

**Changes to legislation:** Police, Public Order and Criminal Justice (Scotland) Act 2006, SCHEDULE 6 is up to date with all changes known to be in force on or before 15 December 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) View outstanding changes

## SCHEDULE 6

(introduced by section 101)

### MODIFICATIONS OF ENACTMENTS

#### PART 1

##### ACTS

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

F1 1 .....

##### Textual Amendments

- F1** Sch. 6 para. 1 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 1](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#), arts. 1(1), 11)

#### *The Criminal Justice Act 1988 (c. 33)*

- 2 In section 142(3) of the Criminal Justice Act 1988 (power of justice of peace to authorise entry and search of premises for offensive weapons), for “subsection (1) (b)” there is substituted “ “subsection (1)(c) ”.

#### *The Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)*

- 3 In Part II of Schedule 2 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (increase in certain penalties), the entry relating to section 41(1) of the 1967 Act is repealed.

#### *The Criminal Procedure (Scotland) Act 1995 (c. 46)*

- 4 (1) The 1995 Act is modified as follows.
- (2) In section 18 (prints, samples etc. in criminal investigations), in each of subsections (3) and (4), after “(6)” there is inserted “ “or (6A) ”.
- (3) In section 19A(3) (limitation on exercise of power to take samples etc from persons convicted of sexual and violent offences), for “19(1)(a) of this Act” there is substituted “ “subsection (2) of section 19 of this Act in a case where the power conferred by that subsection was exercised by virtue of subsection (1)(a) of that section ”.

#### *The Police Act 1996 (c. 16)*

- 5 (1) The Police Act 1996 is modified as follows.
- (2) After section 60 (regulations for police federations), there is inserted—

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**“60A Sections 59 and 60: special provision for the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency**

- (1) For the purposes of sections 59 and 60, persons appointed as police members of the Scottish Crime and Drug Enforcement Agency in accordance with paragraph 7 of schedule 2 to the 2006 Act shall be treated as members of a police force in Scotland, and references in section 59 to police service shall be construed accordingly.
- (2) The reference in section 59(2) to regulations made in accordance with section 26(2A) of the Police (Scotland) Act 1967 shall—
  - (a) in the case of police members of the Scottish Crime and Drug Enforcement Agency, be construed as a reference to regulations made in accordance with either of—
    - (i) [F<sup>2</sup>section 23(2)(g)] of the 2006 Act, and
    - (ii) section 26(2A) of the Police (Scotland) Act 1967 as applied to police members of that Agency by virtue of paragraph 9(1) of schedule 2 to the 2006 Act
  - (b) in the case of persons engaged on relevant service within paragraph (bd) of section 38A(1) of the Police (Scotland) Act 1967 (temporary service with the Scottish Police Services Authority), be construed as a reference to regulations made in accordance with section 26(2A) of the Police (Scotland) Act 1967 as applied to such persons by virtue of paragraph 10(10) of schedule 1 to the 2006 Act.
- (3) The reference in [F<sup>3</sup>section 60(2)(e)] to regulations under section 26 of the Police (Scotland) Act 1967 shall—
  - (a) in the case of police members of the Scottish Crime and Drug Enforcement Agency, be construed as a reference to regulations under either of—
    - (i) section 23 of the 2006 Act, and
    - (ii) section 26 of the Police (Scotland) Act 1967 as applied to police members of that Agency by virtue of paragraph 9(1) of schedule 2 to the 2006 Act
  - (b) in the case of persons engaged on relevant service within paragraph (bd) of section 38A(1) of the Police (Scotland) Act 1967, be construed as a reference to regulations made under section 26 of the Police (Scotland) Act 1967 as applied to such persons by virtue of paragraph 10(10) of schedule 1 to the 2006 Act.
- (4) For the purposes of paragraphs (c) and (d) of subsection (2) of section 60—
  - (a) the Scottish Police Services Authority shall be treated as a police authority, and
  - (b) the Director General of the Scottish Crime and Drug Enforcement Agency shall be treated as a chief officer of police, and the reference in paragraph (d) of that subsection to police purposes shall be construed accordingly.
- (5) In this section, “the 2006 Act” means the Police, Public Order and Criminal Justice (Scotland) Act 2006.”.

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<sup>F4</sup>(3) . . . . .

<sup>F4</sup>(4) . . . . .

(5) In section 63 (Police Advisory Boards for England and Wales and for Scotland), after subsection (1) there is inserted—

“(1ZA) The Police Advisory Board for Scotland shall also advise the Scottish Ministers on general questions affecting—

- (a) constables seconded to the Scottish Police Services Authority under paragraph 10(2) of schedule 1 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 but not appointed to be police members of the Scottish Crime and Drug Enforcement Agency in accordance with paragraph 7 of schedule 2 to that Act,
- (b) persons seconded to the Scottish Police Services Authority under paragraph 10(3) of schedule 1 to that Act but not appointed as mentioned in paragraph (a); or
- (c) persons appointed as police members of the Scottish Crime and Drug Enforcement Agency in accordance with paragraph 7 of schedule 2 to that Act.”.

#### Textual Amendments

- F2** Words in Sch. 6 para. 5(2) (in the inserted s. 60A of the Police Act 1996 (c. 16)) substituted (31.3.2007) by The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Modification of Agency's Powers and Incidental Provision) Order 2007 (S.S.I. 2007/260), **art. 2(3)(a)**
- F3** Words in Sch. 6 para. 5(2) (in the inserted s. 60A of the Police Act 1996 (c. 16)) substituted (31.3.2007) by The Police, Public Order and Criminal Justice (Scotland) Act 2006 (Modification of Agency's Powers and Incidental Provision) Order 2007 (S.S.I. 2007/260), **art. 2(3)(b)**
- F4** Sch. 6 para. 5(3)(4) repealed (17.8.2023) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), **Sch. 11 para. 102** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2023/829, **art. 2(d)(vi)**

#### Commencement Information

- I1** Sch. 6 para. 5 wholly in force at 1.4.2007; Sch. 6 para. 5 not in force at Royal Assent see s. 104; Sch. 6 para. 5(4)(5) in force at 1.1.2007 by S.S.I. 2006/607, **art. 3, Sch.**; Sch. 6 para. 5 in force at 1.4.2007 insofar as not already in force by S.S.I. 2007/84, **art. 3(3)**

#### The Police Act 1997 (c. 50)

6 (1) The Police Act 1997 is modified as follows.

(2) In section 93 (authorisations to interfere with property)—

(a) in subsection (3), after paragraph (e) there is inserted—

“(f) if the authorising officer is within subsection (5)(j), by a police member of the Scottish Crime and Drug Enforcement Agency appointed in accordance with paragraph 7 of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10).”;

(b) in subsection (5), after paragraph (i) there is inserted—

“(j) the Director General of the Scottish Crime and Drug Enforcement Agency.”; and

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- (c) in subsection (6), after paragraph (cb) there is inserted—
  - “(cc) in relation to the Director General of the Scottish Crime and Drug Enforcement Agency, means Scotland.”.
- (3) In section 94 (authorisations given in absence of authorising officer)—
  - (a) in subsection (2), after paragraph (g) there is inserted—
    - “(h) where the authorising officer is within paragraph (j) of that subsection, by a person mentioned in subsection (5).”;
  - (b) in subsection (4)—
    - (i) in paragraph (a), the words “or (d)” and “or, as the case may be, section 5(4) of the Police (Scotland) Act 1967” are repealed; and
    - (ii) after that paragraph there is inserted—
      - “(aa) in the case of an authorising officer within paragraph (d) of section 93(5), means the person holding the rank of—
        - (i) deputy chief constable and, where there is more than one person in a 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) assistant chief constable who is designated to act under section 5A(2) of that Act;”;
  - (c) after subsection (4) there is inserted—
    - “(5) The person referred to in subsection (2)(h) is—
      - (a) the chief constable whose relevant area (within the meaning of section 93(6)(b)) is the area to which the application for authorisation relates; or
      - (b) his designated deputy (within the meaning of subsection (4)(aa)); or
      - (c) where it is not reasonably practicable for the chief constable or his designated deputy to consider the application, a person holding the rank of assistant chief constable in the chief constable's police force.”.
- (4) In section 95(7) (designated deputy permitted to exercise authorising officer's powers), for “or (d)” there is substituted ““(d) or (j) ”.
- (5) In section 107(4) (power of Prime Minister to exclude matters from a report), after paragraph (b) there is inserted—
  - “(ba) the functions of the Scottish Crime and Drug Enforcement Agency;”.

*The Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7)*

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### Textual Amendments

- F5** Sch. 6 para. 7 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 1](#); [S.S.I. 2013/51](#), art. 2 (with transitional provisions and savings in [S.S.I. 2013/121](#))

### *The Regulation of Investigatory Powers Act 2000 (c. 23)*

- 8 In section 76A(11) of the Regulation of Investigatory Powers Act 2000 (foreign surveillance operations: definitions) for paragraph (c) of the definition of “United Kingdom officer” there is substituted—

“(c) a police member of the Scottish Crime and Drug Enforcement Agency appointed in accordance with paragraph 7 of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10);”

### *The Regulation of Investigatory Powers (Scotland) Act 2000 (asp 11)*

- 9 (1) The Regulation of Investigatory Powers (Scotland) Act 2000 is modified as follows.

- (2) In section 9 (special provision for the Scottish Crime Squad)—

- (a) subsection (1) is repealed
- (b) in subsection (2), for “Scottish Crime Squad and constables seconded to it” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”
- (c) in subsection (3), for “Scottish Crime Squad” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”
- (d) in subsection (4)—
  - (i) for “Scottish Crime Squad” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”; and
  - (ii) for “constable seconded to that Squad” there is substituted “ “police member of that Agency ”;
- (e) subsections (5) and (6) are repealed; and
- (f) the section heading becomes “ “**Special provision for the Scottish Crime and Drug Enforcement Agency** ”.

- (3) In section 10 (authorisation of intrusive surveillance)—

- (a) in subsection (1), after “force” there is inserted “ “and the Director General of the Scottish Crime and Drug Enforcement Agency ”; and
- (b) in subsection (2), for “chief constable” there is substituted “ “person ”.

- (4) In section 11 (grant of authorisations)—

- (a) in subsection (2), at the beginning there is inserted “ “Subject to section 12A below, ”;
- (b) for subsection (3) there is substituted—

“(3) The Director General of the Scottish Crime and Drug Enforcement Agency shall not grant an authorisation for the carrying out of intrusive surveillance except on an application made by a police member of that Agency.”;
- (c) in subsection (4)—

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- (i) in paragraph (a), after “force” there is inserted “ “or is a police member of the Scottish Crime and Drug Enforcement Agency”; and
  - (ii) in paragraph (b), for “a police force,” there is substituted—
    - “(i) where that individual is a member of a police force, a police force; or
    - (ii) where that individual is a police member of the Scottish Crime and Drug Enforcement Agency, that Agency,”; and
  - (d) in subsection (5), after “section” there is inserted “ “and section 12A below”.
- (5) In section 12 (grant of authorisations in cases of urgency)—
- (a) in subsection (1), after “application” there is inserted “ “(other than an application to which section 12A below applies) ”
  - (b) in subsection (4), after “rank of” there is inserted “ “deputy chief constable or ”; and
  - (c) in subsection (5), for the words from “assistant” to the end there is substituted—
    - “(a) deputy chief constable and, where there is more than one person in a 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 (c. 77); or
    - (b) assistant chief constable who is designated to act under section 5A(2) of that Act.”.
- (6) After section 12 there is inserted—

**“12A Grant of authorisations in cases of urgency: Scottish Crime and Drug Enforcement Agency**

- (1) This section applies in the case of an application to the Director General of the Scottish Crime and Drug Enforcement Agency for an authorisation for the carrying out of intrusive surveillance where the case is urgent.
- (2) If it is not reasonably practicable, having regard to the urgency of the case, for the application to be considered by the Director General or the Deputy Director General of that Agency, the application may be made to and considered by—
  - (a) the chief constable of the police force to which subsection (3) below applies
  - (b) a person (if there is one) who is entitled, as a designated deputy of that chief constable, to exercise the functions in relation to that application of that chief constable; or
  - (c) if it is not reasonably practicable, having regard to the urgency of the case, for the application to be considered by a person such as is mentioned in paragraph (a) or (b) above, any person who is entitled under subsection (4) of section 12 above to act, for the purposes of that section, for that chief constable.
- (3) This subsection applies to a police force if—

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- (a) in the case of an authorisation for the carrying out of intrusive surveillance in relation to any residential premises, those premises are in; and
  - (b) in the case of an authorisation for the carrying out of intrusive surveillance in relation to any private vehicle, the chief constable of that police is satisfied that the operation will commence in, the area of operation of that police force.
- (4) In this section “designated deputy” has the same meaning as in section 12 above.”.
- (7) In section 14(5)(b) (meaning of “most senior relevant person”), for the words from “member” to the end there is substituted “ “police member of the Scottish Crime and Drug Enforcement Agency, the Director General of that Agency. ”.
- (8) In section 15(7) (persons receiving a report when authorisation is quashed), after paragraph (a) there is inserted—
  - “(aa) in the case of an authorisation granted under section 12A above, to the chief constable mentioned in subsection (2)(a) of that section;”.
- (9) In section 16(1) (appeals), after “force” there is inserted “ “or the Director General of the Scottish Crime and Drug Enforcement Agency ”.
- (10) In section 18 (information to be provided to the Surveillance Commissioners), for paragraph (b) there is substituted—
  - “(b) the Director General, the Deputy Director General and every police member of the Scottish Crime and Drug Enforcement Agency;”.
- (11) In section 20(6) (meaning of “deputy” in relation to cancellations)—
  - (a) the words from “in”, where it second occurs, to “constable”, where it second occurs, become paragraph (a); and
  - (b) after those words there is inserted—
    - “(b) in relation to the Director General of the Scottish Crime and Drug Enforcement Agency, to the Deputy Director General of that Agency”.
- (12) In section 23(5)(b) (conduct taking place in challengeable circumstances), after “force” there is inserted “ “or to the Scottish Crime and Drug Enforcement Agency ”.
- (13) In section 24(2)(b) (powers and duties in relation to which codes of practice must be issued), after “force” there is inserted “ “or to the Scottish Crime and Drug Enforcement Agency ”.
- (14) In section 31(1) (interpretation), after the definition of “police force” there is inserted—
  - ““police member”, in relation to the Scottish Crime and Drug Enforcement Agency, means a person appointed as such a member in accordance with paragraph 7 of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10);”

*The Scottish Public Services Ombudsman Act 2002 (asp 11)*

- 10 (1) The Scottish Public Services Ombudsman Act 2002 is amended as follows.

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- (2) In schedule 2 (listed authorities)—
- (a) the entry numbered 14 is repealed; and
  - (b) after the entry numbered 32 there is inserted—
 

“32A The Police Complaints Commissioner for Scotland.”.
- (3) In schedule 4 (matters which the Ombudsman must not investigate)—
- (a) for paragraph 1(b) there is substituted—
 

“(c) by the Police Complaints Commissioner for Scotland,”; and
  - (b) after paragraph 15 there is inserted—
 

“16 Action taken—

    - (a) by a local authority in discharge of its functions as a police authority, or
    - (b) by any other person in discharge of the functions of a local authority as a police authority, by virtue of section 56(1) of the Local Government (Scotland) Act 1973 (c. 65).”.

*The Freedom of Information (Scotland) Act 2002 (asp 13)*

<sup>F6</sup>11

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**Textual Amendments**

- F6** Sch. 6 para. 11 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 1](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

*The Public Appointments and Public Bodies etc. (Scotland) Act 2003 (asp 4)*

<sup>F7</sup>12

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**Textual Amendments**

- F7** Sch. 6 para. 12 repealed (1.4.2013) by [Police and Fire Reform \(Scotland\) Act 2012 \(asp 8\)](#), s. 129(2), [Sch. 8 Pt. 1](#); S.S.I. 2013/51, art. 2 (with transitional provisions and savings in S.S.I. 2013/121)

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

- 13 (1) The Serious Organised Crime and Police Act 2005 is modified as follows.
- (2) In section 3(5)(d) (meaning of “special police force”), for “Scottish Drug Enforcement Agency” there is substituted ““Scottish Crime and Drug Enforcement Agency””.
- (3) In section 23 (mutual assistance between SOCA and law enforcement agencies: voluntary arrangements)—
- (a) for subsection (5) there is substituted—
 

“(5) In subsection (4)(a), “constables or members of staff” in relation to the Scottish Crime and Drug Enforcement Agency means police members or support staff members of that Agency.”;

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- (b) in subsection (7), for paragraph (b) there is substituted—
  - “(b) a police member or support staff member of the Scottish Crime and Drug Enforcement Agency,”;
- (c) in subsection (10)(b) for “Scottish Drug Enforcement Agency” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”; and
- (d) in subsection (11)—
  - (i) after the definition of “police force” there is inserted—
    - ““police member”, in relation to the Scottish Crime and Drug Enforcement Agency, means a person appointed as such a member in accordance with paragraph 7 of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10);”;
  - (ii) in paragraph (f) of the definition of “relevant police authority”, for “Scottish Drug Enforcement Agency” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”; and
  - (iii) after the definition of “relevant police authority” there is inserted—
    - ““support staff member”, in relation to the Scottish Crime and Drug Enforcement Agency, means a person appointed as such a member in accordance with paragraph 8 of schedule 2 to the Police, Public Order and Criminal Justice (Scotland) Act 2006;”.
- (4) In section 24(2)(b) (bodies to which section 24 applies), for “Scottish Drug Enforcement Agency” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”.
- (5) In section 25 (directed arrangements: Scotland)—
  - (a) in subsection (2)(b), for “Scottish Drug Enforcement Agency” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”
  - (b) in subsection (3)(b)—
    - (i) for “Director of the Scottish Drug Enforcement Agency” there is substituted “ “Director General of the Scottish Crime and Drug Enforcement Agency ”; and
    - (ii) for “constables or other persons” there is substituted “ “police members or support staff members ”
  - (c) in subsection (4), in both paragraphs (a) and (b), for “Scottish Drug Enforcement Agency” there is substituted “ “Scottish Crime and Drug Enforcement Agency ”; and
  - (d) after subsection (4), there is inserted—
    - “(5) In this section, “police member” and “support staff member” have the same meaning as in section 23.”.
- (6) In section 31(5)(d) (meaning of “relevant authority” in section 31), for “Scottish Drug Enforcement Agency, means” there is substituted “ “Scottish Crime and Drug Enforcement Agency, means the Director General of”.
- (7) In section 42 (interpretation)—
  - (a) in subsection (1), for paragraph (g) of the definition of “chief officer” there is substituted—
    - “(g) in relation to the Scottish Crime and Drug Enforcement Agency, the Director General of that Agency”; and

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- (b) subsection (2) is repealed.
- (8) In section 47 (person having powers of constable: exercise of such powers in Scotland and Northern Ireland)—
  - (a) in subsection (3)(a), for “Director of the Scottish Drug Enforcement Agency” there is substituted “ “Director General of the Scottish Crime and Drug Enforcement Agency” ”
  - (b) in subsection (4)(a), for “Deputy Director” there is substituted “ “Deputy Director General” ”; and
  - (c) in subsection (7), the definition of “the Scottish Drug Enforcement Agency” and “the Director” is repealed.
- (9) In section 82(5) (persons who are protection providers), for paragraph (f), there is substituted—
  - “(f) the Director General of the Scottish Crime and Drug Enforcement Agency;”
- (10) In section 94 (interpretation of Chapter 4), subsection (9) is repealed.
- (11) In Schedule 5—
  - (a) in paragraph 20—
    - (i) in sub-paragraph (1), the words “is or” are repealed and for “Scottish Drug Enforcement Agency” there is substituted “ “organisation known as the Scottish Drug Enforcement Agency and established under section 36(1)(a)(ii) of the Police (Scotland) Act 1967 (c. 77), that is to say a person who was engaged on central service (as defined by section 38(5) of that Act) and was appointed by the Scottish Ministers to exercise control in relation to the activities carried out in exercise of that organisation's functions ”; and
    - (ii) in sub-paragraph (2), the words “is or” are repealed; and
  - (b) after paragraph 20 there is inserted—
    - “20A(1) A person who is or has been the Director General of the Scottish Crime and Drug Enforcement Agency.
    - (2) A person who is or has been under the direction and control of the Director General of the Scottish Crime and Drug Enforcement Agency.”.

## PART 2

### SUBORDINATE LEGISLATION

*The Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) (Scotland) Order 2000 (S.S.I. 2000/343)*

- 14 In the Schedule to the Regulation of Investigatory Powers (Prescription of Offices, Ranks and Positions) (Scotland) Order 2000, for “The Operational and Intelligence Group of the Scottish Drug Enforcement Agency” there is substituted “ “The Scottish Crime and Drug Enforcement Agency ”.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 47A inserted by [2023 c. 41 s. 45\(3\)](#)