

# **POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) ACT 2006 (ASP 10)**

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## **EXPLANATORY NOTES**

### **COMMENTARY ON SECTIONS**

#### ***Schedule 3: Transfers of Staff and Property***

253. Paragraphs 2 – 4 set out the arrangements for the transfer to the Authority and the Agency of constables and other (“support”) staff working in the existing common services and parts of the Scottish police forces whose functions are to be taken on by those organisations.
254. Under paragraph 2, the Scottish Ministers may make a “staff transfer order” to effect this transfer. Such an order will provide for the transfer of constables who are currently on secondment to the common services and support staff on secondment from police authorities or joint police boards to the Authority; and for the transfer of staff on central service from the Scottish Ministers to the Authority. The order will also specify which constables and support staff transferred will also become members of the Agency.
255. Once the Scottish Ministers have made a staff transfer order, sub-paragraphs (4)-(8) provide for duties to be placed on the former “employer” (including police authority or joint police board for constables of a police force) of transferred staff, to set out the detail of their own staff transfer arrangements including the terms and conditions for the constables who are to be seconded to the Authority.
256. Paragraph 3 requires the Scottish Ministers to consult the Authority and, where relevant, the Director General of the Agency before making a staff transfer order. Likewise, sub-paragraph (2) requires police authorities and joint police boards to consult the Authority and, where relevant, the Director General of the Agency before making a scheme in connection with transfer of their staff.
257. Paragraph 4 makes a number of provisions concerning employees of police authorities or joint police boards who are subject to a staff transfer order. Sub-paragraphs (2)-(4) establish that contract rights and obligations transfer from the former employer to the Authority on the transfer date. Sub-paragraph (5) provides that employed staff may object in advance of their contract being transferred to the Authority, in which case their contract is terminated at the end of the day before the intended transfer day. This termination will not be treated as dismissal of a person. Sub-paragraph (7) provides that an employee can only terminate their contract of employment by virtue of the staff transfer if they can show that the change of employer was both significant and detrimental.
258. Paragraph 6 makes similar provision in respect of transfer to the Authority of property, rights and liabilities (including rights and liabilities that may arise from ongoing legal proceedings). This transfer will be effected by a transfer scheme made by the Scottish Ministers after consultation with the Authority and those police authorities or joint police boards with property, rights or liabilities to be transferred.