;
  - (c) in sub-paragraph (2), for “as the matters” there is substituted “ as matters ”.
- (9) In paragraph 7B(2)(a) (community support officer's power to seize controlled drugs found in person's possession), for the words from “(whether” to the end there is substituted “ (whether or not the CSO finds it in the course of searching the person by virtue of any paragraph of this Part of this Schedule being applied to the CSO by a designation); and ”.
- (10) In paragraphs 34(2) and 35(4) (escort officer's powers to carry out non-intimate searches of persons), for “designation under” there is substituted “ application of ”.
- <sup>F37</sup>(11) .....
- (12) In paragraph 36(1)(a) (meaning of “the relevant police area”), for “designation” there is substituted “ person designated ”.
- (13) In paragraph 36, for sub-paragraphs (2) and (3) there is substituted—
  - “(2) In Part 1 of this Schedule “a designation” means—
    - (a) a designation under section 38, or
    - (b) an order under section 38A(1) (and, accordingly, the power to make such an order—



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(i) is extended by paragraphs 1(3)(b), 1A(2) and (7), 2(6) and 4(1)(b), but

(ii) is subject to paragraphs 2(2), 4(2) and 11B(5)).

(2A) In Parts 2 and 4A of this Schedule “a designation” means a designation under section 38.

(3) In Parts 3 and 4 of this Schedule “a designation” means a designation under section 38 or 39.”

#### Textual Amendments

**F37** Sch. 5 para. 5(11) repealed (12.1.2009) by Policing and Crime Act 2009 (c. 26), s. 116(6)(b), Sch. 8 Pt. 13

#### Commencement Information

**I229** Sch. 5 para. 5(1) (2)(b) (3)-(10) (12) (13) in force at 1.12.2007 by S.I. 2007/3203, art. 2(c)

**I230** Sch. 5 para. 5(2)(a) in force at 1.4.2007 by S.I. 2007/709, art. 3(h) (with arts. 6, 7)

6 (1) Paragraph 1 of Schedule 5 (power of accredited persons to issue fixed penalty notices) is amended as follows.

(2) In sub-paragraph (2) (powers conferred on a person when paragraph 1 is applied to him), in the words before paragraph (a) (which refer to a relevant offence), after “relevant” there is inserted “ fixed penalty ”.

(3) In sub-paragraph (3)(a) (meaning of “relevant fixed penalty offence” in paragraph 1), for “(c)” there is substituted “ (d) ”.

#### Commencement Information

**I231** Sch. 5 para. 6 in force at 1.12.2007 by S.I. 2007/3203, art. 2(c)

## SCHEDULE 6

Section 10

### POLICE BAIL

#### PART 1

##### INTRODUCTORY

1 The Police and Criminal Evidence Act 1984 (c. 60) is amended as follows.

#### Commencement Information

**I232** Sch. 6 para. 1 in force at 1.4.2007 by S.I. 2007/709, art. 3(i) (with arts. 6, 7)

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## PART 2

### POLICE BAIL GRANTED ELSEWHERE THAN AT POLICE STATION

#### *Power to impose conditions on granting bail*

2 In section 30A (bail elsewhere than at police station), for subsection (4) (no condition of bail may be imposed other than requirement to attend police station) there is substituted—

“(3A) Where a constable releases a person on bail under subsection (1)—

- (a) no recognizance for the person's surrender to custody shall be taken from the person,
- (b) no security for the person's surrender to custody shall be taken from the person or from anyone else on the person's behalf,
- (c) the person shall not be required to provide a surety or sureties for his surrender to custody, and
- (d) no requirement to reside in a bail hostel may be imposed as a condition of bail.

(3B) Subject to subsection (3A), where a constable releases a person on bail under subsection (1) the constable may impose, as conditions of the bail, such requirements as appear to the constable to be necessary—

- (a) to secure that the person surrenders to custody,
- (b) to secure that the person does not commit an offence while on bail,
- (c) to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person, or
- (d) for the person's own protection or, if the person is under the age of 17, for the person's own welfare or in the person's own interests.

(4) Where a person is released on bail under subsection (1), a requirement may be imposed on the person as a condition of bail only under the preceding provisions of this section.”

#### **Commencement Information**

**I233** Sch. 6 para. 2 in force at 1.4.2007 by S.I. 2007/709, art. 3(i) (with arts. 6, 7)

#### *Contents of notice given to person released on bail*

3 In section 30B (bail under section 30A: notices), after subsection (4) there is inserted—

“(4A) If the person is granted bail subject to conditions under section 30A(3B), the notice also—

- (a) must specify the requirements imposed by those conditions,
- (b) must explain the opportunities under sections 30CA(1) and 30CB(1) for variation of those conditions, and

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- (c) if it does not specify the police station at which the person is required to attend, must specify a police station at which the person may make a request under section 30CA(1)(b).”

#### Commencement Information

I234 Sch. 6 para. 3 in force at 1.4.2007 by S.I. 2007/709, art. 3(i) (with arts. 6, 7)

#### *Variation of bail conditions*

4 After section 30C there is inserted—

#### **“30CA Bail under section 30A: variation of conditions by police**

- (1) Where a person released on bail under section 30A(1) is on bail subject to conditions—
  - (a) a relevant officer at the police station at which the person is required to attend, or
  - (b) where no notice under section 30B specifying that police station has been given to the person, a relevant officer at the police station specified under section 30B(4A)(c),may, at the request of the person but subject to subsection (2), vary the conditions.
- (2) On any subsequent request made in respect of the same grant of bail, subsection (1) confers power to vary the conditions of the bail only if the request is based on information that, in the case of the previous request or each previous request, was not available to the relevant officer considering that previous request when he was considering it.
- (3) Where conditions of bail granted to a person under section 30A(1) are varied under subsection (1)—
  - (a) paragraphs (a) to (d) of section 30A(3A) apply,
  - (b) requirements imposed by the conditions as so varied must be requirements that appear to the relevant officer varying the conditions to be necessary for any of the purposes mentioned in paragraphs (a) to (d) of section 30A(3B), and
  - (c) the relevant officer who varies the conditions must give the person notice in writing of the variation.
- (4) Power under subsection (1) to vary conditions is, subject to subsection (3) (a) and (b), power—
  - (a) to vary or rescind any of the conditions, and
  - (b) to impose further conditions.
- (5) In this section “relevant officer”, in relation to a designated police station, means a custody officer but, in relation to any other police station—
  - (a) means a constable, or a person designated as a staff custody officer under section 38 of the Police Reform Act 2002, who is not involved in the investigation of the offence for which the person making the request under subsection (1) was under arrest when granted

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bail under section 30A(1), if such a constable or officer is readily available, and

- (b) if no such constable or officer is readily available—
  - (i) means a constable other than the one who granted bail to the person, if such a constable is readily available, and
  - (ii) if no such constable is readily available, means the constable who granted bail.

### **30CB Bail under section 30A: variation of conditions by court**

- (1) Where a person released on bail under section 30A(1) is on bail subject to conditions, a magistrates' court may, on an application by or on behalf of the person, vary the conditions if—
  - (a) the conditions have been varied under section 30CA(1) since being imposed under section 30A(3B),
  - (b) a request for variation under section 30CA(1) of the conditions has been made and refused, or
  - (c) a request for variation under section 30CA(1) of the conditions has been made and the period of 48 hours beginning with the day when the request was made has expired without the request having been withdrawn or the conditions having been varied in response to the request.
- (2) In proceedings on an application for a variation under subsection (1), a ground may not be relied upon unless—
  - (a) in a case falling within subsection (1)(a), the ground was relied upon in the request in response to which the conditions were varied under section 30CA(1), or
  - (b) in a case falling within paragraph (b) or (c) of subsection (1), the ground was relied upon in the request mentioned in that paragraph, but this does not prevent the court, when deciding the application, from considering different grounds arising out of a change in circumstances that has occurred since the making of the application.
- (3) Where conditions of bail granted to a person under section 30A(1) are varied under subsection (1)—
  - (a) paragraphs (a) to (d) of section 30A(3A) apply,
  - (b) requirements imposed by the conditions as so varied must be requirements that appear to the court varying the conditions to be necessary for any of the purposes mentioned in paragraphs (a) to (d) of section 30A(3B), and
  - (c) that bail shall not lapse but shall continue subject to the conditions as so varied.
- (4) Power under subsection (1) to vary conditions is, subject to subsection (3)
  - (a) and (b), power—
    - (a) to vary or rescind any of the conditions, and
    - (b) to impose further conditions.”

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#### Commencement Information

I235 Sch. 6 para. 4 in force at 1.4.2007 by S.I. 2007/709, art. 3(i) (with arts. 6, 7)

#### *Power of arrest for breach of bail conditions*

- 5 (1) Section 30D (failure to answer to bail under section 30A) is amended as follows.
- (2) After subsection (2) there is inserted—
- “(2A) A person who has been released on bail under section 30A may be arrested without a warrant by a constable if the constable has reasonable grounds for suspecting that the person has broken any of the conditions of bail.
- (2B) A person arrested under subsection (2A) must be taken to a police station (which may be the specified police station mentioned in subsection (1) or any other police station) as soon as practicable after the arrest.”
- (3) In subsection (4)(a) (arrest under section 30D treated for purposes of section 30 as arrest for offence, subject to obligation in subsection (2)), for “obligation in subsection (2)” there is substituted “ obligations in subsections (2) and (2B) ”.

#### Commencement Information

I236 Sch. 6 para. 5 in force at 1.4.2007 by S.I. 2007/709, art. 3(i) (with arts. 6, 7)

### PART 3

#### POLICE BAIL GRANTED AT POLICE STATION BEFORE CHARGE

#### *Power to impose conditions on bail granted under section 37(2) or (7)(b)*

- 6 In section 47(1A) (where person released on bail under Part 4, normal powers to impose conditions of bail are available only where release is under section 37(7)(a) or 38(1)), for “37(7)(a)” there is substituted “ 37 ”.

#### Commencement Information

I237 Sch. 6 para. 6 in force at 1.4.2007 by S.I. 2007/709, art. 3(i) (with arts. 6, 7)

#### *Power of arrest for breach of conditions of bail granted under section 37(2) or (7)(b)*

- 7 In section 46A(1A) (person released on bail under section 37(7)(a) or 37C(2)(b) may be arrested without warrant if suspected of breaking conditions of bail), for “37(7)(a) or 37C(2)(b)” there is substituted “ 37, 37C(2)(b) or 37CA(2)(b) ”.

#### Commencement Information

I238 Sch. 6 para. 7 in force at 1.4.2007 by S.I. 2007/709, art. 3(i) (with arts. 6, 7)

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*Dealing with person arrested for breach of conditions of bail granted under section 37(7)(b)*

8 (1) After section 37C there is inserted—

**“37CA Breach of bail following release under section 37(7)(b)**

(1) This section applies where a person released on bail under section 37(7)(b) above or subsection (2)(b) below—

- (a) is arrested under section 46A below in respect of that bail, and
- (b) is being detained following that arrest at the police station mentioned in section 46A(2) below.

(2) The person arrested—

- (a) shall be charged, or
- (b) shall be released without charge, either on bail or without bail.

(3) The decision as to how a person is to be dealt with under subsection (2) above shall be that of a custody officer.

(4) A person released on bail under subsection (2)(b) above shall be released on bail subject to the same conditions (if any) which applied immediately before his arrest.”

(2) In section 37A(1)(a) and (3) (guidance as to exercise of functions under sections 37(7) and 37C(2)), after “37C(2)” there is inserted “ or 37CA(2) ”.

**Commencement Information**

**I239** Sch. 6 para. 8 in force at 1.4.2007 by S.I. 2007/709, art. 3(i) (with arts. 6, 7)

*Time for person to answer bail granted under section 37(2) or (7)(b) or 37CA(2)(b)*

9 (1) In section 37D(1) (release on bail under section 37(7)(a) or 37C(2)(b): appointment of different or additional time to answer bail), for “37(7)(a) or section 37C(2)(b)” there is substituted “ 37, 37C(2)(b) or 37CA(2)(b) ”.

(2) In the heading to section 37D, for “**under section 37(7)(a)**” there is substituted “ **on bail under section 37** ”.

**Commencement Information**

**I240** Sch. 6 para. 9 in force at 1.4.2007 by S.I. 2007/709, art. 3(i) (with arts. 6, 7)

*Dealing with person released on bail under section 37(7)(b) or 37CA(2)(b)*

10 (1) Section 37D (release under section 37(7)(a): further provision) is amended as follows.

(2) For subsection (5) (person not fit to be dealt with as mentioned in subsection (4) to be detained until fit) there is substituted—

“(4A) Where a person released on bail under section 37(7)(b) or 37CA(2)(b) above returns to a police station to answer bail or is otherwise in police detention at

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a police station, he may be kept in police detention to enable him to be dealt with in accordance with section 37CA above or to enable the power under subsection (1) above to be exercised.

(5) If the person mentioned in subsection (4) or (4A) above is not in a fit state to enable him to be dealt with as mentioned in that subsection or to enable the power under subsection (1) above to be exercised, he may be kept in police detention until he is.”

(3) In subsection (6) (application of section 37 where person detained under section 37D)

- (a) after “subsection (4)” there is inserted “, (4A) ”;
- (b) for “37(7)(a) or 37C(2)(b)” there is substituted “ 37(7), 37C(2)(b) or 37CA(2)(b) ”.

**Commencement Information**

I241 Sch. 6 para. 10 in force at 1.4.2007 by S.I. 2007/709, art. 3(i) (with arts. 6, 7)

*Applications to court where person released on bail under section 37(2) or (7)(b) or 37CA(2)(b)*

11 In section 47(1B) and (1C) (applications to court where person on bail under section 37(7)(a) or 37C(2)(b)), for “37(7)(a) or 37C(2)(b)” there is substituted “ 37, 37C(2)(b) or 37CA(2)(b) ”.

**Commencement Information**

I242 Sch. 6 para. 11 in force at 1.4.2007 by S.I. 2007/709, art. 3(i) (with arts. 6, 7)

SCHEDULE 7

Section 15

SCHEDULE TO BE INSERTED INTO THE POLICE REFORM ACT 2002

**Commencement Information**

I243 Sch. 7 in force at 1.4.2007 by S.I. 2007/709, art. 3(k) (with arts. 6, 7)

“SCHEDULE 5A

POWERS EXERCISABLE BY ACCREDITED INSPECTORS

*Power to issue fixed penalty notices*

1 (1) An accredited inspector whose accreditation specifies that this paragraph applies to him shall have the powers specified in sub-paragraph (2) in relation to any individual who he has reason to believe has committed a relevant fixed penalty offence at a place within the relevant police area.

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- (2) The powers are the powers of a constable in uniform to give a penalty notice under Chapter 1 of Part 1 of the Criminal Justice and Police Act 2001 (fixed penalty notices in respect of offences of disorder) so far as exercisable in respect of a relevant fixed penalty offence.

*Power to require giving of name and address*

- 2 (1) Where an accredited inspector whose accreditation specifies that this paragraph applies to him has reason to believe that a person has committed a relevant fixed penalty offence in the relevant police area, he may require the person to give him his name and address.
- (2) A person who fails to comply with a requirement under sub-paragraph (1) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

*Photographing of persons given fixed penalty notices*

- 3 An accredited inspector whose accreditation specifies that this paragraph applies to him shall, within the relevant police area, have the power of a constable under section 64A(1A) of the 1984 Act (photographing of suspects etc) to take a photograph, elsewhere than at a police station, of a person to whom the accredited inspector has given a penalty notice in exercise of the powers mentioned in paragraph 1(2).

*Interpretation*

- 4 In this Schedule—
- “the relevant police area”, in relation to an accredited inspector, means the police area for which the police force whose chief officer granted his accreditation is maintained;
- “relevant fixed penalty offence”, in relation to an accredited inspector, means an offence which—
- (a) is an offence contained in a provision mentioned in the first column of the Table in section 1(1) of the Criminal Justice and Police Act 2001, and
- (b) is specified or described in his accreditation as an offence he has been accredited to enforce.”

SCHEDULE 8

Section 19

FURTHER PROVISION ABOUT CRIME AND DISORDER  
COMMITTEES OF CERTAIN LOCAL AUTHORITIES

*Introductory*

- 1 (1) This Schedule applies in relation to a local authority that is not operating executive arrangements under Part 2 of the Local Government Act 2000 (c. 22).
- (2) In this Schedule “local authority” and “crime and disorder committee” have the same meaning as in section 19.



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#### Commencement Information

**I244** Sch. 8 para. 1 in force at 30.4.2009 for E. by [S.I. 2009/936](#), [art. 2\(d\)](#)

**I245** Sch. 8 para. 1 in force at 1.10.2009 for W. by [S.I. 2009/2540](#), [art. 2\(b\)](#)

#### *Functions of crime and disorder committees*

- 2 (1) The crime and disorder committee of a local authority may not discharge any functions other than its functions under section 19 or this Schedule.
- (2) In the case of a committee of a local authority that acts as its crime and disorder committee and also acts in one or more other capacities, the reference in sub-paragraph (1) to the crime and disorder committee is a reference to that committee in its capacity as crime and disorder committee.

#### Commencement Information

**I246** Sch. 8 para. 2 in force at 30.4.2009 for E. by [S.I. 2009/936](#), [art. 2\(d\)](#)

**I247** Sch. 8 para. 2 in force at 1.10.2009 for W. by [S.I. 2009/2540](#), [art. 2\(b\)](#)

#### *Appointment of sub-committees*

- 3 (1) The crime and disorder committee of a local authority—
- (a) may appoint one or more sub-committees, and
  - (b) may arrange for the discharge of any of its functions by any such sub-committee.
- (2) A sub-committee of the crime and disorder committee may not discharge any functions other than those conferred on it under sub-paragraph (1)(b).

#### Commencement Information

**I248** Sch. 8 para. 3 in force at 30.4.2009 for E. by [S.I. 2009/936](#), [art. 2\(d\)](#)

**I249** Sch. 8 para. 3 in force at 1.10.2009 for W. by [S.I. 2009/2540](#), [art. 2\(b\)](#)

#### *Meetings etc*

- 4 A local authority shall make arrangements—
- (a) for enabling a member of the crime and disorder committee of the authority to ensure that a matter that is relevant to the functions of the committee is included in the agenda for, and is discussed at, a meeting of the committee, and
  - (b) for enabling a member of a sub-committee of such a committee to ensure that a matter that is relevant to the functions of the sub-committee is included in the agenda for, and is discussed at, a meeting of the sub-committee.

#### Commencement Information

**I250** Sch. 8 para. 4 in force at 30.4.2009 for E. by [S.I. 2009/936](#), [art. 2\(d\)](#)

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**I251** Sch. 8 para. 4 in force at 1.10.2009 for W. by S.I. 2009/2540, art. 2(b)

- 5 The crime and disorder committee of a local authority, or a sub-committee of such a committee, may include persons who are not members of the authority, but (subject to section 20(6)) such persons are not entitled to vote, at a meeting of such a committee or sub-committee, on any question that falls to be decided at that meeting.

#### Commencement Information

**I252** Sch. 8 para. 5 in force at 30.4.2009 for E. by S.I. 2009/936, art. 2(d)

**I253** Sch. 8 para. 5 in force at 1.10.2009 for W. by S.I. 2009/2540, art. 2(b)

#### *Power to compel attendance etc*

- 6 (1) The crime and disorder committee of a local authority or a sub-committee of such a committee—
- (a) may require members or officers of the authority to attend before it to answer questions;
  - (b) may invite other persons to attend meetings of the committee.
- (2) A member or officer of a local authority shall comply with any requirement made under sub-paragraph (1)(a).
- (3) A person is not obliged by sub-paragraph (2) to answer any question that he would be entitled to refuse to answer in or for the purposes of proceedings in a court in England and Wales.

#### Commencement Information

**I254** Sch. 8 para. 6 in force at 30.4.2009 for E. by S.I. 2009/936, art. 2(d)

**I255** Sch. 8 para. 6 in force at 1.10.2009 for W. by S.I. 2009/2540, art. 2(b)

#### *Miscellaneous and supplemental*

- 7 The crime and disorder committee of a local authority, or a sub-committee of such a committee, is to be treated as a committee or sub-committee of a principal council for the purposes of Part 5A of the Local Government Act 1972 (c. 70) (access to meetings and documents of certain authorities, committees and sub-committees).

#### Commencement Information

**I256** Sch. 8 para. 7 in force at 30.4.2009 for E. by S.I. 2009/936, art. 2(d)

**I257** Sch. 8 para. 7 in force at 1.10.2009 for W. by S.I. 2009/2540, art. 2(b)

- 8 The crime and disorder committee of a local authority, or a sub-committee of such a committee, is to be treated as a body to which section 15 of the Local Government and Housing Act 1989 (c. 42) (duty to allocate seats to political groups) applies.

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#### Commencement Information

**I258** Sch. 8 para. 8 in force at 30.4.2009 for E. by S.I. 2009/936, art. 2(d)

**I259** Sch. 8 para. 8 in force at 1.10.2009 for W. by S.I. 2009/2540, art. 2(b)

- 9 Subsections (2) and (5) of section 102 of the Local Government Act 1972 (appointment of committees) apply to the crime and disorder committee of a local authority, or a sub-committee of such a committee, as they apply to a committee appointed under that section.

#### Commencement Information

**I260** Sch. 8 para. 9 in force at 30.4.2009 for E. by S.I. 2009/936, art. 2(d)

**I261** Sch. 8 para. 9 in force at 1.10.2009 for W. by S.I. 2009/2540, art. 2(b)

#### *Application to the City of London*

- 10 Paragraph 8 does not apply to the crime and disorder committee of the Common Council or to a sub-committee of that committee.

#### Commencement Information

**I262** Sch. 8 para. 10 in force at 30.4.2009 for E. by S.I. 2009/936, art. 2(d)

**I263** Sch. 8 para. 10 in force at 1.10.2009 for W. by S.I. 2009/2540, art. 2(b)

- 11 (1) The Common Council may discharge its duty under section 19(1) by itself acting as the crime and disorder committee of the Council, and sub-paragraphs (2) to (4) apply if it does so.
- (2) In section 19 or 20 or this Schedule, or in section 5 of the Crime and Disorder Act 1998 (c. 37) (authorities responsible for crime and disorder strategies), a reference to the crime and disorder committee of a local authority includes a reference to the Common Council in its capacity as crime and disorder committee.
- (3) Paragraph 2, in its application to the Common Council, has effect with the omission of sub-paragraph (2).
- (4) Paragraph 9, in its application to the Common Council, applies only so far as it relates to sub-committees.

#### Commencement Information

**I264** Sch. 8 para. 11 in force at 30.4.2009 for E. by S.I. 2009/936, art. 2(d)

**I265** Sch. 8 para. 11 in force at 1.10.2009 for W. by S.I. 2009/2540, art. 2(b)

- 12 In paragraphs 10 and 11 “the Common Council” means the Common Council of the City of London.

#### Commencement Information

**I266** Sch. 8 para. 12 in force at 30.4.2009 for E. by S.I. 2009/936, art. 2(d)

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**I267** Sch. 8 para. 12 in force at 1.10.2009 for W. by S.I. 2009/2540, art. 2(b)

## SCHEDULE 9

Section 22

### AMENDMENTS TO THE CRIME AND DISORDER ACT 1998

1 The Crime and Disorder Act 1998 (c. 37) is amended as follows.

#### Commencement Information

**I268** Sch. 9 para. 1 in force at 1.8.2007 for E. by S.I. 2007/1614, art. 3(b)

**I269** Sch. 9 para. 1 in force at 19.11.2007 for W. by S.I. 2007/3073, art. 2(a)

- 2 (1) Section 5 (authorities responsible for strategies) is amended as follows.
- (2) In subsection (1), after “functions conferred by” there is inserted “ or under ”.
- (3) In subsection (1A)(a), for “by sections 6 to 7” there is substituted “ by or under section 6 or by section 7 ”.
- (4) In subsection (1B)(b), after “drugs” there is inserted “ , alcohol and other substances ”.
- (5) After subsection (5) there is inserted—
- “(6) The appropriate national authority may by order amend this section by—
- (a) adding an entry for any person or body to the list of authorities in subsection (1),
  - (b) altering or repealing an entry for the time being included in the list, or
  - (c) adding, altering or repealing provisions for the interpretation of entries in the list.
- (7) In this section the “appropriate national authority”, in relation to a person or body, means—
- (a) the National Assembly for Wales, if all the functions of the person or body are devolved Welsh functions;
  - (b) the Secretary of State and the Assembly acting jointly, if the functions of the person or body include devolved Welsh functions and other functions; and
  - (c) the Secretary of State, if none of the functions of the person or body are devolved Welsh functions.
- (8) In subsection (7), “devolved Welsh functions” means functions which are dischargeable only in relation to Wales and relate to matters in relation to which the Assembly has functions.”

#### Commencement Information

**I270** Sch. 9 para. 2 in force at 1.8.2007 for E. by S.I. 2007/1614, art. 3(b)

**I271** Sch. 9 para. 2 in force at 19.11.2007 for W. by S.I. 2007/3073, art. 2(a)

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3 For sections 6 and 6A there is substituted—

**“6 Formulation and implementation of strategies**

- (1) The responsible authorities for a local government area shall, in accordance with section 5 and with regulations made under subsection (2), formulate and implement—
  - (a) a strategy for the reduction of crime and disorder in the area (including anti-social and other behaviour adversely affecting the local environment); and
  - (b) a strategy for combatting the misuse of drugs, alcohol and other substances in the area.
- (2) The appropriate national authority may by regulations make further provision as to the formulation and implementation of a strategy under this section.
- (3) Regulations under subsection (2) may in particular make provision for or in connection with—
  - (a) the time by which a strategy must be prepared and the period to which it is to relate;
  - (b) the procedure to be followed by the responsible authorities in preparing and implementing a strategy (including requirements as to the holding of public meetings and other consultation);
  - (c) the conferring of functions on any one or more of the responsible authorities in relation to the formulation and implementation of a strategy;
  - (d) matters to which regard must be had in formulating and implementing a strategy;
  - (e) objectives to be addressed in a strategy and performance targets in respect of those objectives;
  - (f) the sharing of information between responsible authorities;
  - (g) the publication and dissemination of a strategy;
  - (h) the preparation of reports on the implementation of a strategy.
- (4) The provision which may be made under subsection (2) includes provision for or in connection with the conferring of functions on a committee of, or a particular member or officer of, any of the responsible authorities.
- (5) The matters referred to in subsection (3)(d) may in particular include guidance given by the appropriate national authority in connection with the formulation or implementation of a strategy.
- (6) Provision under subsection (3)(e) may require a strategy to be formulated so as to address (in particular)—
  - (a) the reduction of crime or disorder of a particular description; or
  - (b) the combatting of a particular description of misuse of drugs, alcohol or other substances.
- (7) Regulations under this section may make—
  - (a) different provision for different local government areas;
  - (b) supplementary or incidental provision.

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- (8) For the purposes of this section any reference to the implementation of a strategy includes—
- (a) keeping it under review for the purposes of monitoring its effectiveness; and
  - (b) making any changes to it that appear necessary or expedient.
- (9) In this section the “appropriate national authority” is—
- (a) the Secretary of State, in relation to strategies for areas in England;
  - (b) the National Assembly for Wales, in relation to strategies for combatting the misuse of drugs, alcohol or other substances in areas in Wales;
  - (c) the Secretary of State and the Assembly acting jointly, in relation to strategies for combatting crime and disorder in areas in Wales.”

#### Commencement Information

**I272** Sch. 9 para. 3 in force at 1.8.2007 for E. by S.I. 2007/1614, art. 3(b)

**I273** Sch. 9 para. 3 in force at 19.11.2007 for W. by S.I. 2007/3073, art. 2(a)

- 4 (1) Section 17 (duty to consider crime and disorder implications) is amended as follows.
- (2) In subsection (1), for “crime and disorder in its area” there is substituted—
- “(a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and
  - (b) the misuse of drugs, alcohol and other substances in its area.”
- (3) For subsection (2) there is substituted—
- “(2) This section applies to each of the following—
- a local authority;
  - a joint authority;
  - the London Fire and Emergency Planning Authority;
  - a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
  - a metropolitan county fire authority;
  - a police authority;
  - a National Park authority;
  - the Broads Authority.”
- (4) After subsection (3) there is inserted—
- “(4) The appropriate national authority may by order amend this section by—
- (a) adding an entry for any person or body to the list of authorities in subsection (2),
  - (b) altering or repealing any entry for the time being included in the list, or
  - (c) adding, altering or repealing provisions for the interpretation of entries in the list.

**Status:** Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

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- (5) In subsection (4) “the appropriate national authority” has the same meaning as in section 5.”

#### Commencement Information

**I274** Sch. 9 para. 4 in force at 1.8.2007 for E. by S.I. 2007/1614, art. 3(b)

**I275** Sch. 9 para. 4 in force at 19.11.2007 for W. by S.I. 2007/3073, art. 2(a)

- 5 After section 17 there is inserted—

#### “17A Sharing of information

- (1) A relevant authority is under a duty to disclose to all other relevant authorities any information held by the authority which is of a prescribed description, at such intervals and in such form as may be prescribed.
- (2) In subsection (1) “prescribed” means prescribed in regulations made by the Secretary of State.
- (3) The Secretary of State may only prescribe descriptions of information which appears to him to be of potential relevance in relation to the reduction of crime and disorder in any area of England and Wales (including anti-social or other behaviour adversely affecting the local environment in that area).
- (4) Nothing in this section requires a relevant authority to disclose any personal data (within the meaning of the Data Protection Act 1998).
- (5) In this section “relevant authority” means an authority in England and Wales which is for the time being a relevant authority for the purposes of section 115.”

#### Commencement Information

**I276** Sch. 9 para. 5 in force at 1.8.2007 for E. by S.I. 2007/1614, art. 3(b)

**I277** Sch. 9 para. 5 in force at 19.11.2007 for W. by S.I. 2007/3073, art. 2(a)

- 6 (1) Section 114 (orders and regulations) is amended as follows.

- (2) In subsection (2)—

- (a) “, 6A(1)” is omitted;
- (b) after “regulations under” there is inserted “ section 6 or 17A or ”.

- (3) In subsection (3)—

- (a) after “1F,” there is inserted “ 5(6), ”;
- (b) for “38(5) or 41(6)” there is substituted “ 17(4), 38(5), 41(6) or 115(3) ”.

- (4) After that subsection there is inserted—

“(4) The Secretary of State must consult the National Assembly for Wales before making an order under section 5(6), 17(4) or 115(3) that relates to a person or body any of whose functions are dischargeable in relation to Wales (not being functions of the kind referred to in section 5(8)).”

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#### Commencement Information

**I278** Sch. 9 para. 6 in force at 1.8.2007 for E. by S.I. 2007/1614, art. 3(b)

**I279** Sch. 9 para. 6 in force at 19.11.2007 for W. by S.I. 2007/3073, art. 2(a)

- 7 (1) Section 115 (disclosure of information) is amended as follows.
- (2) In subsection (2), for “subsection (1) above” there is substituted “ this section ”, and at the end there is inserted—
- “(h) the London Fire and Emergency Planning Authority;
  - (i) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies;
  - (j) a metropolitan county fire and rescue authority.”
- (3) After that subsection there is inserted—
- “(3) The appropriate national authority may by order amend this section so far as it extends to England and Wales by—
- (a) adding an entry for any person or body to the list of authorities in subsection (2),
  - (b) altering or repealing any entry for the time being included in the list, or
  - (c) adding, altering or repealing provisions for the interpretation of entries in the list.
- (4) In subsection (3) “the appropriate national authority” has the same meaning as in section 5.”

#### Commencement Information

**I280** Sch. 9 para. 7 in force at 1.8.2007 for E. by S.I. 2007/1614, art. 3(b)

**I281** Sch. 9 para. 7(1)(3) in force at 19.11.2007 for W. by S.I. 2007/3073, art. 2(a)

**I282** Sch. 9 para. 7(2) in force at 19.11.2007 for W. by S.I. 2007/3251, art. 2

## SCHEDULE 10

Section 27

### INJUNCTIONS IN LOCAL AUTHORITY PROCEEDINGS: POWERS TO REMAND

#### *Introductory*

- 1 (1) The provisions of this Schedule apply where the court has power to remand a person under section 27(6) (injunctions in local authority proceedings: power of arrest and remand).
- (2) In this Schedule “the court” has the same meaning as in section 27.



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#### Commencement Information

**I283** Sch. 10 para. 1 in force at 6.4.2007 for E. by S.I. 2007/709, art. 4(b) (with art. 8)

#### *Remand in custody or on bail*

- 2 (1) The court may—
- (a) remand the person in custody, that is, commit him to custody to be brought before the court at the end of the period of remand or at such earlier time as the court may require, or
  - (b) remand him on bail, in accordance with the following provisions.
- (2) The court may remand the person on bail—
- (a) by taking from him a recognizance, with or without sureties, conditioned as provided in paragraph 3, or
  - (b) by fixing the amount of the recognizances with a view to their being taken subsequently, and in the meantime committing him to custody as mentioned in sub-paragraph (1)(a).
- (3) Where a person is brought before the court after remand, the court may further remand him.

#### Commencement Information

**I284** Sch. 10 para. 2 in force at 6.4.2007 for E. by S.I. 2007/709, art. 4(b) (with art. 8)

- 3 (1) Where a person is remanded on bail, the court may direct that his recognizance be conditioned for his appearance—
- (a) before that court at the end of the period of remand, or
  - (b) at every time and place to which during the course of the proceedings the hearing may from time to time be adjourned.
- (2) Where a recognizance is conditioned for a person's appearance as mentioned in sub-paragraph (1)(b), the fixing of any time for him next to appear shall be deemed to be a remand.
- (3) Nothing in this paragraph affects the power of the court at any subsequent hearing to remand him afresh.

#### Commencement Information

**I285** Sch. 10 para. 3 in force at 6.4.2007 for E. by S.I. 2007/709, art. 4(b) (with art. 8)

- 4 (1) The court shall not remand a person for a period exceeding eight clear days except that—
- (a) if the court remands him on bail, it may remand him for a longer period if he and the other party consent, and
  - (b) if the court adjourns a case under section 27(9) (remand for medical examination and report) the court may remand him for the period of adjournment.

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- (2) Where the court has the power to remand a person in custody it may, if the remand is for a period not exceeding three clear days, commit him to the custody of a constable.

**Commencement Information**

**I286** Sch. 10 para. 4 in force at 6.4.2007 for E. by S.I. 2007/709, art. 4(b) (with art. 8)

*Further remand*

- 5 (1) If the court is satisfied that a person who has been remanded is unable by reason of illness or accident to appear or be brought before the court at the expiration of the period for which he was remanded, the court may, in his absence, remand him for a further time.
- (2) The power mentioned in sub-paragraph (1) may, in the case of a person who was remanded on bail, be exercised by enlarging his recognizance and those of any sureties for him to a later time.
- (3) Where a person remanded on bail is bound to appear before the court at any time and the court has no power to remand him under sub-paragraph (1), the court may in his absence enlarge his recognizance and those of any sureties for him to a later time.
- (4) The enlargement of his recognizance shall be deemed to be a further remand.
- (5) Paragraph 4(1) (limit of remand) does not apply to the exercise of the powers conferred by this paragraph.

**Commencement Information**

**I287** Sch. 10 para. 5 in force at 6.4.2007 for E. by S.I. 2007/709, art. 4(b) (with art. 8)

*Postponement of taking recognizance*

- 6 Where under paragraph 2(2)(b) the court fixes the amount in which the principal and his sureties, if any, are to be bound, the recognizance may afterwards be taken by such person as may be prescribed by rules of court, with the same consequences as if it had been entered into before the court.

**Commencement Information**

**I288** Sch. 10 para. 6 in force at 6.4.2007 for E. by S.I. 2007/709, art. 4(b) (with art. 8)

*Requirements imposed on remand on bail*

- 7 The court may when remanding a person on bail under this Schedule require him to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that he does not interfere with witnesses or otherwise obstruct the course of justice.

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#### Commencement Information

**I289** Sch. 10 para. 7 in force at 6.4.2007 for E. by S.I. 2007/709, art. 4(b) (with art. 8)

## SCHEDULE 11

Section 39

### SCHEDULE TO BE INSERTED INTO THE PROTECTION OF CHILDREN ACT 1978

#### Commencement Information

**I290** Sch. 11 in force at 1.4.2008 by S.I. 2008/790, art. 2(c)

## “SCHEDULE

### FORFEITURE OF INDECENT PHOTOGRAPHS OF CHILDREN

#### *Application of Schedule*

- 1 (1) This Schedule applies where—
  - (a) property which has been lawfully seized in England and Wales is in the custody of a constable,
  - (b) ignoring this Schedule, there is no legitimate reason for the constable to retain custody of the property,
  - (c) the constable is satisfied that there are reasonable grounds for believing that the property is or is likely to be forfeitable property, and
  - (d) ignoring this Schedule, the constable is not aware of any person who has a legitimate reason for possessing the property or any readily separable part of it.
- (2) The following property is “forfeitable property”—
  - (a) any indecent photograph or pseudo-photograph of a child;
  - (b) any property which it is not reasonably practicable to separate from any property within paragraph (a).
- (3) For the purposes of this paragraph—
  - (a) a part of any property is a “readily separable part” of the property if, in all the circumstances, it is reasonably practicable for it to be separated from the remainder of that property, and
  - (b) it is reasonably practicable for a part of any property to be separated from the remainder if it is reasonably practicable to separate it without prejudicing the remainder of the property or another part of it.
- (4) The circumstances mentioned in sub-paragraph (3)(a) include the time and costs involved in separating the property.

#### *Possession pending forfeiture*

- 2 (1) The property must be retained in the custody of a constable until it is returned or otherwise disposed of in accordance with this Schedule.

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- (2) Nothing in the Police (Property) Act 1897 (property seized in the investigation of an offence) applies to property held under this Schedule.

*The relevant officer*

- 3 “The relevant officer”, in relation to any property, is the constable who for the time being has custody of the property.

*Notice of intended forfeiture*

- 4 (1) The relevant officer must give notice of the intended forfeiture of the property (“notice of intended forfeiture”) to—
- (a) every person whom he believes to have been the owner of the property, or one of its owners, at the time of the seizure of the property,
  - (b) where the property was seized from premises, every person whom the relevant officer believes to have been an occupier of the premises at that time, and
  - (c) where the property was seized as a result of a search of any person, that person.
- (2) The notice of intended forfeiture must set out—
- (a) a description of the property, and
  - (b) how a person may give a notice of claim under this Schedule and the period within which such a notice must be given.
- (3) The notice of intended forfeiture may be given to a person only by—
- (a) delivering it to him personally,
  - (b) addressing it to him and leaving it for him at the appropriate address, or
  - (c) addressing it to him and sending it to him at that address by post.
- (4) But a notice given in accordance with sub-paragraph (1)(b) may, where it is not practicable to give the notice in accordance with sub-paragraph (3), be given by—
- (a) addressing it to “the occupier” of those premises, without naming him, and
  - (b) leaving it for him at those premises or sending it to him at those premises by post.
- (5) Property may be treated or condemned as forfeited under this Schedule only if—
- (a) the requirements of this paragraph have been complied with in the case of the property, or
  - (b) it was not reasonably practicable for them to be complied with.
- (6) In this paragraph “the appropriate address”, in relation to a person, means—
- (a) in the case of a body corporate, its registered or principal office in the United Kingdom;
  - (b) in the case of a firm, the principal office of the partnership;
  - (c) in the case of an unincorporated body or association, the principal office of the body or association;
  - (d) in any other case, his usual or last known place of residence in the United Kingdom or his last known place of business in the United Kingdom.
- (7) In the case of—
- (a) a company registered outside the United Kingdom,
  - (b) a firm carrying on business outside the United Kingdom, or

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- (c) an unincorporated body or association with offices outside the United Kingdom,

the references in this paragraph to its principal office include references to its principal office within the United Kingdom (if any).

#### *Notice of claim*

- 5 (1) A person claiming that he has a legitimate reason for possessing the property or a part of it may give notice of his claim to a constable at any police station in the police area in which the property was seized.
- (2) Oral notice is not sufficient for these purposes.
- 6 (1) A notice of claim may not be given more than one month after—
- (a) the date of the giving of the notice of intended forfeiture, or
  - (b) if no such notice has been given, the date on which the property began to be retained under this Schedule (see paragraph 2).
- (2) A notice of claim must specify—
- (a) the name and address of the claimant;
  - (b) a description of the property, or part of it, in respect of which the claim is made;
  - (c) in the case of a claimant who is outside the United Kingdom, the name and address of a solicitor in the United Kingdom who is authorised to accept service, and to act, on behalf of the claimant.
- (3) Service upon a solicitor so specified is to be taken to be service on the claimant for the purposes of any proceedings by virtue of this Schedule.
- (4) In a case in which notice of intended forfeiture was given to different persons on different days, the reference in this paragraph to the day on which that notice was given is a reference—
- (a) in relation to a person to whom notice of intended forfeiture was given, to the day on which that notice was given to that person, and
  - (b) in relation to any other person, to the day on which notice of intended forfeiture was given to the last person to be given such a notice.

#### *Automatic forfeiture in a case where no claim is made*

- 7 (1) If the property is unclaimed it is treated as forfeited.
- (2) The property is “unclaimed” if, by the end of the period for the giving of a notice of claim—
- (a) no such notice has been given in relation to it or any part of it, or
  - (b) the requirements of paragraphs 5 and 6 have not been complied with in relation to the only notice or notices of claim that have been given.
- (3) Sub-paragraph (1) applies in relation to a readily separable part of the property as it applies in relation to the property, and for this purpose sub-paragraph (2) applies as if references to the property were to the part.
- (4) In this paragraph “readily separable part” has the meaning given by paragraph 1.

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*Decision whether to take court proceedings to condemn property as forfeited*

- 8 (1) Where a notice of claim in respect of the property, or a part of it, is duly given in accordance with paragraphs 5 and 6, the relevant officer must decide whether to take proceedings to ask the court to condemn the property or a part of it as forfeited.
- (2) The decision whether to take such proceedings must be made as soon as reasonably practicable after the giving of the notice of claim.

*Return of property if no forfeiture proceedings*

- 9 (1) This paragraph applies if, in a case in which a notice of claim has been given, the relevant officer decides—
- (a) not to take proceedings for condemnation of the property, or
  - (b) not to take proceedings for condemnation of a part of the property.
- (2) The relevant officer must return the property or part to the person who appears to him to have a legitimate reason for possessing the property or, if there is more than one such person, to one of those persons.
- (3) Any property required to be returned in accordance with sub-paragraph (2) must be returned as soon as reasonably practicable after the decision not to take proceedings for condemnation.

*Forfeiture proceedings*

- 10 (1) This paragraph applies if, in a case in which a notice of claim has been given, the relevant officer decides to take proceedings for condemnation of the property or a part of it (“the relevant property”).
- (2) The court must condemn the relevant property if it is satisfied—
- (a) that the relevant property is forfeitable property, and
  - (b) that no-one who has given a notice of claim has a legitimate reason for possessing the relevant property.

This is subject to sub-paragraphs (5) and (7).

- (3) If the court is not satisfied that the relevant property is forfeitable property, the court must order its return to the person who appears to the court to have a legitimate reason for possessing it or, if there is more than one such person, to one of those persons.
- (4) If the court is satisfied—
- (a) that the relevant property is forfeitable property, and
  - (b) that a person who has given a notice of claim has a legitimate reason for possessing the relevant property, or that more than one such person has such a reason,
- the court must order the return of the relevant property to that person or, as the case may be, to one of those persons.
- (5) Where the court is satisfied that any part of the relevant property is a separable part, sub-paragraphs (2) to (4) apply separately in relation to each separable part of the relevant property as if references to the relevant property were references to the separable part.
- (6) For this purpose a part of any property is a “separable part” of the property if—
- (a) it can be separated from the remainder of that property, and

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- (b) where a person has a legitimate reason for possessing the remainder of that property or any part of it, the separation will not prejudice the remainder or part.
- (7) Where the court is satisfied—
  - (a) that a person who has given a notice of claim has a legitimate reason for possessing part of the relevant property, and
  - (b) that, although the part is not a separable part within the meaning given by sub-paragraph (6), it can be separated from the remainder of the relevant property, the court may order the return of that part to that person.
- (8) Sub-paragraph (7) does not apply to any property required to be returned to a person under sub-paragraph (4).

#### *Supplementary orders*

- 11 (1) Where the court condemns property under paragraph 10(2)—
  - (a) it may order the relevant officer to take such steps in relation to the property or any part of it as it thinks appropriate, and
  - (b) where it orders a step to be taken, it may make that order conditional on specified costs relating to the taking of that step being paid by a specified person within a specified period.
- (2) A court order under paragraph 10(3), (4), (5) or (7) requiring the return of a part of the relevant property to a person may be made conditional on specified costs relating to the separation of the part from the remainder of the relevant property being paid by that person within a specified period.
- (3) Where the court makes an order under paragraph 10(7) for the return of a part of the relevant property—
  - (a) it may order the relevant officer to take such steps as it thinks appropriate in relation to any property which will be prejudiced by the separation of that part, and
  - (b) where it orders a step to be taken, it may make that order conditional on specified costs relating to the taking of that step being paid by a specified person within a specified period.
- (4) For the purposes of this paragraph “specified” means specified in, or determined in accordance with, the court order.

#### *Supplementary provision about forfeiture proceedings*

- 12 Proceedings by virtue of this Schedule are civil proceedings and may be instituted in a magistrates' court which has jurisdiction in relation to the place where the property to which the proceedings relate was seized.
- 13 (1) Either party may appeal against the decision of the magistrates' court to the Crown Court.
- (2) This paragraph does not affect any right to require the statement of a case for the opinion of the High Court.
- 14 Where an appeal has been made (whether by case stated or otherwise) against the decision of the magistrates' court in proceedings by virtue of this Schedule in relation

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to property, the property is to be left in the custody of a constable pending the final determination of the matter.

#### *Effect of forfeiture*

- 15 Where property is treated or condemned as forfeited under this Schedule the forfeiture is to be treated as having taken effect as from the time of the seizure.

#### *Disposal of property which is not returned*

- 16 (1) This paragraph applies where any property is required to be returned to a person under this Schedule.

(2) If—

- (a) the property is (without having been returned) still in the custody of the relevant officer after the end of the period of 12 months beginning with the day on which the requirement to return it arose, and
- (b) it is not practicable to dispose of it by returning it immediately to the person to whom it is required to be returned,

the relevant officer may dispose of it in any manner he thinks fit.

- 17 (1) This paragraph applies where any property would be required to be returned to a person under this Schedule but for a failure to satisfy a condition imposed by virtue of paragraph 11(2) (return of property conditional on payment of costs within specified period).

(2) The relevant officer may dispose of the property in any manner he thinks fit.

#### *Provisions as to proof*

- 18 In proceedings under this Schedule, the fact, form and manner of the seizure are to be taken, without further evidence and unless the contrary is shown, to have been as set forth in the process.

- 19 In proceedings, the condemnation by a court of property as forfeited under this Schedule may be proved by the production of either—

- (a) the order of condemnation, or
- (b) a certified copy of the order purporting to be signed by an officer of the court by which the order was made or granted.

#### *Saving for owner's rights*

- 20 Neither the imposition of a requirement by virtue of this Schedule to return property to a person nor the return of it to a person in accordance with such a requirement affects—

- (a) the rights in relation to that property, or any part of it, of any other person, or
- (b) the right of any other person to enforce his rights against the person to whom it is returned.

#### *Interpretation*

- 21 (1) In this Schedule—

“the court” is to be construed in accordance with paragraph 12;

“forfeitable property” is to be construed in accordance with paragraph 1(2);



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“premises” has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 23 of that Act); and

“the relevant officer” is to be construed in accordance with paragraph 3.

- (2) For the purposes of this Schedule the circumstances in which a person (“P”) has a legitimate reason for possessing an indecent photograph of a child (“C”) include where—
- (a) the photograph was of C aged 16 or over,
  - (b) one or both of the following sub-paragraphs apply—
    - (i) P and C are married, are civil partners of each other or are living together as partners in an enduring family relationship,
    - (ii) P and C were married, were civil partners of each other or were so living together at the time P obtained the photograph,
  - (c) the photograph shows C alone or with P, but does not show any other person,
  - (d) C has consented to the photograph being in P’s possession (and that consent has not been withdrawn), and
  - (e) P owns, or is authorised (directly or indirectly) by the owner, to possess the photograph.”

## SCHEDULE 12

Section 40

### SCHEDULE TO BE INSERTED INTO THE PROTECTION OF CHILDREN (NORTHERN IRELAND) ORDER 1978

#### Commencement Information

**I291** Sch. 12 in force at 1.4.2008 by S.I. 2008/790, art. 3(a)

#### “SCHEDULE

#### FORFEITURE OF INDECENT PHOTOGRAPHS OF CHILDREN

##### *Application of Schedule*

- 1 (1) This Schedule applies where—
- (a) property which has been lawfully seized in Northern Ireland is in the custody of a constable,
  - (b) ignoring this Schedule, there is no legitimate reason for the constable to retain custody of the property,
  - (c) the constable is satisfied that there are reasonable grounds for believing that the property is or is likely to be forfeitable property, and
  - (d) ignoring this Schedule, the constable is not aware of any person who has a legitimate reason for possessing the property or any readily separable part of it.
- (2) The following property is “forfeitable property”—
- (a) any indecent photograph or pseudo-photograph of a child;
  - (b) any property which it is not reasonably practicable to separate from any property within paragraph (a).

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- (3) For the purposes of this paragraph—
- (a) a part of any property is a “readily separable part” of the property if, in all the circumstances, it is reasonably practicable for it to be separated from the remainder of that property, and
  - (b) it is reasonably practicable for a part of any property to be separated from the remainder if it is reasonably practicable to separate it without prejudicing the remainder of the property or another part of it.
- (4) The circumstances mentioned in sub-paragraph (3)(a) include the time and costs involved in separating the property.

*Possession pending forfeiture*

- 2 (1) The property must be retained in the custody of a constable until it is returned or otherwise disposed of in accordance with this Schedule.
- (2) Nothing in section 31 of the Police (Northern Ireland) Act 1998 (property coming into the possession of the police) applies to property held under this Schedule.

*The relevant officer*

- 3 “The relevant officer”, in relation to any property, is the constable who for the time being has custody of the property.

*Notice of intended forfeiture*

- 4 (1) The relevant officer must give notice of the intended forfeiture of the property (“notice of intended forfeiture”) to—
- (a) every person whom he believes to have been the owner of the property, or one of its owners, at the time of the seizure of the property,
  - (b) where the property was seized from premises, every person whom the relevant officer believes to have been an occupier of the premises at that time, and
  - (c) where the property was seized as a result of a search of any person, that person.
- (2) The notice of intended forfeiture must set out—
- (a) a description of the property, and
  - (b) how a person may give a notice of claim under this Schedule and the period within which such a notice must be given.
- (3) The notice of intended forfeiture may be given to a person only by—
- (a) delivering it to him personally,
  - (b) addressing it to him and leaving it for him at the appropriate address, or
  - (c) addressing it to him and sending it to him at that address by post.
- (4) But a notice given in accordance with sub-paragraph (1)(b) may, where it is not practicable to give the notice in accordance with sub-paragraph (3), be given by—
- (a) addressing it to “the occupier” of those premises, without naming him, and
  - (b) leaving it for him at those premises or sending it to him at those premises by post.
- (5) Property may be treated or condemned as forfeited under this Schedule only if—

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- (a) the requirements of this paragraph have been complied with in the case of the property, or
  - (b) it was not reasonably practicable for them to be complied with.
- (6) In this paragraph “the appropriate address”, in relation to a person, means—
- (a) in the case of a body corporate, its registered or principal office in the United Kingdom;
  - (b) in the case of a firm, the principal office of the partnership;
  - (c) in the case of an unincorporated body or association, the principal office of the body or association;
  - (d) in any other case, his usual or last known place of residence in the United Kingdom or his last known place of business in the United Kingdom.
- (7) In the case of—
- (a) a company registered outside the United Kingdom,
  - (b) a firm carrying on business outside the United Kingdom, or
  - (c) an unincorporated body or association with offices outside the United Kingdom,
- the references in this paragraph to its principal office include references to its principal office within the United Kingdom (if any).

#### *Notice of claim*

- 5 (1) A person claiming that he has a legitimate reason for possessing the property or a part of it may give notice of his claim to a constable at any police station in Northern Ireland.
- (2) Oral notice is not sufficient for these purposes.
- 6 (1) A notice of claim may not be given more than one month after—
- (a) the date of the giving of the notice of intended forfeiture, or
  - (b) if no such notice has been given, the date on which the property began to be retained under this Schedule (see paragraph 2).
- (2) A notice of claim must specify—
- (a) the name and address of the claimant;
  - (b) a description of the property, or part of it, in respect of which the claim is made;
  - (c) in the case of a claimant who is outside the United Kingdom, the name and address of a solicitor in the United Kingdom who is authorised to accept service, and to act, on behalf of the claimant.
- (3) Service upon a solicitor so specified is to be taken to be service on the claimant for the purposes of any proceedings by virtue of this Schedule.
- (4) In a case in which notice of intended forfeiture was given to different persons on different days, the reference in this paragraph to the day on which that notice was given is a reference—
- (a) in relation to a person to whom notice of intended forfeiture was given, to the day on which that notice was given to that person, and
  - (b) in relation to any other person, to the day on which notice of intended forfeiture was given to the last person to be given such a notice.

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*Automatic forfeiture in a case where no claim is made*

- 7 (1) If the property is unclaimed it is treated as forfeited.
- (2) The property is “unclaimed” if, by the end of the period for the giving of a notice of claim—
- (a) no such notice has been given in relation to it or any part of it, or
  - (b) the requirements of paragraphs 5 and 6 have not been complied with in relation to the only notice or notices of claim that have been given.
- (3) Sub-paragraph (1) applies in relation to a readily separable part of the property as it applies in relation to the property, and for this purpose sub-paragraph (2) applies as if references to the property were to the part.
- (4) In this paragraph “readily separable part” has the meaning given by paragraph 1.

*Decision whether to take court proceedings to condemn property as forfeited*

- 8 (1) Where a notice of claim in respect of the property, or a part of it, is duly given in accordance with paragraphs 5 and 6, the relevant officer must decide whether to take proceedings to ask the court to condemn the property or a part of it as forfeited.
- (2) The decision whether to take such proceedings must be made as soon as reasonably practicable after the giving of the notice of claim.

*Return of property if no forfeiture proceedings*

- 9 (1) This paragraph applies if, in a case in which a notice of claim has been given, the relevant officer decides—
- (a) not to take proceedings for condemnation of the property, or
  - (b) not to take proceedings for condemnation of a part of the property.
- (2) The relevant officer must return the property or part to the person who appears to him to have a legitimate reason for possessing the property or, if there is more than one such person, to one of those persons.
- (3) Any property required to be returned in accordance with sub-paragraph (2) must be returned as soon as reasonably practicable after the decision not to take proceedings for condemnation.

*Forfeiture proceedings*

- 10 (1) This paragraph applies if, in a case in which a notice of claim has been given, the relevant officer decides to take proceedings for condemnation of the property or a part of it (“the relevant property”).
- (2) The court must condemn the relevant property if it is satisfied—
- (a) that the relevant property is forfeitable property, and
  - (b) that no-one who has given a notice of claim has a legitimate reason for possessing the relevant property.

This is subject to sub-paragraphs (5) and (7).

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- (3) If the court is not satisfied that the relevant property is forfeitable property, the court must order its return to the person who appears to the court to have a legitimate reason for possessing it or, if there is more than one such person, to one of those persons.
- (4) If the court is satisfied—
- (a) that the relevant property is forfeitable property, and
  - (b) that a person who has given a notice of claim has a legitimate reason for possessing the relevant property, or that more than one such person has such a reason,
- the court must order the return of the relevant property to that person or, as the case may be, to one of those persons.
- (5) Where the court is satisfied that any part of the relevant property is a separable part, sub-paragraphs (2) to (4) apply separately in relation to each separable part of the relevant property as if references to the relevant property were references to the separable part.
- (6) For this purpose a part of any property is a “separable part” of the property if—
- (a) it can be separated from the remainder of that property, and
  - (b) where a person has a legitimate reason for possessing the remainder of that property or any part of it, the separation will not prejudice the remainder or part.
- (7) Where the court is satisfied—
- (a) that a person who has given a notice of claim has a legitimate reason for possessing part of the relevant property, and
  - (b) that, although the part is not a separable part within the meaning given by sub-paragraph (6), it can be separated from the remainder of the relevant property,
- the court may order the return of that part to that person.
- (8) Sub-paragraph (7) does not apply to any property required to be returned to a person under sub-paragraph (4).

#### *Supplementary orders*

- 11 (1) Where the court condemns property under paragraph 10(2)—
- (a) it may order the relevant officer to take such steps in relation to the property or any part of it as it thinks appropriate, and
  - (b) where it orders a step to be taken, it may make that order conditional on specified costs relating to the taking of that step being paid by a specified person within a specified period.
- (2) A court order under paragraph 10(3), (4), (5) or (7) requiring the return of a part of the relevant property to a person may be made conditional on specified costs relating to the separation of the part from the remainder of the relevant property being paid by that person within a specified period.
- (3) Where the court makes an order under paragraph 10(7) for the return of a part of the relevant property—
- (a) it may order the relevant officer to take such steps as it thinks appropriate in relation to any property which will be prejudiced by the separation of that part, and

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- (b) where it orders a step to be taken, it may make that order conditional on specified costs relating to the taking of that step being paid by a specified person within a specified period.
- (4) For the purposes of this paragraph “specified” means specified in, or determined in accordance with, the court order.

*Supplementary provision about forfeiture proceedings*

- 12 Proceedings by virtue of this Schedule are civil proceedings and may be instituted in a court of summary jurisdiction for the petty sessions district in which the property to which the proceedings relate was seized.
- 13 (1) Either party may appeal against the decision of that court to a county court.
- (2) This paragraph does not affect any right to require the statement of a case for the opinion of the Court of Appeal.
- 14 Where an appeal has been made (whether by case stated or otherwise) against the decision of the court of summary jurisdiction in proceedings by virtue of this Schedule in relation to property, the property is to be left in the custody of a constable pending the final determination of the matter.

*Effect of forfeiture*

- 15 Where property is treated or condemned as forfeited under this Schedule the forfeiture is to be treated as having taken effect as from the time of the seizure.

*Disposal of property which is not returned*

- 16 (1) This paragraph applies where any property is required to be returned to a person under this Schedule.
- (2) If—
  - (a) the property is (without having been returned) still in the custody of the relevant officer after the end of the period of 12 months beginning with the day on which the requirement to return it arose, and
  - (b) it is not practicable to dispose of it by returning it immediately to the person to whom it is required to be returned,
 the relevant officer may dispose of it in any manner he thinks fit.
- 17 (1) This paragraph applies where any property would be required to be returned to a person under this Schedule but for a failure to satisfy a condition imposed by virtue of paragraph 11(2) (return of property conditional on payment of costs within specified period).
- (2) The relevant officer may dispose of the property in any manner he thinks fit.

*Provisions as to proof*

- 18 In proceedings under this Schedule, the fact, form and manner of the seizure are to be taken, without further evidence and unless the contrary is shown, to have been as set forth in the process.

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- 19 In proceedings, the condemnation by a court of property as forfeited under this Schedule may be proved by the production of either—
- (a) the order of condemnation, or
  - (b) a certified copy of the order purporting to be signed by an officer of the court by which the order was made or granted.

*Saving for owner's rights*

- 20 Neither the imposition of a requirement by virtue of this Schedule to return property to a person nor the return of it to a person in accordance with such a requirement affects—
- (a) the rights in relation to that property, or any part of it, of any other person, or
  - (b) the right of any other person to enforce his rights against the person to whom it is returned.

*Interpretation*

- 21 In this Schedule—
- “the court” is to be construed in accordance with paragraph 12;
  - “forfeitable property” is to be construed in accordance with paragraph 1(2);
  - “premises” has the same meaning as in the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (see Article 25 of that Order); and
  - “the relevant officer” is to be construed in accordance with paragraph 3.”

SCHEDULE 13

Section 42

EXTRADITION

**PART 1**

AMENDMENTS TO THE EXTRADITION ACT 2003

*Requests for extradition of persons unlawfully at large*

- 1 (1) In section 2 (Part 1 warrant and certificate), in subsection (5)(a), for “is alleged to be unlawfully at large after conviction” there is substituted “has been convicted”.
- (2) In section 70 (request and certificate for extradition to category 2 territory)—
- (a) in subsection (3), after “subsection (4)” there is inserted “or the statement referred to in subsection (4A)”; and
  - (b) for subsection (4) there is substituted—
- “(4) The statement is one that—
- (a) the person is accused in the category 2 territory of the commission of an offence specified in the request, and
  - (b) the request is made with a view to his arrest and extradition to the category 2 territory for the purpose of being prosecuted for the offence.

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(4A) The statement is one that—

- (a) the person has been convicted of an offence specified in the request by a court in the category 2 territory, and
- (b) the request is made with a view to his arrest and extradition to the category 2 territory for the purpose of being sentenced for the offence or of serving a sentence of imprisonment or another form of detention imposed in respect of the offence.”

(3) In section 142 (issue of Part 3 warrant), in subsection (5)(a), for “is alleged to be unlawfully at large after conviction” there is substituted “ has been convicted ”.

#### Commencement Information

**I292** Sch. 13 para. 1 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

- 2 (1) In section 14 (passage of time), for the words from “since” to the end there is substituted “since he is alleged to have—
- (a) committed the extradition offence (where he is accused of its commission), or
  - (b) become unlawfully at large (where he is alleged to have been convicted of it)”.

(2) After section 68 there is inserted—

#### “68A Unlawfully at large

- (1) A person is alleged to be unlawfully at large after conviction of an offence if—
- (a) he is alleged to have been convicted of it, and
  - (b) his extradition is sought for the purpose of his being sentenced for the offence or of his serving a sentence of imprisonment or another form of detention imposed in respect of the offence.

(2) This section applies for the purposes of this Part, other than sections 14 and 63.”

- (3) In section 82 (passage of time), for the words from “since” to the end there is substituted “since he is alleged to have—
- (a) committed the extradition offence (where he is accused of its commission), or
  - (b) become unlawfully at large (where he is alleged to have been convicted of it)”.

(4) After section 140 there is inserted—

#### “140A Unlawfully at large

- (1) A person is alleged to be unlawfully at large after conviction of an offence if—
- (a) he is alleged to have been convicted of it, and



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- (b) his extradition is sought for the purpose of his being sentenced for the offence or of his serving a sentence of imprisonment or another form of detention imposed in respect of the offence.

(2) This section applies for the purposes of this Part, other than sections 82 and 136.”

(5) In section 143 (undertaking in relation to person serving sentence), in subsection (4), for “alleged to be unlawfully at large after conviction” there is substituted “ who has been convicted ”.

(6) In section 148 (extradition offences), in subsection (3)(a), for “is alleged to be unlawfully at large after conviction” there is substituted “ has been convicted ”.

(7) In section 179 (competing claims to extradition), after subsection (4) there is inserted—

“(5) For the purposes of this section a person is alleged to be unlawfully at large after conviction of an offence if—

- (a) he is alleged to have been convicted of it, and
- (b) his extradition is sought for the purpose of his being sentenced for the offence or of his serving a sentence of imprisonment or another form of detention imposed in respect of the offence.”

(8) In section 188 (re-extradition to category 1 territories), in subsection (1)(b)(i), for “was alleged to be unlawfully at large after conviction” there is substituted “ had been convicted ”.

(9) In section 189 (re-extradition to category 2 territories), in subsection (1)(b), for “was alleged to be unlawfully at large after conviction” there is substituted “ had been convicted ”.

#### Commencement Information

**I293** Sch. 13 para. 2 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

#### *Restriction on extradition following transfer from International Criminal Court*

- 3 (1) In section 11 (bars to extradition)—
- (a) after paragraph (h) of subsection (1) there is inserted—
    - “(i) the person's earlier transfer to the United Kingdom by the International Criminal Court.”;
  - (b) in subsection (2), for “Sections 12 to 19” there is substituted “ Sections 12 to 19A ”.

(2) After section 19 there is inserted—

#### **“19A Earlier transfer to United Kingdom by International Criminal Court**

(1) A person's extradition to a category 1 territory is barred by reason of his earlier transfer by the International Criminal Court if (and only if)—

- (a) the person was transferred to the United Kingdom to serve a sentence imposed by the Court;

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- (b) under arrangements between the United Kingdom and the Court, the consent of the Presidency of the Court is required to the person's extradition from the United Kingdom to the category 1 territory in respect of the extradition offence under consideration;
  - (c) that consent has not been given.
- (2) Subsection (1) does not apply if the person has served the sentence imposed by the Court and has subsequently—
- (a) remained voluntarily in the United Kingdom for more than 30 days, or
  - (b) left the United Kingdom and returned to it.”
- (3) In section 93 (Secretary of State's consideration of case), after paragraph (c) of subsection (2) there is inserted—
- “(d) section 96A (earlier transfer to United Kingdom by International Criminal Court).”
- (4) After section 96 there is inserted—

**“96A Earlier transfer to United Kingdom by International Criminal Court**

- (1) The Secretary of State must not order a person's extradition to a category 2 territory if—
- (a) the person was transferred to the United Kingdom to serve a sentence imposed by the International Criminal Court;
  - (b) under arrangements between the United Kingdom and the Court, the consent of the Presidency of the Court is required to the person's extradition from the United Kingdom to the category 2 territory in respect of the extradition offence under consideration;
  - (c) that consent has not been given.
- (2) Subsection (1) does not apply if the person has served the sentence imposed by the Court and has subsequently—
- (a) remained voluntarily in the United Kingdom for more than 30 days, or
  - (b) left the United Kingdom and returned to it.”

**Commencement Information**

**I294** Sch. 13 para. 3 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

*Restriction on extradition in cases where trial in United Kingdom more appropriate*

PROSPECTIVE

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### Textual Amendments

**F38** Sch. 13 paras. 4-6 and cross-heading omitted (14.10.2013 for E.W.N.I., 17.9.2021 for S.) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 20 para. 9; S.I. 2013/2349, art. 2(3); S.I. 2021/1018, art. 3

PROSPECTIVE

F38<sub>5</sub>

### Textual Amendments

**F38** Sch. 13 paras. 4-6 and cross-heading omitted (14.10.2013 for E.W.N.I., 17.9.2021 for S.) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 20 para. 9; S.I. 2013/2349, art. 2(3); S.I. 2021/1018, art. 3

- 6
- (1) An order bringing paragraph 4 or 5 into force is not to be made within the period of 12 months beginning with the day on which this Act is passed.
  - (2) If after the end of that period a resolution is made by each House of Parliament that paragraphs 4 and 5 (or either of them) should come into force, the Secretary of State shall make an order under section 53 bringing the paragraphs (or paragraph) into force.
  - (3) An order made by virtue of sub-paragraph (2) must bring the provisions in question into force no later than one month after the day on which the resolutions referred to in that sub-paragraph are made or, if they are made on different days, the day on which the later resolution is made.

#### *Remand of person serving sentence in United Kingdom*

- 7 In sections 23 and 89 (person serving sentence in United Kingdom), after subsection (2) there is inserted—

“(3) In a case where an extradition hearing is adjourned under subsection (2)—

- (a) section 131 of the Magistrates' Courts Act 1980 (remand of accused already in custody) has effect as if a reference to 28 clear days in subsection (1) or (2) of that section were a reference to six months;
- (b) Article 47(2) of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (period of remand in custody) has effect as if a reference to 28 days in—
  - (i) paragraph (a)(iii), or
  - (ii) the words after paragraph (b),were a reference to six months.”

### Commencement Information

**I295** Sch. 13 para. 7 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

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### *Remands in connection with appeal proceedings*

- 8 (1) In section 29 (court's powers on appeal under section 28), after subsection (6) there is inserted—

“(7) If the court allows the appeal it must remand the person in custody or on bail.

(8) If the court remands the person in custody it may later grant bail.”

- (2) In section 30 (detention pending conclusion of appeal under section 28)—

- (a) for paragraph (b) of subsection (4) there is substituted—

“(b) when the High Court—

(i) allows the appeal, or

(ii) dismisses the appeal,

unless, where the appeal is dismissed, the authority immediately informs the court that it intends to apply for leave to appeal to the House of Lords;”;

- (b) in paragraph (c) of that subsection, at the end there is inserted “, if no appeal to the House of Lords is brought before the end of that period ”;

- (c) in subsection (5)(a), for “if” there is substituted “ unless ”.

- (3) In section 32 (appeal to House of Lords), for subsection (10) there is substituted—

“(10) The High Court may grant bail to a person appealing under this section, or applying for leave to appeal under this section, against the dismissal of his appeal under section 26.”

- (4) In section 33 (powers of House of Lords on appeal under section 32), at the end there is inserted—

“(10) In a case where—

(a) subsection (5) applies, or

(b) subsections (7) and (8) apply,

the House of Lords must remand, in custody or on bail, the person in respect of whom the warrant was issued.

- (11) If the House of Lords remands the person in custody the High Court may later grant bail.”

- (5) After section 33 there is inserted—

### **“33A Detention pending conclusion of certain appeals under section 32**

- (1) This section applies if immediately after the High Court orders the person's discharge the court is informed by the authority which issued the Part 1 warrant that it intends to appeal under section 32.

- (2) The court must remand the person in custody or on bail while the appeal under section 32 is pending.

- (3) If the court remands the person in custody it may later grant bail.

- (4) An appeal under section 32 ceases to be pending at the earliest of these times—

- (a) when the proceedings on the appeal are discontinued;

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- (b) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the House of Lords against the decision of the High Court on the appeal under section 26 is granted, if no appeal to the House of Lords is brought before the end of that period;
  - (c) when there is no further step that can be taken by the authority which issued the Part 1 warrant in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time).
- (5) The preceding provisions of this section do not apply to Scotland.”
- (6) In section 104 (court's powers on appeal under section 103), after subsection (7) there is inserted—
  - “(8) If the court makes a direction under subsection (1)(b) it must remand the person in custody or on bail.
  - (9) If the court remands the person in custody it may later grant bail.”
- (7) In section 106 (court's powers on appeal under section 105), after subsection (8) there is inserted—
  - “(9) If the court—
    - (a) allows the appeal, or
    - (b) makes a direction under subsection (1)(b),it must remand the person in custody or on bail.
  - (10) If the court remands the person in custody it may later grant bail.”
- (8) In section 107 (detention pending conclusion of appeal under section 105)—
  - (a) for paragraph (b) of subsection (4) there is substituted—
    - “(b) when the High Court—
      - (i) allows the appeal,
      - (ii) makes a direction under section 106(1)(b), or
      - (iii) dismisses the appeal,unless, where the appeal is dismissed, the court is immediately informed on behalf of the category 2 territory of an intention to apply for leave to appeal to the House of Lords;”;
    - (b) in paragraph (c) of that subsection, at the end there is inserted “, if no appeal to the House of Lords is brought before the end of that period ”;
    - (c) in subsection (5)(a), for “if” there is substituted “ unless ”.
  - (9) In section 111 (court's powers on appeal under section 110), after subsection (5) there is inserted—
    - “(6) If the court allows the appeal it must remand the person in custody or on bail.
    - (7) If the court remands the person in custody it may later grant bail.”
  - (10) For section 112 there is substituted—

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### “112 Detention pending conclusion of appeal under section 110

- (1) This section applies in a case where the Secretary of State orders the person's discharge under this Part.
- (2) Subject to subsection (3)—
  - (a) the order made by the appropriate judge under section 92(4) (“the remand order”) remains in force until the end of the period of three days beginning with the day on which the person's discharge is ordered;
  - (b) if within that period the Secretary of State is informed in writing on behalf of the category 2 territory of an intention to appeal under section 110, the remand order remains in force while the appeal is pending.
- (3) If the person is remanded in custody under section 92(4), the appropriate judge may grant bail.
- (4) An appeal under section 110 ceases to be pending at the earliest of these times—
  - (a) when the proceedings on the appeal are discontinued;
  - (b) when the High Court—
    - (i) allows the appeal, or
    - (ii) dismisses the appeal,
 unless, where the appeal is dismissed, the court is immediately informed on behalf of the category 2 territory of an intention to apply for leave to appeal to the House of Lords;
  - (c) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the House of Lords against the decision of the High Court on the appeal is granted, if no appeal to the House of Lords is brought before the end of that period;
  - (d) when there is no further step that can be taken on behalf of the category 2 territory in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time).
- (5) The preceding provisions of this section apply to Scotland with these modifications—
  - (a) in subsection (4)(b) omit the words from “unless” to the end;
  - (b) omit subsection (4)(c).”
- (11) In section 114 (appeal to House of Lords), for subsection (10) there is substituted—
 

“(10) The High Court may grant bail to a person appealing under this section, or applying for leave to appeal under this section, against the dismissal of his appeal under section 103 or 108.”
- (12) In section 115 (powers of House of Lords on appeal under section 114), after subsection (8) there is inserted—
 

“(9) In a case where subsection (5) or (7) applies, the House of Lords must remand, in custody or on bail, the person whose extradition is requested.

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(10) If the House of Lords remands the person in custody the High Court may later grant bail.”

(13) After section 115 there is inserted—

**“115A Detention pending conclusion of certain appeals under section 114**

- (1) This section applies if—
  - (a) on an appeal under section 103 or 108 the High Court orders the person's discharge;
  - (b) immediately after it does so, the court is informed on behalf of the category 2 territory of an intention to appeal under section 114.
- (2) The court must remand the person in custody or on bail while the appeal is pending.
- (3) If the court remands the person in custody it may later grant bail.
- (4) An appeal under section 114 ceases to be pending at the earliest of these times—
  - (a) when the proceedings on the appeal are discontinued;
  - (b) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the House of Lords against the decision of the High Court on the appeal under section 103 or 108 is granted, if no appeal to the House of Lords is brought before the end of that period;
  - (c) when there is no further step that can be taken on behalf of the category 2 territory in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time).
- (5) The preceding provisions of this section do not apply to Scotland.”

**Commencement Information**

**I296** Sch. 13 para. 8 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

*Time for extradition*

- 9 (1) In section 35 (extradition where no appeal), in paragraph (a) of subsection (4) (period within which person must be extradited), for “the day on which the judge makes the order” there is substituted “ the first day after the period permitted under section 26 for giving notice of appeal against the judge's order ”.
- (2) In section 37 (undertaking in relation to person serving sentence in United Kingdom), after paragraph (b) of subsection (8) there is inserted— “ Paragraph (a) applies only if the day mentioned in that paragraph is later than the day mentioned in section 35(4)(a). ”
- (3) In section 38 (extradition following deferral for competing claim), at the end of subsection (3) there is inserted— “ This subsection applies only if the day on which the order is made is later than the day mentioned in section 35(4)(a). ”

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#### Commencement Information

**I297** Sch. 13 para. 9 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

#### *Extradition of person serving sentence in United Kingdom*

- 10 (1) Section 37 (undertaking in relation to person serving sentence in United Kingdom) is amended as follows.
- (2) In subsection (1), at the end of paragraph (b) there is inserted “, either—
- (i) in custody, or
  - (ii) on licence”.
- (3) In subsection (4), after “in relation to a person” there is inserted “ within subsection (1)(b)(i) who is ”.
- (4) After that subsection there is inserted—
- “(4A) The terms which may be specified by the judge in relation to a person within subsection (1)(b)(ii) who is accused in a category 1 territory of the commission of an offence include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 1 territory for—
- (a) the offence, and
  - (b) any other offence in respect of which he is permitted to be dealt with in the category 1 territory.”

#### Commencement Information

**I298** Sch. 13 para. 10 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

- 11 (1) Section 52 (undertaking in relation to person serving sentence in consent cases) is amended as follows.
- (2) In subsection (1), at the end of paragraph (b) there is inserted “, either—
- (i) in custody, or
  - (ii) on licence”.
- (3) In subsection (3), after “in relation to a person” there is inserted “ within subsection (1)(b)(i) who is ”.
- (4) After that subsection there is inserted—
- “(3A) The terms which may be specified by the judge in relation to a person within subsection (1)(b)(ii) who is accused in a category 1 territory of the commission of an offence include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 1 territory for—
- (a) the offence, and
  - (b) any other offence in respect of which he is permitted to be dealt with in the category 1 territory.”



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**Commencement Information**

**I299** Sch. 13 para. 11 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

12 In section 59 (return of person to serve remainder of sentence), after paragraph (b) of subsection (1) there is inserted—

“(c) the person is not yet entitled to be released from detention pursuant to his sentence (whether on licence or otherwise).”

**Commencement Information**

**I300** Sch. 13 para. 12 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

13 (1) Section 119 (undertaking in relation to person serving sentence in United Kingdom) is amended as follows.

(2) In subsection (1), at the end of paragraph (b) there is inserted “, either—

(i) in custody, or

(ii) on licence”.

(3) In subsection (3), after “in relation to a person” there is inserted “ within subsection (1)(b)(i) who is ”.

(4) After that subsection there is inserted—

“(3A) The terms which may be specified by the Secretary of State in relation to a person within subsection (1)(b)(ii) who is accused in a category 2 territory of the commission of an offence include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 2 territory for—

(a) the offence, and

(b) any other offence in respect of which he is permitted to be dealt with in the category 2 territory.”

**Commencement Information**

**I301** Sch. 13 para. 13 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

14 In section 132 (return of person to serve remainder of sentence), after paragraph (b) of subsection (1) there is inserted—

“(c) the person is not yet entitled to be released from detention pursuant to his sentence (whether on licence or otherwise).”

**Commencement Information**

**I302** Sch. 13 para. 14 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

“*The appropriate judge*”

15 (1) In sections 67 and 139 (the appropriate judge), after subsection (3) there is inserted—

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“(3A) The use of the expression “the judge” in a section containing a previous reference to “the appropriate judge” or “the judge” does not in itself require both references to be read as referring to the same individual.”

(2) In section 187 (re-extradition hearing), for subsection (10) there is substituted—

“(10) Section 139 applies for the purposes of this section as it applies for the purposes of Part 2.”

#### Commencement Information

**I303** Sch. 13 para. 15 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

16 (1) In the provisions listed in sub-paragraph (2), for “If the judge remands the person in custody he may” there is substituted “ If the person is remanded in custody, the appropriate judge may ”.

(2) The provisions are—

section 7(10);  
 section 8(2);  
 section 9(5);  
 section 21(5);  
 section 24(3);  
 section 30(3);  
 section 44(6);  
 section 46(3);  
 section 50(3);  
 section 51(5);  
 section 72(9);  
 section 74(9);  
 section 77(5);  
 section 90(5);  
 section 92(5);  
 section 107(3);  
 section 112(3);  
 paragraph 15 of Schedule 1 (in the inserted subsection (5));  
 paragraph 33 of Schedule 1 (in the inserted subsection (1B));  
 paragraph 36 of Schedule 1 (in subsection (6) of the inserted section 128B).

#### Commencement Information

**I304** Sch. 13 para. 16 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

*Extradition to category 2 territories: requests and certificates*

17 (1) Section 70 (extradition request and certificate) is amended as follows.

(2) In subsection (1)—

(a) after “must” there is inserted “ (subject to subsection (2)) ”;

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(b) for the words after “extradition” there is substituted “ of a person to a category 2 territory ”.

(3) For subsection (2) there is substituted—

“(2) The Secretary of State may refuse to issue a certificate under this section if—

- (a) he has power under section 126 to order that proceedings on the request be deferred,
- (b) the person whose extradition is requested has been recorded by the Secretary of State as a refugee within the meaning of the Refugee Convention, or
- (c) the person whose extradition is requested has been granted leave to enter or remain in the United Kingdom on the ground that it would be a breach of Article 2 or 3 of the Human Rights Convention to remove him to the territory to which extradition is requested.

(2A) In subsection (2)—

“Refugee Convention” has the meaning given by section 167(1) of the Immigration and Asylum Act 1999;

“Human Rights Convention” has the meaning given to “the Convention” by section 21(1) of the Human Rights Act 1998.”

(4) In subsection (8)—

- (a) the words after “must” become paragraph (a) of that subsection;
- (b) at the end of that paragraph there is inserted “, and
  - (b) identify the order by which the territory in question is designated as a category 2 territory.”

(5) In subsection (9), for the words after “send” there is substituted “ the request and the certificate to the appropriate judge ”.

#### Commencement Information

**I305** Sch. 13 para. 17 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

#### *Time for representations and consideration of case under Part 2*

18 (1) Section 93 (Secretary of State's consideration of case) is amended as follows.

(2) In subsection (6) (length of permitted period for representations), for “6 weeks” there is substituted “ 4 weeks ”.

(3) After that subsection there is inserted—

“(7) In the case of a person who has consented under section 127 to his extradition, the Secretary of State is not required—

- (a) to wait until the end of the permitted period before ordering the person's extradition, or
- (b) to consider any representations received after the order is made.”

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#### Commencement Information

**I306** Sch. 13 para. 18 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

#### *Applications for discharge or for extension of time limit*

- 19 (1) Section 99 (time limit for order for extradition or discharge) is amended as follows.
- (2) In subsection (2)—
- (a) for “the High Court” there is substituted “ the appropriate judge ”;
  - (b) for “the court” there is substituted “ the judge ”.
- (3) In subsection (4)—
- (a) for “applies to the High Court” there is substituted “ applies to the appropriate judge ”;
  - (b) for “the High Court may” there is substituted “ the judge may ”.

#### Commencement Information

**I307** Sch. 13 para. 19 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

#### *Scotland: references to Secretary of State*

- 20 In section 141 (Scotland: references to Secretary of State), in subsection (2), after “Secretary of State” there is inserted “ in paragraph (b) of section 70(2), in paragraph (c) of section 93(4) and ”.

#### Commencement Information

**I308** Sch. 13 para. 20 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

#### *Issue of Part 3 warrant: persons unlawfully at large who may be arrested without domestic warrant*

- 21 (1) In section 142 (issue of Part 3 warrant), in subsection (1)(b), after “subsection (2)” there is inserted “ , or the condition in subsection (2A), ”.
- (2) For subsection (2) of that section there is substituted—
- “(2) The condition is that—
- (a) there are reasonable grounds for believing that the person has committed an extradition offence, and
  - (b) a domestic warrant has been issued in respect of the person.
- (2A) The condition is that—
- (a) there are reasonable grounds for believing that the person is unlawfully at large after conviction of an extradition offence by a court in the United Kingdom, and

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- (b) either a domestic warrant has been issued in respect of the person or the person may (if unlawfully at large as mentioned in paragraph (a)) be arrested without a warrant.”

**Commencement Information**

**I309** Sch. 13 para. 21 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

*Issue of Part 3 warrant: domestic warrant issued  
at common law by judge in Northern Ireland*

22 For subsection (8) of section 142 there is substituted—

“(8) A domestic warrant is a warrant for the arrest or apprehension of a person which is issued under any of the provisions referred to in subsection (8A), or at common law by a Crown Court judge in Northern Ireland.

(8A) The provisions are—

- (a) section 72 of the Criminal Justice Act 1967;
- (b) section 7 of the Bail Act 1976;
- (c) section 51 of the Judicature (Northern Ireland) Act 1978;
- (d) section 1 of the Magistrates' Courts Act 1980;
- (e) Article 20 or 25 of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26));
- (f) the Criminal Procedure (Scotland) Act 1995.”

**Commencement Information**

**I310** Sch. 13 para. 22 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

*Dealing with person for pre-extradition offences following extradition to UK*

23 In section 146(3)(c) (consent of category 1 territory to person being dealt with for other offence), after “given on behalf of the territory” there is inserted “ in response to a request made by the appropriate judge ”.

**Commencement Information**

**I311** Sch. 13 para. 23 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

*Extradition requests to territories not applying European framework decision to old cases*

24 After section 155 there is inserted—

**“155A Category 1 territories not applying framework decision to old cases**

- (1) This section applies to a category 1 territory that deals with European extradition requests otherwise than in accordance with the system provided for in the European framework decision if they relate to acts committed before a particular date (“the relevant date”).

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- (2) In the case of a territory to which this section applies, the Secretary of State has the same powers to request a person's extradition in relation to acts committed before the relevant date as he would have in the case of a category 2 territory.
- (3) The Secretary of State may by order provide that, in the case of an extradition request which—
- (a) is made to a specified category 1 territory to which this section applies, and
  - (b) relates to acts committed before the relevant date,
- this Part is to have effect as if that territory were a category 2 territory, and with such modifications as may be specified.
- (4) In this section—
- “European extradition request” means a request for extradition made by the United Kingdom or a category 1 territory;
- “European framework decision” means the framework decision of the Council of the European Union made on 13 June 2002 on the European arrest warrant and the surrender procedures between member states (2002/584/JHA);
- “specified”, in relation to an order under this section, means specified in the order.”

#### Commencement Information

**I312** Sch. 13 para. 24 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

#### *Extradition of serving prisoner*

25 After section 197 there is inserted—

#### “197A Extradition of serving prisoner

If an order is made under Part 1 or 2 for the extradition of a person who is serving a sentence of imprisonment or another form of detention in the United Kingdom, the order is sufficient authority for the person to be removed from the prison or other institution where he is detained.”

#### Commencement Information

**I313** Sch. 13 para. 25 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

#### *Authentication of receivable documents*

26 In section 202 (receivable documents), in subsection (4) (persons who may authenticate documents)—

- (a) in paragraph (a), for “other judicial authority” there is substituted “ officer ”,
- (b) after that paragraph there is inserted—

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“(aa) it purports to be certified, whether by seal or otherwise, by the Ministry or Department of the territory responsible for justice or for foreign affairs;”.

**Commencement Information**

I314 Sch. 13 para. 26 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

**PART 2**

AMENDMENTS TO OTHER ACTS

*Powers of High Court in relation to bail decisions by magistrates' court etc*

- 27 (1) Section 22 of the Criminal Justice Act 1967 (c. 80) (power of High Court to grant, or vary conditions of, bail) is amended as follows.
- (2) After subsection (1) (application to grant bail etc where case stated to High Court) there is inserted—
- “(1A) Where a magistrates' court withholds bail in extradition proceedings or imposes conditions in granting bail in extradition proceedings, the High Court may grant bail or vary the conditions.”
- (3) In subsection (4) (which defines certain terms used in section 22), after “ “bail in criminal proceedings”” there is inserted “ , “extradition proceedings” .

**Commencement Information**

I315 Sch. 13 para. 27 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

- 28 In section 1(1A) of the Bail (Amendment) Act 1993 (c. 26) (right of prosecution to appeal to Crown Court against granting of bail in extradition proceedings), for “a judge of the Crown Court” there is substituted “ the High Court ”.

**Commencement Information**

I316 Sch. 13 para. 28 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

- 29 (1) Section 10 of the Justice (Northern Ireland) Act 2004 (c. 4) (prosecution right of appeal against grant of bail by magistrates' court) is amended as follows.
- (2) After subsection (1) there is inserted—
- “(1A) Where a magistrates' court grants bail to a person in connection with extradition proceedings, the prosecution may appeal to the High Court against the granting of bail.”
- (3) In subsection (3), after “subsection (1)” there is inserted “ or (1A) ”.
- (4) In subsection (4)—
- (a) after “subsection (1)” there is inserted “ or (1A) ”;

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- (b) for “the magistrates' court” there is substituted “ the court which has granted bail ”.
- (5) In subsections (5) and (6), for “the magistrates' court” there is substituted “ the court which has granted bail ”.
- (6) In subsection (8)—
- (a) after “subsection (1)” there is inserted “ or (1A) ”;
- (b) “magistrates” is omitted.
- (7) After subsection (11) there is inserted—
- “(12) In this section—
- “extradition proceedings” means proceedings under the Extradition Act 2003;
- “magistrates' court” and “court”, in relation to extradition proceedings, mean a resident magistrate designated in accordance with section 67 or section 139 of the Extradition Act 2003;
- “prosecution”, in relation to extradition proceedings, means the person acting on behalf of the territory to which extradition is sought.”

#### Commencement Information

I317 Sch. 13 para. 29 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

30 After section 10 of the Justice (Northern Ireland) Act 2004 there is inserted—

#### “10A Prosecution right of appeal against grant of bail by county court judge in extradition proceedings

- (1) Section 10 applies to the granting of bail by a county court judge in extradition proceedings as it applies to the granting of bail by a magistrates' court in such proceedings; and references in that section to a magistrates' court shall be construed accordingly.
- (2) In this section “extradition proceedings” has the same meaning as in section 10.”

#### Commencement Information

I318 Sch. 13 para. 30 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

#### *Credit against sentence for periods of remand in custody of persons extradited to UK*

31 In section 243 of the Criminal Justice Act 2003 (c. 44) (persons extradited to the United Kingdom), in subsection (1), after “imposed” there is inserted “ or he received that sentence ”.



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#### Commencement Information

**I319** Sch. 13 para. 31 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

- 32 In section 101 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (detention and training orders: term of order, taking account of remands, etc), after subsection (12) there is inserted—

“(12A) Section 243 of the Criminal Justice Act 2003 (persons extradited to the United Kingdom) applies in relation to a person sentenced to a detention and training order as it applies in relation to a fixed-term prisoner, with the reference in subsection (2) of that section to section 240 being read as a reference to subsection (8) above.”

#### Commencement Information

**I320** Sch. 13 para. 32 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

- 33 (1) Section 47 of the Criminal Justice Act 1991 (c. 53) (persons extradited to the United Kingdom) is amended as follows.

(2) In subsection (1), after “imposed” there is inserted “ or he received that sentence ”.

(3) After subsection (3) there is inserted—

“(3A) This section applies in relation to a person sentenced to a detention and training order as it applies in relation to a short-term or long-term prisoner, and as it so applies—

- (a) the reference in subsection (2) above to section 67 of the 1967 Act shall be read as a reference to section 101(8) of the Powers of Criminal Courts (Sentencing) Act 2000; and
- (b) the reference in that subsection to a relevant period shall be read as a reference to the period mentioned in the said section 101(8).”

#### Commencement Information

**I321** Sch. 13 para. 33 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

#### *Amendments consequential on amendments in Part 1*

- 34 In section 4(2B) of the Bail Act 1976 (c. 63) (no right to bail in certain extradition proceedings), for “to be unlawfully at large after conviction” there is substituted “to have been convicted”.

#### Commencement Information

**I322** Sch. 13 para. 34 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

- 35 In paragraph 81(4) of Schedule 9 to the Constitutional Reform Act 2005 (c. 4) (amendments substituting “Supreme Court” for “House of Lords” in provisions of the Extradition Act 2003)—

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- (a) after paragraph (b) there is inserted—
  - “(ba) section 33A (detention pending conclusion of certain appeals under section 32);”;
- (b) after paragraph (i) there is inserted—
  - “(ia) section 115A (detention pending conclusion of certain appeals under section 114);”.

**Commencement Information**

**I323** Sch. 13 para. 35 in force at 15.1.2007 by S.I. 2006/3364, art. 2(e)

SCHEDULE 14

Section 52

MINOR AND CONSEQUENTIAL AMENDMENTS

*Prison Act 1952 (c. 52)*

- 1 (1) Section 52 of the Prison Act 1952 (exercise of power to make orders, rules and regulations) is amended as follows.
- (2) In subsection (1), after “of this Act” there is inserted “ or under Schedule A1 to this Act ”.
- (3) After subsection (2) there is inserted—
- “(2A) A statutory instrument containing an order under Schedule A1 to this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- (4) In subsection (3), after “of this Act” there is inserted “ or under Schedule A1 to this Act ”.

**Commencement Information**

**I324** Sch. 14 para. 1 in force at 1.4.2007 by S.I. 2007/709, art. 3(p) (with arts. 6, 7)

*Criminal Damage Act 1971 (c. 48)*

- 2 In section 10 of the Criminal Damage Act 1971 (interpretation), after subsection (4) there is inserted—
- “(5) For the purposes of this Act a modification of the contents of a computer shall not be regarded as damaging any computer or computer storage medium unless its effect on that computer or computer storage medium impairs its physical condition.”

**Commencement Information**

**I325** Sch. 14 para. 2 in force at 1.10.2008 for E.W.N.I. by S.I. 2008/2503, art. 2(c)

**Status:** Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

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*Superannuation Act 1972 (c. 11)*

- 3 (1) In Schedule 1 to the Superannuation Act 1972 (employments etc to which section 1 can apply), at the appropriate place in the list of “Offices” there is inserted— “ The office of inspector or assistant inspector of constabulary, where held by a person to whom paragraphs (a) and (b) of section 11(7) of the Police Pensions Act 1976 apply (inspectors etc not eligible for police pensions). ”
- (2) The amendment made by sub-paragraph (1) shall be deemed always to have had effect.

**Commencement Information**

**I326** Sch. 14 para. 3 in force at 15.1.2007 by [S.I. 2006/3364](#), [art. 2\(k\)](#) (as amended by [S.I. 2007/29](#), art. 2)

*Police Pensions Act 1976 (c. 35)*

- 4 (1) In section 11 of the Police Pensions Act 1976 (interpretation), after subsection (6) there is inserted—
- “(7) References in this Act to an inspector or assistant inspector of constabulary, and to service as such, do not have effect in relation to cases in which the person in question—
- (a) was appointed on or after 1st January 1999, and
- (b) did not serve as a member of a police force at any time before his appointment took effect.”
- (2) The amendment made by sub-paragraph (1) shall be deemed always to have had effect.

**Commencement Information**

**I327** Sch. 14 para. 4 in force at 15.1.2007 by [S.I. 2006/3364](#), [art. 2\(k\)](#) (as amended by [S.I. 2007/29](#), art. 2)

*Bail Act 1976 (c. 63)*

- 5 In subsection (1) of—
- (a) section 3A of the Bail Act 1976 (conditions of bail in case of police bail), and
- (b) section 5A of that Act (supplementary provisions in cases of police bail), after “Part IV of the Police and Criminal Evidence Act 1984” there is inserted “ or Part 3 of the Criminal Justice Act 2003 ”.

**Commencement Information**

**I328** Sch. 14 para. 5 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(p\)](#) (with [arts. 6, 7](#))

*Criminal Damage (Northern Ireland) Order 1977 (S.I. 1977/426 (N.I. 4))*

- 6 In Article 12 of the Criminal Damage (Northern Ireland) Order 1977 (meaning of property, etc), after paragraph (4) there is inserted—

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“(5) For the purposes of this Order a modification of the contents of a computer shall not be regarded as damaging any computer or computer storage medium unless its effect on that computer or computer storage medium impairs its physical condition.”

**Commencement Information**

**I329** Sch. 14 para. 6 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(c\)](#)

PROSPECTIVE

*Local Government (Miscellaneous Provisions) Act 1982 (c. 30)*

7 In Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (control of sex establishments), in paragraph 1(b)(ii), for “section 5 of” there is substituted “ the Schedule to ”.

*Aviation Security Act 1982 (c. 36)*

8 (1) Part 3 of the Aviation Security Act 1982 (policing of airports) is amended as follows.  
 (2) In the heading to that Part, for “AIRPORTS” there is substituted “ AERODROMES ”.  
 (3) Between section 24B (inserted by section 12 above) and section 25 of that Act there is inserted— “ Policing of designated airports ”.  
 (4) Subsections (1), (4) and (5) of section 27 of that Act (prevention of theft at designated airports) are omitted.

**Commencement Information**

**I330** Sch. 14 para. 8 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(p\)](#) (with [arts. 6, 7](#))

*Police and Criminal Evidence Act 1984 (c. 60)*

9 In section 37 of the Police and Criminal Evidence Act 1984 (duties of custody officer before charge), in subsection (7B)—  
 (a) for “released under subsection (7)(a)” there is substituted “ dealt with under subsection (7)(a) ”;  
 (b) after “he is being released” there is inserted “ , or (as the case may be) detained, ”.

**Commencement Information**

**I331** Sch. 14 para. 9 in force at 15.1.2007 by [S.I. 2006/3364](#), [art. 2\(k\)](#) (as amended by [S.I. 2007/29](#), [art. 2](#))

10 (1) Section 37B of that Act (consultation with the Director of Public Prosecutions) is amended as follows.

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- (2) In subsection (1), for “released on bail under section 37(7)(a)” there is substituted “dealt with under section 37(7)(a) ”.
- (3) In subsection (4), for “shall give written notice” there is substituted “ shall give notice ”.
- (4) After that subsection there is inserted—
  - “(4A) Notice under subsection (4) above shall be in writing, but in the case of a person kept in police detention under section 37(7)(a) above it may be given orally in the first instance and confirmed in writing subsequently.”
- (5) In subsection (8), for paragraph (a) there is substituted—
  - “(a) when he is in police detention at a police station (whether because he has returned to answer bail, because he is detained under section 37(7)(a) above or for some other reason), or”.

**Commencement Information**

I332 Sch. 14 para. 10 in force at 15.1.2007 by S.I. 2006/3364, art. 2(k) (as amended by S.I. 2007/29, art. 2)

- 11 In section 64A of that Act (photographing of suspects etc), in subsection (1B), after paragraph (f) there is inserted “; or
  - (g) given a notice in relation to a relevant fixed penalty offence (within the meaning of Schedule 5A to the 2002 Act) by an accredited inspector by virtue of accreditation specifying that paragraph 1 of Schedule 5A to the 2002 Act applies to him.”

**Commencement Information**

I333 Sch. 14 para. 11 in force at 1.4.2007 by S.I. 2007/709, art. 3(p) (with arts. 6, 7)

*Housing Act 1985 (c. 68)*

- 12 (1) Section 82A of the Housing Act 1985 (demotion because of anti-social behaviour) is amended as follows.
  - (2) In subsection (4)(a), for the words from “engage in” to the end there is substituted “engage in—
    - (i) housing-related anti-social conduct, or
    - (ii) conduct to which section 153B of the Housing Act 1996 (use of premises for unlawful purposes) applies, and”.
  - (3) After subsection (7) there is inserted—
    - “(7A) In subsection (4)(a) “housing-related anti-social conduct” has the same meaning as in section 153A of the Housing Act 1996.”

**Commencement Information**

I334 Sch. 14 para. 12 in force at 6.4.2007 for E. by S.I. 2007/709, art. 4(c) (with art. 8)

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**Status:** Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.  
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- 13 (1) Section 121A of that Act (order suspending right to buy because of anti-social behaviour) is amended as follows.
- (2) In subsections (3)(a) and (7)(a), for the words from “engage in” to the end there is substituted “engage in—
- (i) housing-related anti-social conduct, or
  - (ii) conduct to which section 153B of the Housing Act 1996 (use of premises for unlawful purposes) applies, and”.
- (3) After subsection (9) there is inserted—
- “(10) In this section “housing-related anti-social conduct” has the same meaning as in section 153A of the Housing Act 1996.”

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**Commencement Information**  
**I335** Sch. 14 para. 13 in force at 6.4.2007 for E. by [S.I. 2007/709](#), [art. 4\(c\)](#) (with [art. 8](#))

*Criminal Justice Act 1988 (c. 33)*

- 14 In section 142 of the Criminal Justice Act 1988 (power of justice of the peace to authorise entry and search of premises for offensive weapons), in subsection (3), for “subsection (1)(b)” there is substituted “ subsection (1)(c) ”.

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**Commencement Information**  
**I336** Sch. 14 para. 14 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(p\)](#) (with [arts. 6, 7](#))

PROSPECTIVE

*Housing Act 1988 (c. 50)*

<sup>F39</sup>15 .....

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**Textual Amendments**  
**F39** Sch. 14 para. 15 repealed (23.3.2015) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), [Sch. 11 para. 50](#) (with [ss. 21, 33, 42, 58, 75, 93](#)); [S.I. 2015/373](#), [art. 4\(f\)\(xii\)](#)

*Local Government and Housing Act 1989 (c. 42)*

- 16 In section 5 of the Local Government and Housing Act 1989 (designation and reports of monitoring officer), in subsection (1), for “the clerk to the authority” there is substituted “ the chief executive of the authority ”.

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**Commencement Information**  
**I337** Sch. 14 para. 16 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(p\)](#) (with [arts. 6, 7](#))

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### Computer Misuse Act 1990 (c. 18)

- 17 In section 2 of the Computer Misuse Act 1990 (unauthorised access with intent to commit or facilitate commission of further offences), for subsection (5) there is substituted—

“(5) A person guilty of an offence under this section shall be liable—

- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
- (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
- (c) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.”

#### Commencement Information

**I338** Sch. 14 para. 17 in force at 1.10.2007 for S. by [S.S.I. 2007/434](#), [art. 2\(c\)](#)

**I339** Sch. 14 para. 17 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(c\)](#)

- 18 In the heading to section 4 of that Act (territorial scope of offences under that Act), for “**offences under this Act**” there is substituted “**offences under sections 1 to 3**”.

#### Commencement Information

**I340** Sch. 14 para. 18 in force at 1.10.2007 for S. by [S.S.I. 2007/434](#), [art. 2\(c\)](#)

**I341** Sch. 14 para. 18 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(c\)](#)

- 19 (1) Section 5 of that Act (significant links with domestic jurisdiction) is amended as follows.

- (2) [<sup>F40</sup>In subsection (2), for paragraph (b) there is substituted—

“(b) that any computer containing any program or data to which the accused by doing that act secured or intended to secure unauthorised access, or enabled or intended to enable unauthorised access to be secured, was in the home country concerned at that time.”]

- (3) In subsection (3)—

(a) in paragraph (a), for “he did the act which caused the unauthorised modification” there is substituted “ he did the unauthorised act (or caused it to be done) ”;

(b) for paragraph (b) there is substituted—

“(b) that the unauthorised act was done in relation to a computer in the home country concerned.”

#### Textual Amendments

**F40** Sch. 14 para. 19(2) repealed (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 61(5), 94(1), [Sch. 14](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)\(i\)](#)

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#### Commencement Information

**I342** Sch. 14 para. 19 in force at 1.10.2007 for S. by [S.S.I. 2007/434](#), [art. 2\(c\)](#)

**I343** Sch. 14 para. 19 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(c\)](#)

- 20 In section 6 of that Act (territorial scope of inchoate offences)—
- (a) in the heading, for “**offences under this Act**” there is substituted “**offences under sections 1 to 3**”;
  - (b) in subsections (1) and (3), for “offence under this Act” there is substituted “offence under section 1, 2 or 3 above”.

#### Commencement Information

**I344** Sch. 14 para. 20 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(c\)](#)

- 21 In section 7 of that Act (territorial scope of inchoate offences related to offences under external law)—
- (a) in the heading, for “**offences under this Act**” there is substituted “**offences under sections 1 to 3**”;
  - (b) in subsection (4), for “offence under this Act” there is substituted, in each place, “offence under section 1, 2 or 3 above”.

#### Commencement Information

**I345** Sch. 14 para. 21 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(c\)](#)

- 22 In section 9 of that Act (British citizenship immaterial), in paragraphs (a) and (d) of subsection (2), for “offence under this Act” there is substituted “offence under section 1, 2 or 3 above”.

#### Commencement Information

**I346** Sch. 14 para. 22 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(c\)](#)

- 23 Section 11 of that Act (proceedings for offences under section 1) is repealed.

#### Commencement Information

**I347** Sch. 14 para. 23 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(c\)](#)

- 24 Section 12 of that Act (conviction of an offence under section 1 in proceedings for an offence under section 2 or 3) is repealed.

#### Commencement Information

**I348** Sch. 14 para. 24 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(c\)](#)

- 25 (1) Section 13 of that Act (proceedings in Scotland) is amended as follows.
- (2) In subsection (1), for paragraph (b) there is substituted—



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“(b) any computer containing any program or data to which the accused by doing that act secured or intended to secure unauthorised access, or enabled or intended to enable unauthorised access to be secured, was in the sheriffdom at that time.”

(3) In subsection (2)—

(a) in paragraph (a), for “he did the act which caused the unauthorised modification” there is substituted “ he did the unauthorised act (or caused it to be done) ”;

(b) for paragraph (b) there is substituted—

“(b) the unauthorised act was done in relation to a computer in the sheriffdom.”

(4) Subsections (3) to (7) are omitted.

(5) In subsection (8), the words from “commenced” to the end are omitted.

#### Commencement Information

**I349** Sch. 14 para. 25 in force at 1.10.2007 for S. by [S.S.I. 2007/434](#), [art. 2\(c\)](#)

26 Section 14 of that Act (search warrants for offences under section 1) is repealed.

#### Commencement Information

**I350** Sch. 14 para. 26 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(c\)](#)

27 (1) Section 16 of that Act (application to Northern Ireland) is amended as follows.

(2) After subsection (1) there is inserted—

“(1A) In section 1(3)(a)—

- (a) the reference to England and Wales shall be read as a reference to Northern Ireland; and
- (b) the reference to 12 months shall be read as a reference to six months.”

(3) After subsection (2) there is inserted—

“(2A) In section 2(5)(a)—

- (a) the reference to England and Wales shall be read as a reference to Northern Ireland; and
- (b) the reference to 12 months shall be read as a reference to six months.”

(4) Subsection (3) is omitted.

(5) Before subsection (4) there is inserted—

“(3A) In section 3(6)(a)—

- (a) the reference to England and Wales shall be read as a reference to Northern Ireland; and
- (b) the reference to 12 months shall be read as a reference to six months.”

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(6) After the subsection inserted by sub-paragraph (5) there is inserted—

“(3B) In section 3A(5)(a)—

- (a) the reference to England and Wales shall be read as a reference to Northern Ireland; and
- (b) the reference to 12 months shall be read as a reference to six months.”

(7) Subsections (10), (11) and (12) are omitted.

#### Commencement Information

**I351** Sch. 14 para. 27 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), [art. 2\(c\)](#)

28 After that section there is inserted—

#### “16A Northern Ireland: search warrants for offences under section 1

- (1) Where a county court judge is satisfied by information on oath given by a constable that there are reasonable grounds for believing—
  - (a) that an offence under section 1 above has been or is about to be committed in any premises, and
  - (b) that evidence that such an offence has been or is about to be committed is in those premises,
 he may issue a warrant authorising a constable to enter and search the premises, using such reasonable force as is necessary.
- (2) The power conferred by subsection (1) above does not extend to authorising a search for material of the kinds mentioned in Article 11(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (privileged, excluded and special procedure material).
- (3) A warrant under this section—
  - (a) may authorise persons to accompany any constable executing the warrant; and
  - (b) remains in force for twenty-eight days from the date of its issue.
- (4) In exercising a warrant issued under this section a constable may seize an article if he reasonably believes that it is evidence that an offence under section 1 above has been or is about to be committed.
- (5) In this section “premises” includes land, buildings, movable structures, vehicles, vessels, aircraft and hovercraft.
- (6) This section extends only to Northern Ireland.”

#### Commencement Information

**I352** Sch. 14 para. 28 in force at 1.10.2008 for N.I. by [S.I. 2008/2503](#), [art. 3\(b\)](#)

29 (1) Section 17 of that Act (interpretation) is amended as follows.

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(2) [<sup>F41</sup>In subsection (2), after “such access” there is inserted “ or to enable such access to be secured ”.]

(3) Subsection (7) is omitted.

(4) For subsection (8) there is substituted—

“(8) An act done in relation to a computer is unauthorised if the person doing the act (or causing it to be done)—

- (a) is not himself a person who has responsibility for the computer and is entitled to determine whether the act may be done; and
- (b) does not have consent to the act from any such person.

In this subsection “act” includes a series of acts.”

#### Textual Amendments

**F41** Sch. 14 para. 29(2) repealed (E.W.N.I.) (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), ss. 61(5), 94(1), [Sch. 14](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), art. 2(a)(i)

#### Commencement Information

**I353** Sch. 14 para. 29 in force at 1.10.2007 for S. by [S.S.I. 2007/434](#), art. 2(c)

**I354** Sch. 14 para. 29 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503](#), art. 2(c)

#### *Police Act 1996 (c. 16)*

30 In section 91 of the Police Act 1996 (offence of causing disaffection amongst members of police forces etc), after subsection (2) there is inserted—

“(3) Liability under subsection (1) for any behaviour is in addition to any civil liability for that behaviour.”

#### Commencement Information

**I355** Sch. 14 para. 30 in force at 1.4.2007 by [S.I. 2007/709](#), art. 3(p) (with arts. 6, 7)

#### *Employment Rights Act 1996 (c. 18)*

31 In section 50 of the Employment Rights Act 1996 (right to time off for public duties), for paragraph (c) of subsection (2) there is substituted—

“(c) a police authority established under section 3 of the Police Act 1996 or the Metropolitan Police Authority,”.

#### Commencement Information

**I356** Sch. 14 para. 31 in force at 1.4.2007 by [S.I. 2007/709](#), art. 3(p) (with arts. 6, 7)

#### *Housing Act 1996 (c. 52)*

32 In subsection (1)(b) of—

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- (a) section 153C of the Housing Act 1996 (injunctions: exclusion order and power of arrest), and
  - (b) section 154 of that Act (powers of arrest: *ex parte* applications for injunctions),
- for “section 153A(4)” there is substituted “ any of paragraphs (a) to (d) of section 153A(3) ”.

**Commencement Information**  
**I357** Sch. 14 para. 32 in force at 6.4.2007 for E. by [S.I. 2007/709](#), [art. 4\(c\)](#) (with [art. 8](#))

- 33 In section 218A of that Act (anti-social behaviour: landlords' policies and procedures), for subsection (8) there is substituted—
- “(8) Anti-social behaviour is—
- (a) any housing-related anti-social conduct, or
  - (b) any conduct to which section 153B applies.
- (8A) Housing-related anti-social conduct has the same meaning as in section 153A.”

**Commencement Information**  
**I358** Sch. 14 para. 33 in force at 6.4.2007 for E. by [S.I. 2007/709](#), [art. 4\(c\)](#) (with [art. 8](#))

*Police Act 1997 (c. 50)*

- 34 In section 94 of the Police Act 1997 (authorisations given in absence of authorising officer), for paragraph (a) of subsection (4) (meaning of “designated deputy”) there is substituted—
- “(a) in the case of an authorising officer within paragraph (a) of section 93(5), means—
- (i) the person who is the appropriate deputy chief constable for the purposes of section 12A(1) of the Police Act 1996, or
  - (ii) the person holding the rank of assistant chief constable designated to act under section 12A(2) of that Act;”.

*Audit Commission Act 1998 (c. 18)*

<sup>F42</sup>35 .....

**Textual Amendments**  
**F42** Sch. 14 para. 35 repealed (E.W.) (31.1.2008) by [Local Government and Public Involvement in Health Act 2007 \(c. 28\)](#), s. 245(5), [Sch. 18 Pt. 10](#); [S.I. 2008/172](#), [art. 2\(1\)\(u\)\(i\)](#)

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PROSPECTIVE

*Crime and Disorder Act 1998 (c. 37)*

- 36 In section 38(4) of the Crime and Disorder Act 1998 (meaning of “youth justice services”), in paragraph (ee), for “sections 25 to 27” there is substituted “ sections 25, 26 and 27 ”.

*Youth Justice and Criminal Evidence Act 1999 (c. 23)*

- 37 (1) The Youth Justice and Criminal Evidence Act 1999 is amended as follows.
- (2) In the cross-heading before section 47 (restrictions on reporting directions under Chapter 1 or 2 of Part 2) and in the heading to that section, for “Chapter I or II” there is substituted “ Chapter 1, 1A or 2 ”.
- (3) In section 47, in subsection (2)(a), after “section 19”, in the first place it occurs, there is inserted “ , 33A ”.

**Commencement Information**

**I359** Sch. 14 para. 37 in force at 1.4.2007 by S.I. 2007/709, art. 3(p) (with arts. 6, 7)

PROSPECTIVE

*Local Government Act 2000 (c. 22)*

- 38 (1) Section 21 of the Local Government Act 2000 (overview and scrutiny committees) is amended as follows.
- (2) At the end of subsection (4) there is inserted “ or section 19 of the Police and Justice Act 2006 (local authority scrutiny of crime and disorder matters) ”.
- (3) In subsection (10), after “Schedule 1” there is inserted “ and to section 20(6) of the Police and Justice Act 2006 ”.

*Regulation of Investigatory Powers Act 2000 (c. 23)*

- 39 In section 34 of the Regulation of Investigatory Powers Act 2000 (grant of authorisations in senior officer's absence), for paragraph (a) of subsection (6) (meaning of “designated deputy”) there is substituted—
- “(a) in relation to the chief constable for a police force in England and Wales, means—
- (i) the person who is the appropriate deputy chief constable for the purposes of section 12A(1) of the Police Act 1996, or
- (ii) a person holding the rank of assistant chief constable who is designated to act under section 12A(2) of that Act;
- (aa) in relation to the chief constable for a police force in Scotland, means—

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- (i) a person holding the rank of deputy chief constable and, where there is more than one person in the police force who holds that rank, who is designated as the officer having the powers and duties conferred on a deputy chief constable by section 5A(1) of the Police (Scotland) Act 1967, or
- (ii) a person holding the rank of assistant chief constable who is designated to act under section 5A(2) of that Act;”.

*Police Reform Act 2002 (c. 30)*

- 40 In section 9 of the Police Reform Act 2002 (the Independent Police Complaints Commission), in subsection (3)(d), after “section 41” there is inserted “ or 41A ”.

**Commencement Information**

**I360** Sch. 14 para. 40 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(p\)](#) (with [arts. 6, 7](#))

PROSPECTIVE

- 41 In section 40 of that Act (community safety accreditation schemes), subsection (7) is omitted.
- 42 In section 41 of that Act (accreditation under community safety accreditation schemes), after subsection (4) there is inserted—
- “(4A) A chief officer of police may not grant accreditation under this section to a weights and measures inspector.”

**Commencement Information**

**I361** Sch. 14 para. 42 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(p\)](#) (with [arts. 6, 7](#))

- 43 (1) Section 42 of that Act (supplementary provisions relating to designations and accreditations) is amended as follows.
- (2) In subsection (1), after “section 41” there is inserted “ or 41A ”.
- (3) In subsection (3)—
- (a) after “or 41” there is inserted “ or an accreditation to any weights and measures inspector under section 41A ”;
  - (b) after “accredited person” there is inserted “ or the accredited inspector ”.
- (4) After subsection (6) there is inserted—
- “(6A) Where the accreditation of a weights and measures inspector under section 41A is modified or withdrawn, the chief officer giving notice of the modification or withdrawal shall send a copy of the notice to the local weights and measures authority by which the inspector was appointed.”
- (5) After subsection (10) there is inserted—
- “(11) For the purposes of determining liability for the unlawful conduct of weights and measures inspectors, conduct by such an inspector in reliance

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or purported reliance on an accreditation under section 41A shall be taken to be conduct in the course of his duties as a weights and measures inspector; and, in the case of a tort, the local weights and measures authority by which he was appointed shall fall to be treated as a joint tortfeasor accordingly.”

#### Commencement Information

**I362** Sch. 14 para. 43 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(p\)](#) (with [arts. 6, 7](#))

- 44 (1) Section 46 of that Act (offences against designated and accredited persons etc) is amended as follows.
- (2) In subsections (1) and (2)—
- (a) before the “or” following paragraph (b) there is inserted—  
“(ba) an accredited inspector in the execution of his duty,”;
- (b) in paragraph (c), after “accredited person” there is inserted “ or an accredited inspector ”.
- (3) In subsection (3)—
- (a) in paragraph (a), for “or an accredited person” there is substituted “ , an accredited person or an accredited inspector ”;
- (b) in paragraph (b), for “or that he is an accredited person” there is substituted “ , that he is an accredited person or that he is an accredited inspector ”;
- (c) in paragraph (c), after “accredited person” there is inserted “ or as an accredited inspector ”.
- (4) In subsection (4), for “or accredited person” there is substituted “ , accredited person or accredited inspector ”.

#### Commencement Information

**I363** Sch. 14 para. 44 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(p\)](#) (with [arts. 6, 7](#))

- 45 In section 47 of that Act (interpretation of Chapter 1), in subsection (1) the following definitions are inserted at the appropriate places—
- ““accredited inspector” means a weights and measures inspector in relation to whom an accreditation under section 41A is for the time being in force;”;
- ““weights and measures inspector” means an inspector of weights and measures appointed under section 72(1) of the Weights and Measures Act 1985.”

#### Commencement Information

**I364** Sch. 14 para. 45 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(p\)](#) (with [arts. 6, 7](#))

- 46 In section 105 of that Act (powers of Secretary of State to make orders and regulations), in subsection (3)(b), before “or 99(6)” there is inserted “ or 41B ”.

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#### Commencement Information

**I365** Sch. 14 para. 46 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(p\)](#) (with [arts. 6, 7](#))

#### *Railways and Transport Safety Act 2003 (c. 20)*

- 47 In section 19 of the Railways and Transport Safety Act 2003 (exercise of functions by British Transport Police Authority)—
- (a) at the end of paragraph (d) there is inserted “ and ”;
  - (b) paragraph (f) is omitted.
- 48 In section 28(1) of that Act (police powers for British Transport Police Authority employees), after paragraph (a) there is inserted—
- “(aa) section 38A (standard powers and duties of community support officers).”

#### Commencement Information

**I366** Sch. 14 para. 48 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(p\)](#) (with [arts. 6, 7](#))

- 49 In section 50 of that Act (policing objectives set by British Transport Police Authority), for paragraphs (c) and (d) of subsection (3) there is substituted “and
- (c) have regard to any strategic priorities determined for that year by the Secretary of State under section 37A of the Police Act 1996 (strategic priorities for police authorities).”
- 50 In section 52 of that Act (railways policing plan), for subsection (7) there is substituted—
- “(7) In preparing a plan the Chief Constable and the Authority shall have regard to any guidance given by the Secretary of State about railways policing plans.
- (7A) Before issuing or revising any guidance under subsection (7) the Secretary of State shall consult—
- (a) the Authority,
  - (b) the Chief Constable, and
  - (c) such other persons as the Secretary of State thinks fit.”

#### Commencement Information

**I367** Sch. 14 para. 50 in force at 14.11.2008 by [S.I. 2008/2785](#), [art. 3\(b\)](#)

- 51 (1) Section 55 of that Act (three-year strategy plan) is amended as follows.
- (2) In subsection (1), after “a plan” there is inserted “ (“a three-year strategy plan”) ”.
- (3) For subsections (2) and (3) there is substituted—
- “(2) Before a three-year strategy plan for any period is issued by the Authority, a draft of a plan setting out medium-term and long-term strategies for policing the railways during that period must have been prepared by the Chief Constable and submitted by him to the Authority for its consideration.



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- (3) In preparing the draft plan, the Chief Constable shall have regard to opinions expressed in accordance with section 62.
- (4) The Authority may modify a three-year strategy plan which it has issued for a particular period at any time during that period.
- (5) The Secretary of State may—
  - (a) issue guidance to the Authority and to the Chief Constable as to—
    - (i) the matters to be contained in any three-year strategy plan, and
    - (ii) the form to be taken by any such plan,and
  - (b) revise and modify that guidance from time to time.
- (6) Before issuing or revising any guidance under subsection (5) the Secretary of State shall consult—
  - (a) the Authority,
  - (b) the Chief Constable, and
  - (c) such other persons as the Secretary of State thinks fit.
- (7) When issuing, preparing or modifying a three-year strategy plan or a draft of such a plan, the Authority or (as the case may be) the Chief Constable shall have regard to—
  - (a) any guidance issued by the Secretary of State under subsection (5),
  - (b) any objectives set by the Secretary of State under section 51 for a financial year falling within the period to which the plan relates,
  - (c) any performance targets set by the Authority under section 53 relating to such objectives, and
  - (d) any strategic priorities determined by the Secretary of State under section 37A of the Police Act 1996 (strategic priorities for police authorities) and applicable during all or part of the period to which the plan relates.
- (8) Where the Authority is proposing to issue or modify any plan under this section, it shall submit that plan, or the modifications, to the Secretary of State.
- (9) Where the Authority issues a three-year strategy plan or modifies such a plan, it shall—
  - (a) send a copy of the plan or the modified plan to the Secretary of State, and
  - (b) cause the plan or modified plan to be published.

The copy of any modified plan sent to the Secretary of State and the publication of any modified plan must show the modifications, or be accompanied by or published with a document which sets them out or describes them.
- (10) If the Secretary of State considers that there are grounds for thinking that—
  - (a) a three-year strategy plan, or
  - (b) any proposals by the Authority for such a plan, or for the modification of such a plan,

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may not be consistent with any of the objectives, targets or priorities mentioned in subsection (7), he shall, before informing the Authority of his conclusions on whether or not the plan or the proposals are in fact so inconsistent, consult the Authority and the Chief Constable.

- (11) The Authority shall consult the Chief Constable before—
- (a) it issues a three-year strategy plan that differs in any material respect from the draft submitted to it by the Chief Constable, or
  - (b) it modifies its three-year strategy plan.
- (12) The Secretary of State may by regulations make provision for the procedure to be followed on the submission to him of any plan or modifications for the purposes of this section.”

#### Commencement Information

**I368** Sch. 14 para. 51 in force at 14.11.2008 by [S.I. 2008/2785](#), [art. 3\(b\)](#)

- 52 (1) In Schedule 4 to that Act (British Transport Police Authority), in paragraph 11(b) (appointment of clerk), for “a clerk” there is substituted “ a chief executive ”.
- (2) A person holding office as clerk to the British Transport Police Authority on the commencement of this paragraph continues in that office as chief executive of the authority.

#### Commencement Information

**I369** Sch. 14 para. 52 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(p\)](#) (with [arts. 6, 7](#))

#### *Anti-social Behaviour Act 2003 (c. 38)*

- 53 In the heading to section 25 of the Anti-social Behaviour Act 2003 (parenting contracts in respect of criminal conduct and anti-social behaviour), at the end there is inserted “ : **youth offending teams** ”.

#### Commencement Information

**I370** Sch. 14 para. 53 in force at 29.6.2007 for E.W. by [S.I. 2007/1614](#), [art. 2\(h\)](#)

- 54 (1) Section 26 of that Act (parenting orders in respect of criminal conduct and anti-social behaviour) is amended as follows.
- (2) In the heading, at the end there is inserted “ : **youth offending teams** ”.
- (3) After subsection (8) there is inserted—
- “(9) A person is eligible to be the responsible officer in relation to a parenting order under this section only if he is a member of a youth offending team.”

#### Commencement Information

**I371** Sch. 14 para. 54 in force at 29.6.2007 for E.W. by [S.I. 2007/1614](#), [art. 2\(h\)](#)

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- 55 (1) Section 27 of that Act (parenting orders: supplemental) is amended as follows.
- (2) In subsections (1) and (2), for “section 26” there is substituted “ section 26, 26A or 26B ”.
- (3) In subsection (1)(a), for “section 25” there is substituted “ section 25, 25A or 25B ”.
- (4) In subsection (3), for “in relation to a parenting order under section 26 as they apply” there is substituted “in relation to—
- (a) a parenting order under section 26,
  - (b) a parenting order under section 26A, or
  - (c) a parenting order under section 26B,
- as they apply ”.

<sup>F43</sup>(5) .....

(6) For subsection (4) there is substituted—

“(4) In carrying out their functions in relation to parenting orders—

- (a) members of youth offending teams,
- (b) local authorities in England,
- (c) registered social landlords on the register maintained by the Housing Corporation, and
- (d) responsible officers in relation to parenting orders made on the application of local authorities in England or of registered social landlords on that register,

must have regard to any guidance which is issued by the Secretary of State from time to time for that purpose.

(4A) In carrying out their functions in relation to parenting orders—

- (a) local authorities in Wales,
- (b) registered social landlords on the register maintained by the National Assembly for Wales, and
- (c) responsible officers in relation to parenting orders made on the application of local authorities in Wales or of registered social landlords on that register,

must have regard to any guidance which is issued by the National Assembly for Wales from time to time for that purpose.”

**Textual Amendments**

**F43** Sch. 14 para. 55(5) repealed (1.4.2009) by [Criminal Justice and Immigration Act 2008 \(c. 4\), s. 153\(7\), Sch. 28 Pt. 7; S.I. 2009/860, art. 2\(1\)\(j\)](#)

**Commencement Information**

**I372** Sch. 14 para. 55 in force at 29.6.2007 for E. W. by [S.I. 2007/1614, art. 2\(h\)](#)

- 56 (1) Section 28 of that Act (parenting orders: appeals) is amended as follows.
- (2) In subsection (1), for “under section 26” there is substituted “ by a magistrates' court under section 26, 26A or 26B ”.

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(3) After that subsection there is inserted—

“(1A) An appeal lies to the High Court against the making of a parenting order by a county court under section 26A or 26B.”

(4) In subsection (2), for “subsection (1)(b)” there is substituted “ subsection (1) ”.

**Commencement Information**

**I373** Sch. 14 para. 56 in force at 29.6.2007 for E.W. by [S.I. 2007/1614](#), [art. 2\(h\)](#)

57 In section 29(1) of that Act (interpretation of sections 25 to 29), in the definition of “responsible officer”, for the words after “means” there is substituted “ the person who is specified as such in the order, ”.

**Commencement Information**

**I374** Sch. 14 para. 57 in force at 29.6.2007 for E.W. by [S.I. 2007/1614](#), [art. 2\(h\)](#)

*Criminal Justice Act 2003 (c. 44)*

58 In section 25 of the Criminal Justice Act 2003 (code of practice in relation to conditional cautions), at the end of subsection (2) there is inserted—

- “(i) the exercise of the power of arrest conferred by section 24A(1), and
- (j) who is to decide how a person should be dealt with under section 24A(2).”

**Commencement Information**

**I375** Sch. 14 para. 58 in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(p\)](#) (with [arts. 6, 7](#))

*Energy Act 2004 (c. 20)*

59 In paragraph 1 of Schedule 12 to the Energy Act 2004 (determination of annual objectives for Civil Nuclear Constabulary), for sub-paragraph (3) there is substituted—

“(3) In determining the objectives, the Police Authority must have regard to any strategic priorities determined for that year by the Secretary of State under section 37A of the Police Act 1996 (strategic priorities for police authorities).”

*Public Audit (Wales) Act 2004 (c. 23)*

60 After section 67 of the Public Audit (Wales) Act 2004 there is inserted—

**“67A Assistance by Auditor General to inspectorates**

- (1) The Auditor General for Wales may provide assistance to—
  - (a) Her Majesty's Chief Inspector of Prisons,

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- (b) Her Majesty's Inspectors of Constabulary,
  - (c) Her Majesty's Chief Inspector of the Crown Prosecution Service,
  - (d) Her Majesty's Inspectorate of the National Probation Service for England and Wales, and
  - (e) Her Majesty's Inspectorate of Court Administration,
- in the discharge of any of their functions.

(2) Assistance under subsection (1) may be provided on such terms, including terms as to payment, as the Auditor General for Wales and the body or person in question may agree.”

**Commencement Information**

I376 Sch. 14 para. 60 in force at 1.4.2007 by S.I. 2007/709, art. 3(p) (with arts. 6, 7)

*Constitutional Reform Act 2005 (c. 4)*

- 61 In section 8(4) of the Constitutional Reform Act 2005 (appointment of Head and Deputy Head of Criminal Justice), in paragraph (b) (person appointed must be ordinary judge of Court of Appeal), for “an ordinary judge” there is substituted “a judge”.

**Commencement Information**

I377 Sch. 14 para. 61 in force at 15.1.2007 by S.I. 2006/3364, art. 2(k) (as amended by S.I. 2007/29, art. 2)

*Serious Organised Crime and Police Act 2005 (c. 15)*

- 62 After section 75 of the Serious Organised Crime and Police Act 2005 (proceedings under section 74: exclusion of public) there is inserted—

**“75A Proceedings under section 74: use of live link**

Section 57E of the Crime and Disorder Act 1998 (use of live link in sentencing hearings) applies to hearings in proceedings relating to a reference under section 74(3) as it applies to sentencing hearings.”

**Commencement Information**

I378 Sch. 14 para. 62 in force at 15.1.2007 by S.I. 2006/3364, art. 2(k) (as amended by S.I. 2007/29, art. 2)

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## SCHEDULE 15

Section 52

## REPEALS AND REVOCATIONS

## PART 1

## POLICE REFORM

## (A) NATIONAL POLICING IMPROVEMENT AGENCY

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entry relating to the Central Police Training and Development Authority and the entry relating to the Police Information Technology Organisation.
Police (Scotland) Act 1967 (c. 77)	Section 28(2) and (3). Section 36(7) and (8). In section 38(3A), “(bb) or”. In section 38A, subsection (1)(bb) and, in subsection (6)(a), “(bb),”.
Superannuation Act 1972 (c. 11)	In Schedule 1, the entry relating to the Central Police Training and Development Authority and the entry relating to the Police Information Technology Organisation.
Health and Safety at Work etc. Act 1974 (c. 37)	Section 51A(2E)(c) and (d).
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1— (a) in Part 2, the entry relating to the Central Police Training and Development Authority; (b) in Part 3, the entry relating to the Police Information Technology Organisation.
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Schedule 1— (a) in Part 2, the entry relating to the Central Police Training and Development Authority; (b) in Part 3, the entry relating to the Police Information Technology Organisation.
Police Pensions Act 1976 (c. 35)	Section 7(2)(ce). In section 11— (a) subsection (1)(be); (b) subsection (2)(da) and (e); (c) in subsection (3)(b), “(be)”; (d) in paragraph (a) of the definition in subsection (5) of “central service”, “(cc),”; (e) in paragraph (b) of that definition, “(bb) or”.

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Race Relations Act 1976 (c. 74)	In Schedule 1A— (a) in Part 2, the entry relating to the Police Information Technology Organisation; (b) in Part 3, the entry relating to the Central Police Training and Development Authority.
Police Act 1996 (c. 16)	In section 97— (a) subsection (1)(cc) and (cd); (b) in subsections (6)(a) and (8), “(cc), (cd)”.
Police Act 1997 (c. 50)	Sections 109 to 111. Schedule 8. In Schedule 9— (a) paragraph 7; (b) in paragraph 10, the words from “there shall be added” to the end; (c) paragraphs 12, 14(a), 24, 29(1) and (3), 30(1) and (3) and 33(2)(c) and (3)(a).
Police (Northern Ireland) Act 1998 (c. 32)	In section 27— (a) subsection (1)(c); (b) in subsection (5)(b), “(c)”. Section 40(3) and (4).
Freedom of Information Act 2000 (c. 36)	In Part 6 of Schedule 1, the entry relating to the Central Police Training and Development Authority and the entry relating to the Police Information Technology Organisation.
Criminal Justice and Police Act 2001 (c. 16)	Sections 87 to 96. In section 97(1)(a), the words “(within the meaning of section 88 above)”. Section 101(1). Schedule 3. In Schedule 4, paragraphs 2 to 8.
Police Reform Act 2002 (c. 30)	In section 10(1), the word “and” preceding paragraph (g). In section 11— (a) in subsection (6), the word “and” preceding paragraph (d); (b) in subsection (10), the word “and” preceding paragraph (g). In section 29(3)(d), “(cc)”. Section 99. Section 102(2)(h) and (3). In section 105(3)(b), “or 99(6)”. Section 108(7)(c). In Schedule 7, paragraph 24.
Scottish Public Services Ombudsman Act 2002 (asp 11)	In Schedule 2, paragraph 81.
Energy Act 2004 (c. 20)	In Schedule 14, paragraph 9.

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Serious Organised Crime and Police Act 2005 (c. 15)	In Schedule 4, paragraphs 77(5), 103, 104 and 163.
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#### Commencement Information

**I379** Sch. 15 Pt. 1(A) in force at 1.4.2007 by [S.I. 2007/709](#), [art. 3\(q\)](#) (with [arts. 6, 7](#))

#### (B) OTHER REPEALS RELATING TO PART 1

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Local Government Act 1972 (c. 70)	Section 107(6).
Police Act 1996 (c. 16)	Section 6(4). Sections 6A, 7, 8 and 9. Section 15(3). Section 30(3) and (4). Sections 36A and 37. Sections 41A and 41B. Section 96B(3). Schedules 3 and 3A.
Employment Rights Act 1996 (c. 18)	Section 50(6).
Criminal Procedure and Investigations Act 1996 (c. 25)	Section 21A(4)(a)(i).
Local Government Act 1999 (c. 27)	Section 24(1) and (2).
Greater London Authority Act 1999 (c. 29)	Section 310(2). Schedule 26. In Schedule 27, paragraphs 70, 71, 72, 86, 105 and 106.
Insolvency Act 2000 (c. 39)	In Schedule 4, paragraph 20.
Criminal Justice and Police Act 2001 (c. 16)	In section 104— (a) subsections (1) and (2); (b) subsection (4); (c) subsection (5) so far as relating to the Police Act 1996 (c. 16); (d) subsections (6) and (7). Sections 105, 106 and 107.
Police Reform Act 2002 (c. 30)	Section 1. Section 5. Section 40(7). Section 92. Section 94. In section 96, the words “of England, Wales and Northern Ireland”. In Schedule 4, in paragraph 2(8), the words “under this paragraph”. In Schedule 7, paragraph 14.



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Railways and Transport Safety Act 2003 (c. 20)	In section 19, paragraph (f) and the word “and” preceding it. Section 75(7). In section 76, the entry relating to the National Policing Plan.
Courts Act 2003 (c. 39)	In Schedule 8, paragraphs 373 to 376.

#### Commencement Information

- I380** Sch. 15 Pt. 1(B) in force for specified purposes at Royal Assent see s. 53(1)(2)  
**I381** Sch. 15 Pt. 1(B) in force at 1.4.2007 for specified purposes by S.I. 2007/709, **art. 3(s)** (with arts. 6, 7)  
**I382** Sch. 15 Pt. 1(B) in force at 1.4.2007 for specified purposes by S.I. 2007/709, **art. 3(r)** (with arts. 6, 7)  
**I383** Sch. 15 Pt. 1(B) in force at 1.12.2007 for specified purposes by S.I. 2007/3203, **art. 2(e)**  
**I384** Sch. 15 Pt. 1(B) in force at 14.3.2008 for specified purposes by S.I. 2008/311, **art. 2(d)** (with art. 3)

## PART 2

### POWERS OF POLICE ETC

#### Commencement Information

- I385** Sch. 15 Pt. 2. in force at 15.1.2007 for specified purposes by S.I. 2006/3364, **art. 2(l)** (with art. 3)  
**I386** Sch. 15 Pt. 2 in force at 1.4.2007 for specified purposes by S.I. 2007/709, **art. 3(t)** (with arts. 6, 7)  
**I387** Sch. 15 Pt. 2 in force at 29.6.2007 for specified purposes for E.W. by S.I. 2007/1614, **art. 2(i)**

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Aviation Security Act 1982 (c. 36)	Section 27(1), (4) and (5).
Police and Criminal Evidence Act 1984 (c. 60)	In section 64A(1B), the word “or” preceding paragraph (f).
Criminal Justice Act 2003 (c. 44)	In section 25(2), the word “and” preceding paragraph (h).
Immigration, Asylum and Nationality Act 2006 (c. 13)	In sections 32(5) and 33(5), the word “and” preceding paragraph (c). In section 36(9), the word “and” preceding the definition of “Revenue and Customs purposes”.

## PART 3

### CRIME AND ANTI-SOCIAL BEHAVIOUR

#### Commencement Information

- I388** Sch. 15 Pt. 3 in force at 6.4.2007 for specified purposes for E. by S.I. 2007/709, **art. 4(c)** (with art. 8)  
**I389** Sch. 15 Pt. 3 in force at 1.8.2007 for specified purposes for E. by S.I. 2007/1614, **art. 3(e)**

**Status:** Point in time view as at 01/10/2009. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** Police and Justice Act 2006 is up to date with all changes known to be in force on or before 02 November 2023. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

**I390** Sch. 15 Pt. 3 in force at 19.11.2007 for specified purposes for W. by [S.I. 2007/3073, art. 2\(c\)](#)

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Crime and Disorder Act 1998 (c. 37)	In section 114(2), “, 6A(1)”.
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In Schedule 9, paragraph 199.
Police Reform Act 2002 (c. 30)	Section 97(7) to (12). Section 98.
Anti-social Behaviour Act 2003 (c. 38)	Section 13(4)(b). Section 91.
Clean Neighbourhoods and Environment Act 2005 (c. 16)	Section 1.

## PART 4

### MISCELLANEOUS

#### Commencement Information

**I391** Sch. 15 Pt. 4 in force at 1.10.2007 for specified purposes for S. by [S.S.I. 2007/434, art. 2\(d\)](#)

**I392** Sch. 15 Pt. 4 in force at 1.4.2008 for specified purposes for N.I. by [S.I. 2008/790, art. 3\(c\)](#)

**I393** Sch. 15 Pt. 4 in force at 1.4.2008 for specified purposes for E.W. by [S.I. 2008/790, art. 2\(e\)](#)

**I394** Sch. 15 Pt. 4 in force at 1.10.2008 for E.W.N.I. by [S.I. 2008/2503, art. 2\(d\)](#)

<i>Short title or title</i>	<i>Extent of repeal or revocation</i>
Protection of Children Act 1978 (c. 37)	Section 4(3).
Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))	In Schedule 6, paragraph 144.
Computer Misuse Act 1990 (c. 18)	Section 11. Section 12. In section 13— (a) subsections (3) to (7); (b) in subsection (8), the words from “commenced” to the end. Section 14. Section 16(3), (10), (11) and (12). Section 17(7).
Criminal Justice Act 1988 (c. 33)	In Schedule 15, paragraph 62.
Criminal Justice (Evidence, etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17))	In Schedule 2, paragraph 1(2).
Criminal Justice and Public Order Act 1994 (c. 33)	In Schedule 10, paragraphs 37(4) and 38(3) and (4).

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Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)	In Schedule 4, paragraph 77.
Criminal Justice and Police Act 2001 (c. 16)	In Schedule 2, paragraph 10(2)(b) and (c).
Justice (Northern Ireland) Act 2002 (c. 26)	In Schedule 4, paragraph 3(2)(a).
Courts Act 2003 (c. 39)	In Schedule 4, paragraph 7. In Schedule 8, paragraphs 199(3), 200 and 347.
Justice (Northern Ireland) Act 2004 (c. 4)	In section 10(8), the word “magistrates”.
Serious Organised Crime and Police Act 2005 (c. 15)	In Schedule 16, paragraph 7.

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