

SCHEDULES

SCHEDULE 8

ABOLITION OF SOCA AND NPIA

PART 1

TRANSITIONAL, TRANSITORY AND SAVING PROVISION

Transfer schemes

- 1 (1) The Secretary of State may make—
 - (a) one or more staff transfer schemes, and
 - (b) one or more property transfer schemes.
- (2) The Secretary of State may include—
 - (a) provision under paragraph 2(1)(a)(iv) in a staff transfer scheme, or
 - (b) provision under paragraph 3(1)(c) in a property transfer scheme,only if the Secretary of State considers that the provision is appropriate in connection with an order under section 2 (modification of NCA functions).
- (3) The Secretary of State must lay before Parliament each staff transfer scheme and each property transfer scheme that is made.
- 2 (1) A staff transfer scheme is a scheme which provides—
 - (a) for—
 - (i) a designated member of the staff of SOCA,
 - (ii) a designated constable in an England and Wales police force,
 - (iii) a designated member of the civilian staff of an England and Wales police force, or
 - (iv) a designated member of the personnel or staff of any other person, to become an NCA officer and, accordingly, to become employed in the civil service of the state;
 - (b) for a designated member of the staff of the NPIA to become employed in the civil service of the state—
 - (i) as an NCA officer, or
 - (ii) in the Home Office;
 - (c) so far as may be consistent with employment in the civil service of the state, for the terms and conditions of the designated transferee's employment to have effect as the person's terms and conditions of employment as an NCA officer or in the Home Office;
 - (d) for the transfer to the NCA or the Secretary of State of the rights, powers, duties and liabilities of the employer under or in connection with the designated transferee's contract of employment;

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- (e) for anything done (or having effect as if done) before that transfer by or in relation to the employer in respect of such a contract or the designated transferee to be treated as having been done by or in relation to the NCA or the Secretary of State.
- (2) A staff transfer scheme may provide for a period before a person became employed in the civil service of the state under a staff transfer scheme to count as a period during which the person was employed in the civil service of the state (and for the operation of the scheme not to be treated as having interrupted the continuity of that period).
 - (3) A staff transfer scheme may provide for a person who would otherwise become employed in the civil service of the state under a staff transfer scheme not to become so employed if the person gives notice objecting to the operation of the scheme in relation to the person.
 - (4) A staff transfer scheme may provide for any person who would be treated (whether by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
 - (5) A staff transfer scheme may provide for a person to become employed in the civil service of the state despite any provision, of whatever nature, which would otherwise prevent the person from being employed in the civil service of the state.
 - (6) A staff transfer scheme may provide for a person’s secondment to SOCA or the NPIA to continue as a secondment of that person to the NCA.
 - (7) In the application of this paragraph to the transfer of a constable—
 - (a) a reference to employment (other than employment in the civil service of the state) is a reference to service as a constable;
 - (b) a reference to a contract of employment is a reference to the terms and conditions of service as a constable;
 - (c) a reference to the employer is a reference to the chief officer of the police force, and the policing body for the police force, in which the constable serves.
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- (1) A property transfer scheme is a scheme providing for the transfer to the NCA of designated property, rights or liabilities from—
 - (a) SOCA,
 - (b) the chief officer of, or the policing body for, an England and Wales police force, or
 - (c) any other person,
 or for the transfer to the NCA or the Secretary of State of designated property, rights or liabilities from the NPIA.
 - (2) A property transfer scheme may—
 - (a) create rights, or impose liabilities, in relation to property or rights transferred by virtue of the scheme;
 - (b) provide for anything done by or in relation to a transferor in connection with any property, rights or liabilities transferred by the scheme to be treated as done, or to be continued, by or in relation to the NCA or the Secretary of State;
 - (c) provide for anything done by a transferor which gives rise to criminal liability to be treated as done by the NCA or the Secretary of State and,

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- in such a case, provide that Crown immunity does not affect the criminal liability of the NCA or Secretary of State;
- (d) apportion property, rights and liabilities;
 - (e) make provision about the continuation of legal proceedings.
- (3) The things that may be transferred by a property transfer scheme include—
- (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme.
- 4 (1) A staff transfer scheme or a property transfer scheme may make—
- (a) provision for any reference to a transferor in any document or other instrument, contract or legal proceedings to have effect as, or as including, a reference to the NCA or the Secretary of State;
 - (b) supplementary, incidental, transitional and consequential provision.
- (2) A staff transfer scheme may make provision which is the same or similar as provision made by the TUPE regulations (if those regulations do not apply to the transfer).
- 5 In paragraphs 2 to 4—
- “civilian staff”, in relation to an England and Wales police force, means a person employed by the policing body for that force;
 - “designated”, in relation to a staff transfer scheme or a property transfer scheme, means specified in, or determined in accordance with, the scheme;
 - “designated transferee” means a person in respect of whom a staff transfer scheme makes provision of the kind referred to in paragraph 2(1)(a) or (b);
 - “Home Office” means the department of the Secretary of State having responsibility for policing;
 - “instrument” includes a designation, authorisation, warrant, or order of any court;
 - “transferor”, in relation to a staff transfer scheme or a property transfer scheme, means any of the following to which the scheme relates—
 - (a) SOCA;
 - (b) the NPIA;
 - (c) the chief officer of, or the policing body, for an England and Wales police force;
 - (d) any other person;
 - “TUPE regulations” means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

Continuity in relation to functions

- 6 (1) The abolition of SOCA or the NPIA does not affect the validity of anything done before the abolition.
- (2) The transfer of a function does not affect the validity of anything done before the transfer.
- (3) Sub-paragraphs (4) to (6) apply in relation to the transfer of a function.
- (4) Where anything—
- (a) relates to the transferred function, and

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- (b) is in the process of being made or done by or in relation to the transferor immediately before the transfer takes effect,
it may be continued afterwards by or in relation to the transferee.
- (5) Where anything—
- (a) relates to the transferred function,
 - (b) has been made or done by or in relation to the transferor, and
 - (c) is in effect immediately before the transfer takes effect,
- it has effect afterwards as if made or done by or in relation to the transferee.
- (6) The transferee is to be substituted for the transferor in any documents and other instruments, contracts or legal proceedings which—
- (a) relate to the transferred function, and
 - (b) are made or commenced before the transfer takes effect.
- (7) The Secretary of State may, by direction, determine any question under this paragraph as to—
- (a) whether there has been a transfer of a particular function, or
 - (b) the person to whom there has been a transfer of a particular function.
- (8) The preceding provisions of this paragraph are without prejudice to the powers under section 60 (transitional, transitory or saving provision).
- (9) The following provisions of this paragraph apply for the purposes of this paragraph.
- (10) A reference to—
- (a) the abolition of SOCA includes a reference to the ending of a person’s membership of SOCA or membership of the staff of SOCA;
 - (b) the abolition of the NPIA includes a reference to the ending of a person’s membership of the NPIA or membership of the staff of the NPIA.
- (11) A reference to the transfer of a function is a reference to—
- (a) the transfer of a SOCA function by or under this Act,
 - (b) the transfer of an NPIA function by or under this Act, and
 - (c) the assumption of a third party function by the NCA.
- (12) For that purpose—
- (a) the reference to the transfer of a SOCA function or NPIA function by or under this Act includes a reference to a case where—
 - (i) a SOCA function or NPIA function is abolished, and
 - (ii) a corresponding function is conferred on another person,
by or under this Act;
 - (b) the reference to the assumption of a third party function by the NCA is a reference to the case where—
 - (i) a function (other than a SOCA function or an NPIA function) is exercisable before the changeover by a person (the “third party”),
 - (ii) a corresponding function is included in the NCA functions, and
 - (iii) a person employed by, or otherwise serving, the third party wholly or partly for the purpose of the exercise of the function becomes an NCA officer;

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and references to the transferred function, the transferor and the transferee are to be read accordingly.

- (13) A reference to a thing being, or having been, made or done includes—
- (a) a reference to—
 - (i) a document or other instrument being, or having been, made or otherwise produced,
 - (ii) a contract being, or having been, agreed, and
 - (iii) legal proceedings being, or having been, brought; and
 - (b) a reference to a thing being, or having been, made or done under—
 - (i) a document or other instrument,
 - (ii) a contract, or
 - (iii) legal proceedings.
- (14) A reference to a thing which relates to a transferred function includes a reference to a thing made or done for the purposes of, or otherwise in connection with, a transferred function.
- (15) These expressions have the meanings given—
- “instrument” includes a designation, authorisation, warrant, or order of any court;
 - “NPIA functions” means functions of—
 - (a) the NPIA,
 - (b) a member of the NPIA, or
 - (c) a member of the staff of the NPIA;
 - “SOCA functions” means functions of—
 - (a) SOCA,
 - (b) a member of SOCA, or
 - (c) a member of the staff of SOCA.

Continuity in relation to subordinate legislation

- 7 (1) After the changeover, the subordinate legislation specified in an entry in the first column of the following table—
- (a) continues to have effect (subject to any subsequent amendment or revocation) as if made under the powers conferred by the provision of this Act specified in the corresponding entry in the second column; and
 - (b) may be amended or revoked by (in particular) the exercise of the powers conferred by that provision.

<i>Subordinate legislation</i>	<i>Provision of this Act</i>
The Serious Organised Crime and Police Act 2005 (Application and Modification of Certain Enactments to Designated Staff of SOCA) Order 2006 (S.I. 2006/987)	Paragraphs 27 to 29 of Schedule 5
The International Joint Investigation Teams (International Agreement) Order 2009 (S.I. 2009/3269), insofar as it is made under powers	Paragraph 5(1)(c) of Schedule 4

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<i>Subordinate legislation</i>	<i>Provision of this Act</i>
conferred by the Serious Organised Crime and Police Act 2005	
The Serious Organised Crime and Police Act 2005 (Disclosure of Information by SOCA) Order 2010 (S.I. 2010/1955)	Paragraph (p) of the definition of “permitted purpose” in section 16(1)

(2) Insofar as subordinate legislation continues to have effect by virtue of subparagraph (1), it does so subject to the following modifications.

*THE SERIOUS ORGANISED CRIME AND POLICE ACT 2005
(APPLICATION AND MODIFICATION OF CERTAIN ENACTMENTS
TO DESIGNATED STAFF OF SOCA) ORDER 2006 (S.I. 2006/987)*

Articles 2 and 4(4) and paragraph 21 of Schedule 1	The reference to section 43(1)(a) of the Serious Organised Crime and Police Act 2005 has effect as a reference to section 9 or 10 of this Act
Articles 3(b) and 4(1)(b)	The reference to Chapter 2 of Part 1 of the Serious Organised Crime and Police Act 2005 has effect as a reference to Part 1 of this Act
Article 4(3)	The reference to section 46 of the Serious Organised Crime and Police Act 2005 has effect as a reference to Part 4 of Schedule 5 to this Act
Article 5 and Paragraph 6 of Schedule 2	The reference to section 43(1)(c) of the Serious Organised Crime and Police Act 2005 has effect as a reference to section 9 or 10 of this Act
Articles 6(b) and 7(1)(b)	The reference to Chapter 2 of Part 1 of the Serious Organised Crime and Police Act 2005 has effect as a reference to Part 1 of this Act
Schedule 1	Each reference to a SOCA office has effect as a reference to a place for the time being occupied by the National Crime Agency

*THE INTERNATIONAL JOINT INVESTIGATION TEAMS
(INTERNATIONAL AGREEMENT) ORDER 2009 (S.I. 2009/3269)*

Article 2(d)	The reference to sections 30(5)(c) and 57(6)(c) of the Serious Organised Crime and Police Act 2005 has effect as a reference to paragraph 5(1)(c) of Schedule 4 to this Act
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*THE SERIOUS ORGANISED CRIME AND POLICE ACT 2005
(DISCLOSURE OF INFORMATION BY SOCA) ORDER 2010 (S.I. 2010/1955)*

Article 2	The reference to section 33 of the Serious Organised Crime and Police Act 2005 has effect as a reference to the definition of “permitted purpose” in section 16(1) of this Act
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(3) The modifications applicable to any subordinate legislation by virtue of subparagraph (2) are in addition to any other modifications applicable to that subordinate legislation (whether by virtue of Part 4 of this Schedule or otherwise).

- (4) The preceding provisions of this paragraph are without prejudice to sections 59 (consequential amendments) and 60 (transitional, transitory or saving provision).

Members of SOCA

- 8 (1) The Secretary of State may pay such amount (if any) as the Secretary of State thinks appropriate to a person who ceases to be a SOCA board member at the changeover.
- (2) In this paragraph “SOCA board member” means a person who is a member of SOCA by virtue of paragraph 1(1)(a) or (c) of Schedule 1 to the Serious Organised Crime and Police Act 2005 (the chairman and ordinary members).

SOCA annual reports and accounts

- 9 (1) The repeal of sections 7 and 20 of the Serious Organised Crime and Police Act 2005 (annual reports and accounts) by this Act does not affect the application of those sections, after the changeover, in relation to times before the changeover.
- (2) Sections 7 and 20 of the 2005 Act apply in relation to the final period as they apply to any financial year of SOCA (and, accordingly, references in those sections to a financial year of SOCA include references to the final period).
- (3) After the changeover, the duties imposed on SOCA by sections 7 and 20 of the 2005 Act are to be discharged by the Director General of the National Crime Agency.
- (4) In this paragraph “final period” means the period which—
- (a) begins with the last 1 April to fall before the changeover, and
 - (b) ends with the changeover.

Saving of accrued pension rights etc

- 10 (1) The amendments of the Superannuation Act 1972 made by Part 2 of this Schedule do not affect the operation of that Act in relation to employment of any of the following kinds by any person—
- (a) employment by SOCA;
 - (b) employment as a member of the staff of the NPIA.
- (2) The amendments of the Police Pensions Act 1976 made by Part 2 of this Schedule do not affect the operation of that Act in relation to service of any of the following kinds by any person—
- (a) service as an employee of SOCA;
 - (b) relevant service within paragraph (ca) or (cb) of section 97(1) of the Police Act 1996;
 - (c) relevant service within section 38A(1)(ba) of the Police (Scotland) Act 1967;
 - (d) service as a member of the staff of NPIA.

Scottish police reform

- 11 (1) The power conferred by section 60 may, in particular, be exercised to make provision to secure that the NCA provisions have full effect despite the coming into force of particular NCA provisions before the coming into force of particular Scottish police reform provisions.

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- (2) Such provision may, in particular, modify a reference in any of the NCA provisions to any person, body or other thing created by the Scottish police reform provisions.
- (3) That includes the modification of a reference—
- (a) to the Police Service of Scotland, in particular by providing for it to have effect as, or as including, a reference to one or more of the following—
 - (i) an existing Scottish police force;
 - (ii) the Scottish Crime and Drugs Enforcement Agency;
 - (b) to the chief constable of the Police Service of Scotland, in particular by providing for it to have effect as, or as including, a reference to one or more of the following—
 - (i) the chief constable of an existing Scottish police force;
 - (ii) the Scottish Crime and Drugs Enforcement Agency;
 - (iii) the Director General of that Agency;
 - (c) to the Scottish Police Authority, in particular by providing for it to have effect as, or as including, a reference to one or more of the following—
 - (i) an existing Scottish police authority;
 - (ii) the Scottish Crime and Drugs Enforcement Agency;
 - (iii) the Director General of that Agency;
 - (iv) the Scottish Police Services Authority;
 - (d) to constables in the Police Service of Scotland, in particular by providing for it to have effect as, or as including, a reference to one or more of the following—
 - (i) constables in existing Scottish police forces;
 - (ii) police members of the Scottish Crime and Drugs Enforcement Agency;
 - (iii) support staff members of the Scottish Crime and Drugs Enforcement Agency.
- (4) In this paragraph—
- “existing Scottish police authority” means a body which is a police authority by virtue of section 2 of the Police (Scotland) Act 1967 or a joint police board constituted in accordance with an amalgamation scheme made under that Act;
 - “existing Scottish police force” means a police force maintained under, or by virtue of, section 1 of the Police (Scotland) Act 1967;
 - “NCA provisions” means the provisions of this Part of this Act (including any amendments of other enactments made by this Part of this Act);
 - “Scottish police reform provisions” means the provisions of Part 1 of the Police and Fire Reform (Scotland) Act 2012.

Director of Revenue and Customs Prosecutions

- 12 (1) This paragraph applies if, before the changeover, there has been no merger of the offices of—
- (a) the Director of Public Prosecutions, and
 - (b) the Director of Revenue and Customs Prosecutions.

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- (2) In relation to the DRCP transitional period, the reference to the Director of Public Prosecutions in paragraph (i)(i) of the definition of permitted purpose in section 16(1) has effect as if it included a reference to the Director of Revenue and Customs Prosecutions.
- (3) In this paragraph—
- (a) a reference to a merger of offices is a reference to a Minister merging the offices by order under section 2 of the Public Bodies Act 2011;
 - (b) “DRCP transitional period” means the period which—
 - (i) begins with the changeover, and
 - (ii) ends when there is a merger of the offices of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions.

Interpretation

- 13 In this Part of this Schedule—
- “changeover” means the time when section 1 comes into force;
 - “NPIA” means the National Policing Improvement Agency;
 - “SOCA” means the Serious Organised Crime Agency.