

## SCHEDULE 1

(introduced by section 1(2))

### THE SCOTTISH POLICE SERVICES AUTHORITY

#### *Interpretation*

- 1 In this schedule—
- “lay member” means a person who is neither a police authority member nor a police force member;
  - “local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c. 39);
  - “police authority member” means a person—
    - (a) who is a member of a local authority; and
    - (b) who, whether by election or otherwise, has the function of chairing meetings of any of the police bodies (whether or not referred to in that capacity as “convener”); and
  - “police force member” means a person who holds the rank of chief constable in a police force.

#### *Status*

- 2 (1) The Authority—
- (a) is not a servant or agent of the Crown; and
  - (b) has no status, immunity or privilege of the Crown.
- (2) The Authority’s property is not property of, or property held on behalf of, the Crown.

#### *Membership*

- 3 (1) The Scottish Ministers must appoint the members of the Authority.
- (2) Each member must fall within one of the categories mentioned in sub-paragraph (3).
- (3) Those categories are—
- (a) police force members;
  - (b) police authority members;
  - (c) lay members.
- (4) The Authority is to consist of not more than 10 members and, subject to sub-paragraph (5), must include—
- (a) a convener (who must be a lay member); and
  - (b) at least two members (not including the convener) falling within each of the categories mentioned in sub-paragraph (3).
- (5) Sub-paragraph (4)(b) does not apply if, in the opinion of the Scottish Ministers, its application would—
- (a) prevent the Authority from operating; or
  - (b) prevent or impede the effective or efficient operation of the Authority.
- (6) A person may be appointed as a police force member of the Authority only if nominated for such appointment by persons whom the Scottish Ministers consider represent the interests of chief constables of police forces.

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- (7) A person may be appointed as a police authority member of the Authority only if nominated for such appointment by persons whom the Scottish Ministers consider represent the interests of police bodies.
- (8) Sub-paragraph (4)(b) does not apply if—
- (a) the Scottish Ministers request the persons referred to in sub-paragraph (6) or (7) to nominate persons for appointment as a police force member or a police authority member of the Authority; and
  - (b) the persons requested fail, within such reasonable time as the Scottish Ministers may specify, to comply with the request.
- (9) A person is disqualified from appointment, and from holding office, as a police authority member or a lay member of the Authority if that person is—
- (a) a member of—
    - (i) the House of Lords;
    - (ii) the House of Commons;
    - (iii) the Scottish Parliament;
    - (iv) the European Parliament; or
  - (b) disqualified from standing for election as a member of—
    - (i) the House of Commons;
    - (ii) the Scottish Parliament; or
    - (iii) a local authority.
- (10) A person is disqualified from appointment, and from holding office, as a lay member of the Authority if that person is—
- (a) a constable of a police force;
  - (b) a member of—
    - (i) a police force maintained under section 2 of the Police Act 1996 (c. 16);
    - (ii) the metropolitan police force or of the City of London police force;
    - (iii) the Police Service of Northern Ireland;
    - (iv) the Ministry of Defence Police appointed on the nomination of the Secretary of State under section 1 of the Ministry of Defence Police Act 1987 (c. 4);
    - (v) the British Transport Police Force;
    - (vi) the Civil Nuclear Constabulary;
    - (vii) the States of Jersey Police Force;
    - (viii) the salaried police force of the Island of Guernsey; or
    - (ix) the Isle of Man Constabulary;
  - (c) a member of the Serious Organised Crime Agency;
  - (d) a member of a local authority; or
  - (e) a member of staff of the Authority.
- (11) The Scottish Ministers may by order amend sub-paragraph (4) by substituting for the maximum number of members for the time being specified there such other number as they think fit.
- (12) Before making an order under sub-paragraph (11) the Scottish Ministers must consult—

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- (a) the Authority;
- (b) persons whom the Scottish Ministers consider represent the interests of chief constables of police forces; and
- (c) persons whom the Scottish Ministers consider represent the interests of police bodies.

#### *Deputy convener*

- 4 Members of the Authority must elect, from among their number, a member to chair meetings when the convener is not present (the “deputy convener”).

#### *Tenure*

- 5 (1) Subject to this paragraph, each member holds and vacates office on such terms and conditions, and for such period, as the Scottish Ministers may determine.
- (2) The Scottish Ministers may, on the expiry of a period of appointment of a member, reappoint the member for a single further period.
- (3) Each member may, by written notice to the Scottish Ministers, resign as a member.
- (4) A police force member ceases to be a member of the Authority on ceasing to hold the rank of chief constable of a police force.
- (5) Subject to sub-paragraphs (6) and (7), a police authority member ceases to be a member of the Authority on ceasing to be a member of a local authority.
- (6) Sub-paragraph (7) applies where a member of the Authority ceases to be a member of a local authority by reason only of the member’s retirement by virtue of section 5(4) of the Local Government etc. (Scotland) Act 1994 (c. 39) (elections and terms of office of councillors).
- (7) Where—
- (a) the member had the function of chairing meetings of a police authority, the member continues to hold office as a member of the Authority until the date of the first meeting of the local authority following the election in consequence of which that person retired;
  - (b) the member had the function of chairing meetings of a joint police board, the member continues to hold office as a member of the Authority until the date of the first meeting of the board following the election in consequence of which that person retired.

#### *Removal from office*

- 6 (1) The Scottish Ministers may remove a person from office as a member of the Authority if they consider that any of the grounds mentioned in sub-paragraph (2) is satisfied.
- (2) Those grounds are—
- (a) the member’s estate has been sequestrated or the member has been adjudged bankrupt, has made an arrangement with creditors, or has granted a trust deed for creditors or a composition contract;
  - (b) the member is incapacitated as a result of physical or mental illness;

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- (c) the member has, without reasonable excuse, been absent from meetings of the Authority for a period longer than 4 consecutive months;
- (d) the member has, without reasonable excuse, been absent from 3 consecutive meetings of the Authority;
- (e) the member has been convicted (whether before or after the member's appointment) of a criminal offence;
- (f) the member has failed to comply with the terms of the member's appointment;
- (g) the member, being a police force member, has been suspended from duty by virtue of regulations made under section 26 of the 1967 Act;
- (h) the member, being a police authority member, has had the member's entitlement to attend meetings suspended under section 19(1)(b) or (c) of the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7); or
- (i) the member is otherwise unfit or unable to carry out the member's functions as convener or member.

*Members to ensure Authority is run efficiently and effectively*

- 7 It is the duty of each member to ensure that the Authority is run efficiently and effectively.

*Remuneration and pensions of convener and lay members*

- 8 (1) The Authority must pay to the convener and each of the other lay members such remuneration, allowances and expenses as the Scottish Ministers determine.
- (2) The Authority must pay or make arrangements for the payment of such pensions, allowances or gratuities to, or in respect of, any person who has ceased to be the convener or a lay member of the Authority as the Scottish Ministers determine.
- (3) The reference in sub-paragraph (2) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of office.
- (4) The arrangements mentioned in sub-paragraph (2) may include—
- (a) the making of contributions or payments towards provision for pensions, allowances or gratuities mentioned there; and
  - (b) the establishment and administration of pension schemes.
- (5) Sub-paragraph (6) applies where a person ceases to be the convener or a lay member of the Authority and the Scottish Ministers determine that there are special circumstances making it right for the person to receive compensation.
- (6) The Scottish Ministers may direct the Authority to pay such amount of compensation to the person as the Scottish Ministers consider appropriate.
- (7) Police force members and police authority members are not entitled to remuneration, allowances or expenses from the Authority in respect of their work as members of the Authority.

*Chief Executive*

- 9 (1) The Authority is to have a Chief Executive who—
- (a) must not be a member of the Authority; and

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- (b) reports to the members of the Authority.
- (2) The first appointment of the Chief Executive is to be made by the Scottish Ministers after consultation with—
    - (a) persons whom the Scottish Ministers consider represent the interests of chief constables of police forces;
    - (b) persons whom the Scottish Ministers consider represent the interests of police bodies; and
    - (c) if the Scottish Ministers have appointed a person as convener of the Authority, that person.
  - (3) The first appointment of the Chief Executive is to be made on such terms and conditions as the Scottish Ministers may determine.
  - (4) The Authority must pay the person appointed under sub-paragraph (3) such remuneration, allowances and expenses as the Scottish Ministers determine.
  - (5) Subsequent appointments of the Chief Executive are to be made by the Authority with the approval of the Scottish Ministers on such terms and conditions as the Authority may with such approval determine.
  - (6) The Authority must pay the Chief Executive appointed by the Authority such remuneration, allowances and expenses as the Scottish Ministers determine.
  - (7) The Authority must pay or make arrangements for the payment of such pensions, allowances or gratuities to, or in respect of, any person who has ceased to be the Chief Executive as the Scottish Ministers determine.
  - (8) The reference in sub-paragraph (7) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of employment.
  - (9) The arrangements mentioned in sub-paragraph (7) may include—
    - (a) the making of contributions or payments towards provision for pensions, allowances or gratuities mentioned there; and
    - (b) the establishment and administration of pension schemes.

#### *Staff of the Authority*

- 10 (1) Subject to sub-paragraphs (6)(b) and (8)(a), the Authority may appoint other employees on such terms and conditions as the Authority determines.
- (2) The Authority may make arrangements for constables of police forces to be seconded to the Authority to serve as members of its staff.
- (3) The Authority may make arrangements for persons falling within sub-paragraph (4) to be seconded to the Authority to serve as members of its staff.
- (4) A person falls within this sub-paragraph if the person is a member of—
  - (a) a police force maintained under section 2 of the Police Act 1996 (c. 16);
  - (b) the metropolitan police force or of the City of London police force;
  - (c) the Police Service of Northern Ireland;
  - (d) the Ministry of Defence Police appointed on the nomination of the Secretary of State under section 1 of the Minister of Defence Police Act 1987 (c. 4);
  - (e) the British Transport Police;

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- (f) the Civil Nuclear Constabulary;
  - (g) the States of Jersey Police Force;
  - (h) the salaried police force of the Island of Guernsey;
  - (i) the Isle of Man Constabulary; or
  - (j) the Serious Organised Crime Agency.
- (5) Sub-paragraph (6) applies if—
- (a) a constable is seconded to the Authority under sub-paragraph (2); and
  - (b) the Authority does not appoint the constable to be a police member of the Agency in accordance with paragraph 7 of schedule 2.
- (6) The constable—
- (a) is engaged with the Authority on a period of relevant service within the meaning of section 38A(1)(bd) of the 1967 Act;
  - (b) is, subject to sub-paragraph (10), appointed on such terms and conditions as the Authority may, with the approval of the Scottish Ministers, determine; and
  - (c) is under the direction and control of the Authority.
- (7) Sub-paragraph (8) applies if—
- (a) a person is seconded to the Authority under sub-paragraph (3); and
  - (b) the Authority does not appoint the person to be a police member of the Agency in accordance with paragraph 7 of schedule 2.
- (8) The person—
- (a) is, subject to sub-paragraph (10), appointed on such terms and conditions as the Authority may, with the approval of the Scottish Ministers, determine; and
  - (b) is under the direction and control of the Authority.
- (9) A determination under sub-paragraph (6)(b) or (8)(a) may be made by reference to provision made from time to time by or under regulations under section 26 of the 1967 Act or section 23 of this Act.
- (10) The Scottish Ministers may by order apply such provisions of the 1967 Act and subordinate legislation made under it (subject to such modifications as they consider appropriate) to—
- (a) constables seconded to the Authority under sub-paragraph (2); or
  - (b) persons seconded to the Authority under sub-paragraph (3),
- who are not appointed to be police members of the Agency in accordance with paragraph 7 of schedule 2.
- (11) Before making an order under sub-paragraph (10) other than an order 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.

### *Remuneration and pensions of staff*

- 11 (1) Subject to section 23, paragraph 10(10) of this schedule and paragraph 9(1) of schedule 2, the Authority must pay to members of its staff such remuneration, allowances and expenses as the Authority determines.
- (2) A determination under sub-paragraph (1) as respects persons within sub-paragraph (3) may be made by reference to provision made from time to time by or under regulations under section 26 of the 1967 Act or section 23 of this Act.
- (3) Those persons are—
- (a) constables seconded to the Authority under paragraph 10(2); and
  - (b) persons seconded to the Authority under paragraph 10(3),
- who are not appointed to be police members of the Agency in accordance with paragraph 7 of schedule 2.
- (4) A determination under sub-paragraph (1) as respects police members of the Agency may be made by reference to provision made from time to time by or under regulations under section 26 of the 1967 Act.
- (5) The Authority may pay or make arrangements for the payment of pensions, allowances or gratuities to, or in respect of, any person who has ceased to be a member of staff.
- (6) The reference in sub-paragraph (5) to pensions, allowances and gratuities includes pensions, allowances and gratuities by way of compensation for loss of employment or, as the case may be, loss of office.
- (7) The arrangements mentioned in sub-paragraph (5) may include—
- (a) the making of contributions or payments towards provision for pensions, allowances or gratuities mentioned there; and
  - (b) the establishment and administration of pension schemes.
- (8) In this paragraph references to members of staff of the Authority do not include the Chief Executive or the Director General or Deputy Director General of the Agency.

### *Committees and sub-committees*

- 12 (1) The Authority may establish committees for any purpose.
- (2) Any committee so established may establish sub-committees.
- (3) Any such committee or sub-committee must be chaired by a member of the Authority.
- (4) A person who is not a member of the Authority may be appointed to any such committee or sub-committee.
- (5) Subject to sub-paragraph (6), the Authority may pay such remuneration, allowances and expenses as it may determine to a member of any such committee or sub-committee who is not—
- (a) a member of the Authority; or
  - (b) a member of the Authority's staff.
- (6) Sub-paragraph (5) does not apply to a member of a committee or sub-committee who is—
- (a) a constable of, or otherwise employed by, a police force; or

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- (b) a member of a local authority.

#### *Procedure*

- 13 (1) Subject to sub-paragraph (2), the Authority may regulate—
- (a) its own procedure (including the number of members required to constitute a quorum); and
  - (b) the procedure (including the number of members required to constitute a quorum) of its committees and sub-committees.
- (2) Any determination as to the quorum for meetings of the Authority or any of its committees or sub-committees must be made at a meeting of the Authority attended by the convener and at least 4 other members.

#### *Delegation of functions*

- 14 (1) Subject to sub-paragraph (2), the Authority may authorise—
- (a) any of its committees; or
  - (b) any of its members of staff,
- to perform on behalf of the Authority such of its functions as it may determine.
- (2) The Authority may not authorise any of its committees to perform on its behalf any functions of the Authority under Part V of the Police Act 1997 (c. 50).
- (3) A committee of the Authority may authorise—
- (a) any of its sub-committees; or
  - (b) any of the Authority's members of staff,
- to perform on behalf of the committee such of its functions as it may determine.

#### *Incidental powers*

- 15 (1) The Authority may do anything which appears necessary or expedient for the purpose of, or in connection with, or which appears conducive to, the carrying out of its functions, including in particular—
- (a) entering into contracts;
  - (b) acquiring and disposing of property (whether heritable or moveable);
  - (c) borrowing money;
  - (d) forming or promoting (whether alone or with another) companies (within the meaning of the Companies Act 1985 (c. 6)).
- (2) The power conferred by sub-paragraph (1)(b) includes power to accept—
- (a) gifts of money; and
  - (b) gifts or loans of other property
- on such terms as the Authority considers appropriate.
- (3) The Authority may not exercise the powers conferred by paragraphs (b) to (d) of sub-paragraph (1) without the consent of the Scottish Ministers.
- (4) Such consent may be given—
- (a) with respect to a particular case or a particular class of cases;
  - (b) subject to such conditions as the Scottish Ministers consider appropriate.

*Accounts*

- 16 (1) The Authority 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 in relation to each of the Authority and the Agency.
- (2) A statement of accounts under sub-paragraph (1) must be in such form and contain such information as the Scottish Ministers may direct.
- (3) The Authority must send a copy of each statement of accounts to the Scottish Ministers.
- (4) The Scottish Ministers must send a copy of each statement of accounts to the Auditor General of Scotland for auditing.