



Police, Public Order and Criminal Justice (Scotland) Act 2006

2006 asp 10

PART 1

POLICE

CHAPTER 1

THE SCOTTISH POLICE SERVICES AUTHORITY

The Scottish Crime and Drug Enforcement Agency

12 Members of the Agency

- (1) The Agency is to consist of—
- (a) a Director General appointed in accordance with paragraph 1 of schedule 2;
 - (b) a Deputy Director General appointed in accordance with paragraph 2 of that schedule;
 - (c) police members appointed in accordance with paragraph 7 of that schedule; and
 - (d) support staff members appointed in accordance with paragraph 8 of that schedule.
- (2) Schedule 2 (which contains provisions about the membership of the Agency) has effect.

13 Strategic priorities of the Agency

- (1) The Scottish Ministers may determine strategic priorities in relation to the carrying out of the functions of the Agency.
- (2) In making a determination under subsection (1), the Scottish Ministers must not do anything which would, or might, affect decisions of the Agency about which particular

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operations are to be carried out by it in compliance with those priorities and how they are to be so carried out.

- (3) Before making a determination under subsection (1) the Scottish Ministers must consult—
- (a) the Authority;
 - (b) the Director General of the Agency;
 - (c) persons whom the Scottish Ministers consider represent the interests of chief constables of police forces; and
 - (d) persons whom the Scottish Ministers consider represent the interests of police bodies.
- (4) The Scottish Ministers must arrange for any determination under subsection (1) to be published in such manner as they consider appropriate.

14 Annual plans of the Agency

- (1) At least 3 months before the beginning of each financial year, the Director General of the Agency must—
- (a) prepare; and
 - (b) submit to the Authority,
- a plan setting out the proposed arrangements for the carrying out by the Agency of its functions during the year (the “annual plan”).
- (2) The annual plan must specify—
- (a) any strategic priorities determined under section 13(1);
 - (b) any directions such as are mentioned in section 30(2);
 - (c) the funding expected to be available to the Agency for the financial year to which the plan relates; and
 - (d) how the Director General proposes to allocate the funding.
- (3) The Authority must, no later than 2 months from the date on which the annual plan is submitted to it—
- (a) approve the plan as submitted; or
 - (b) approve the plan subject to such modifications as the Authority considers appropriate.
- (4) The Authority must not, in pursuance of subsection (3)(b), make any modifications which would, or might, affect decisions of the Agency about which particular operations are to be carried out by it or how they are to be carried out.
- (5) On the annual plan being approved by the Authority, the Director General must—
- (a) publish it in such manner as the Director General considers appropriate; and
 - (b) send a copy of it to the persons specified in subsection (6).
- (6) Those persons are—
- (a) the Scottish Ministers;
 - (b) chief constables of police forces;
 - (c) police bodies; and
 - (d) such other persons as the Director General considers appropriate.

15 Annual reports of the Agency

- (1) As soon as practicable after the end of each financial year, the Director General of the Agency must—
 - (a) prepare; and
 - (b) publish in such manner as the Director General considers appropriate, a report on the carrying out of the Agency’s functions during the year (the “annual report”).
- (2) The annual report must include an assessment of the extent to which the annual plan published by virtue of section 14 for the year to which the report relates has been implemented.
- (3) The Director General must send a copy of the annual report to the Authority and to each of the persons mentioned in section 14(6)(a) to (d).
- (4) The Scottish Ministers must lay a copy of any report sent to them by virtue of subsection (3) before the Scottish Parliament.

16 General functions of Director General of the Agency

- (1) The Agency is to be under the direction and control of the Director General.
- (2) In carrying out the functions of the Director General, the Director General must have regard to the annual plan published by virtue of section 14.

17 Powers of the Agency

- (1) The Agency may—
 - (a) at the request of the chief constable of a police force, act in support of any activities of that force;
 - (b) at the request of any of the bodies mentioned in section 17(b) to (q), act in support of any activities of the body;
 - (c) enter into other arrangements for co-operating with persons (in the United Kingdom or elsewhere) whom it considers appropriate in connection with the carrying out of any of the functions conferred on the Agency by section 2(2).
- (2) Despite the references to serious organised crime in subsection (2) of section 2, the Agency may carry on activities in relation to other crime if they are carried on for the purposes of any of the functions conferred on the Agency by that section.
- (3) The Agency may furnish such assistance as it considers appropriate in response to requests made by any government or other body carrying out functions of a public nature in any country or territory outwith the United Kingdom.
- (4) Subsection (3) does not apply to any request for assistance which could be made under section 13 of the Crime (International Co-operation) Act 2003 (c. 32) (requests by overseas authorities to obtain evidence).

18 Scottish Ministers' power to modify section 17

- (1) The Scottish Ministers may by order modify section 17 so as to—
 - (a) confer additional powers on the Agency;
 - (b) remove powers from the Agency;

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- (c) amend powers of the Agency.
- (2) Before making an order under subsection (1) the Scottish Ministers must consult—
 - (a) the Authority;
 - (b) the Director General of the Agency;
 - (c) persons whom the Scottish Ministers consider represent the interests of chief constables of police forces; and
 - (d) persons whom the Scottish Ministers consider represent the interests of police bodies.

19 Disclosure of information by the Agency

- (1) Information obtained by the Agency in connection with any of its functions may be disclosed by it if the disclosure is for any permitted purposes.
- (2) “Permitted purposes” means the purposes of any of the following—
 - (a) the prevention, detection, investigation or prosecution of criminal offences, whether in the United Kingdom or elsewhere;
 - (b) the prevention, detection or investigation of conduct for which penalties other than criminal penalties are provided under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom;
 - (c) the exercise of any function conferred on the Agency by section 2 or 17 (so far as not falling within paragraph (a) or (b));
 - (d) the exercise of any functions of any intelligence service within the meaning of the Regulation of Investigatory Powers Act 2000 (c. 23);
 - (e) the exercise of any functions under Chapter 1 of Part 2 of this Act or Part 2 of the Football Spectators Act 1989 (c. 37), or of any similar functions under the law of any part of the United Kingdom other than Scotland or England and Wales or of any country or territory outside the United Kingdom;
 - (f) the exercise of any function which appears to the Scottish Ministers to be a function of a public nature and which they designate by order.
- (3) A disclosure under this section does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure; or
 - (b) any other restriction on the disclosure of information (however imposed).
- (4) Information disclosed by the Agency under this section to any person or body must not be further disclosed except—
 - (a) for a purpose connected with any function of that person or body for the purposes of which the information was disclosed by the Agency, or otherwise for any permitted purposes; and
 - (b) with the consent of the Agency.
- (5) Consent under subsection (4) may be given—
 - (a) in relation to a particular disclosure; or
 - (b) in relation to disclosures made in circumstances specified or described in the consent.

20 Disclosure of information to the Agency

- (1) Any person may disclose information to the Agency if the disclosure is made for the purposes of the exercise by the Agency of any of its functions.
- (2) A disclosure under this section does not breach—
 - (a) any obligation of confidence owed by the person making the disclosure; or
 - (b) any other restriction on the disclosure of information (however imposed).

21 Direction by Director General of the Agency

- (1) The performance by—
 - (a) the Deputy Director General of the Agency of the Deputy Director General's functions; and
 - (b) a police member of the Agency of the member's functions,is subject to the direction of the Director General.
- (2) In giving direction under subsection (1) the Director General must comply with any instructions (whether general or special) falling within subsection (3).
- (3) Those instructions are—
 - (a) in relation to the investigation of offences, any instructions given to the Director General by the Lord Advocate or the procurator fiscal; and
 - (b) in relation to the reporting, for consideration of the question of prosecution, of alleged offences, any instructions given to the Director General by the Lord Advocate.

22 Liability for wrongful acts of police members of the Agency

- (1) The Director General of the Agency is liable in reparation in respect of any wrongful act or omission on the part of any police member in the performance or purported performance of the member's functions in the same manner as an employer is liable in respect of a wrongful act or omission on the part of the employer's employee in the course of the employee's employment.
- (2) The Authority is to pay—
 - (a) any damages or expenses awarded against the Director General of the Agency in any proceedings brought against the Director General by virtue of this section and any expenses incurred by the Director General in any proceedings so brought so far as not recovered by the Director General in those proceedings;
 - (b) any sum required in order to enable the Director General of the Agency to settle any claim made against the Director General by virtue of this section, if the settlement is approved by the Authority.
- (3) Any proceedings in respect of a claim made by virtue of this section may be brought only against the Director General of the Agency for the time being or, in the case of a vacancy in that office, against the person for the time being performing the functions of the Director General; and references in this section to the Director General of the Agency are to be construed accordingly.
- (4) The Authority may, in such cases and to such extent as appear to it to be appropriate, pay—

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- (a) any damages or expenses awarded against a police member in proceedings arising from any wrongful act or omission on the part of the member;
 - (b) any expenses incurred and not recovered by such a member in such proceedings; and
 - (c) any sum required in connection with the settlement of any claim that has or might have given rise to such proceedings.
- (5) Any reference in this section to a police member is a reference to a person appointed as a police member of the Agency in accordance with paragraph 7 of schedule 2.

23 Regulations relating to the Agency

- (1) The Scottish Ministers may make regulations as to the government and administration of the Agency and conditions of service with the Agency.
- (2) Regulations under subsection (1) may in particular make provision for or in connection with—
 - (a) the qualifications for appointment by virtue of paragraph 7(2)(c) of schedule 2 of police members of the Agency;
 - (b) periods of service on probation for police members appointed by virtue of that paragraph;
 - (c) the police ranks to be held by police members;
 - (d) the promotion of police members;
 - (e) voluntary retirement of police members;
 - (f) the efficiency and effectiveness of police members;
 - (g) the conduct and discipline of police members;
 - (h) the suspension of police members from membership of the Agency and from the office of constable;
 - (i) the duties which are or are not to be performed by police members;
 - (j) the treatment as occasions of police duty of attendance at meetings of Police Federations and any body recognised by the Secretary of State for the purposes of section 64 of the Police Act 1996 (c. 16);
 - (k) the hours of duty, leave, pay and allowances of police members;
 - (l) the maintenance of personal records of police members;
 - (m) the issue, use and return of—
 - (i) personal equipment; and
 - (ii) police clothing.
- (3) Regulations under subsection (1) may authorise the Scottish Ministers, the Authority or the Director General of the Agency to make provision for any purpose specified in the regulations.
- (4) In relation to any matter as to which provision may be made by regulations under subsection (1), the regulations may—
 - (a) authorise or require provision to be made by, or confer discretionary powers on, the Scottish Ministers, the Authority, the Director General of the Agency or other persons; or
 - (b) authorise or require the delegation by any person of functions conferred on the person by virtue of the regulations.

- (5) Regulations under subsection (1) must provide for the making of such arrangements as to the hours of duty of police members as shall secure that every such member (not being above such rank as may be specified in the regulations) be allowed at least 52 days in a year on which the member is not required to perform police duty (save on occasions of emergency), such days being distributed throughout the year with the object of securing, so far as practicable, to every such member one day's rest in every 7.
- (6) Regulations under subsection (1) which make provision for or in connection with pay and allowances may be made with retrospective effect to any date specified in the regulations; but nothing in this subsection is to be construed as authorising pay or allowances payable to any person to be reduced retrospectively.
- (7) Regulations under subsection (1) as to conditions of service must secure that appointments for fixed terms are not made except where the person appointed holds the rank of superintendent or a higher rank.
- (8) Subsection (7) does not apply to appointments made by virtue of paragraph 7(2)(a) of schedule 2.
- (9) Any reference in this section (other than subsection (2)(a) and (b)) to a police member is a reference to a person appointed as a police member of the Agency in accordance with paragraph 7 of schedule 2.
- (10) Before making regulations under subsection (1) other than regulations with respect to any of the matters mentioned in section 61(1) of the Police Act 1996 (c. 16), the Scottish Ministers must—
 - (a) submit a draft to the Police Advisory Board for Scotland; and
 - (b) consider any representations made by the Board as to the draft.