

POLICE AND FIRE REFORM (SCOTLAND) ACT 2012

EXPLANATORY NOTES

THE ACT – SECTION BY SECTION

Part 1 – Police Reform

Chapter 1 - the Scottish Police Authority

10. **Section 1** provides for the establishment of a new corporate body, the Scottish Police Authority (SPA) or, in Gaelic, Ùghdarras Poilis na h-Alba.
11. **Schedule 1** to the Act, which is introduced by **section 1**, establishes the SPA as independent from the Crown, and makes provision regarding its constitution, membership, remuneration and location. **Paragraphs 2 – 5** provide that the SPA will consist of a chairing member and between 10 and 14 other members, though that number may be varied by order made by the Scottish Ministers which would be subject to negative procedure in the Scottish Parliament. Members must be appointed by Ministers on the basis of skills and expertise relevant to the functions of the SPA. All appointments will be regulated under the Public Appointments Commissioner for Scotland: Code of Practice for Ministerial Appointments to Public Bodies in Scotland (“the Code”). The Scottish Ministers are to be responsible for appointing the chairing member of the SPA, and members of the SPA may elect one of their number to act as deputy to the chairing member. These paragraphs also set out the length of term members and the chairing member can serve; that Ministers can remove members under certain circumstances; and a list of people disqualified from membership of the SPA.
12. **Paragraphs 6 – 8** of schedule 1 make provision for the SPA to appoint staff and to second police officers from police services across the United Kingdom to assist in carrying out its functions. They also make provision regarding the terms and conditions on which the SPA’s staff are employed.
13. **Paragraph 9** of schedule 1 sets out the rules regarding the establishment of committees and sub-committees by the SPA. **Paragraph 10** sets out the rules regarding the SPA’s procedures. **Paragraph 11** places a duty on the SPA (including its committees and sub-committees) to meet in public and to publish agendas, papers and reports of its proceedings. **Sub-paragraphs (2) and (4)** give discretion to the SPA to decide not to do so, with **sub-paragraph (5)** obliging it to publish a statement setting out the circumstances in which it will exercise that discretion.
14. **Paragraphs 12 and 13** set out rules regarding delegation of functions (although the SPA will still retain responsibility for the performance of those functions and remain able to perform them), and location of SPA and Police Service office headquarters (which are subject to the approval of the Scottish Ministers).
15. **Part 2** of **schedule 1** makes consequential amendments flowing from the establishment of the SPA as a new Scottish public body.

*These notes relate to the Police and Fire Reform (Scotland) Act
2012 (asp 8) which received Royal Assent on 7 August 2012*

16. **Section 2** sets out that the SPA's main functions are: to maintain the Police Service of Scotland (the Police Service); to promote the policing principles; to promote and support continuous improvement in the policing of Scotland, and to keep that policing under review and hold the chief constable to account for it. In particular, the SPA must hold the chief constable to account for carrying out the duties set out in **section 17**. The SPA also has any additional functions conferred on it by this, or any other, enactment. The SPA must try to carry out all of its functions in a way that is proportionate, accountable and transparent and consistent with best practice.
17. In relation to its function of maintaining the Police Service, **Section 3** provides that the SPA has a specific obligation to pay constables pay, allowances and expenses, in accordance with the regulations made under **section 48** of the Act. It also gives the SPA a broad power to provide and maintain anything necessary or desirable for carrying out police functions. The chief constable must be provided with details of how the SPA intends to allocate the expected available financial resources before the beginning of each financial year.
18. **Section 4** allows the SPA to do anything it considers appropriate for carrying out its functions. This includes specific power to: enter into contracts; borrow money; acquire and dispose of land and other property; accept gifts of money and gifts or loans of other property; form or promote companies; and compulsorily purchase land. The powers to borrow money, purchase land compulsorily and form or promote companies are subject to Ministerial consent and, in relation to borrowing money and forming or promoting companies, the Scottish Ministers can set any conditions they consider appropriate, and their agreement can be given in relation to a particular case or class of case.
19. **Section 5** places an obligation on the SPA to comply with any direction given by the Scottish Ministers. The Scottish Ministers may not give directions in relation to specific policing operations. The Ministerial direction must be published and laid before the Scottish Parliament. Ministers will also have powers to vary or revoke such directions, which must be published and laid in the same way.