

**2006 No. 607 (C.46)**

**POLICE**

**CRIMINAL LAW**

**The Police, Public Order and Criminal Justice (Scotland) Act  
2006 (Commencement No. 2) Order 2006**

*Made* - - - -

*13th December 2006*

The Scottish Ministers, in exercise of the powers conferred by section 104(1) of the Police, Public Order and Criminal Justice (Scotland) Act 2006(a), hereby make the following Order:

**Citation**

1. This Order may be cited as the Police, Public Order and Criminal Justice (Scotland) Act 2006 (Commencement No. 2) Order 2006.

**Interpretation**

2. In this Order—

“the 1995 Act” means the Criminal Procedure (Scotland) Act 1995(b); and

“the Act” means the Police, Public Order and Criminal Justice (Scotland) Act 2006.

**Commencement of provisions**

3. The provisions of the Act which are specified in column 1 of the schedule to this Order (and the subject matter of which is described in column 2 of that schedule) shall come into force on 1st January 2007 but, where a particular purpose is specified in relation to any provision in column 3 of that schedule, that provision shall come into force on that day only for that purpose.

*CATHY JAMIESON*

A member of the Scottish Executive

St Andrew's House,  
Edinburgh  
13th December 2006

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(a) 2006 asp 10.  
(b) 1995 c.46.

## SCHEDULE

Article 3

<i>Column 1</i> <i>Provision of the Act</i>	<i>Column 2</i> <i>Subject matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 1(1)	Establishment of the Scottish Police Services Authority	
Section 1(2)	Establishment of the Scottish Police Services Authority	Only for the purpose of bringing into force the provisions of schedule 1 to the Act specified in column 1 of this Table
Section 2(1)	Duty to establish and maintain the Agency	
Section 4	Strategic priorities of the Authority	
Section 8	Provision of information to the Scottish Ministers	
Section 10	Grants	
Section 12(1)(a), (b) and (d)	Members of the Agency	
Section 12(2)	Members of the Agency	Only for the purpose of bringing into force the provisions of schedule 2 to the Act specified in column 1 of this Table
Section 13	Strategic priorities of the Agency	
Section 16(1)	General functions of the Director General of the Agency	
Section 18	Scottish Ministers' power to modify section 17	
Section 23	Regulations relating to the Agency	
Section 24	The police support services: modification by order	
Section 25	Use of the police support services	
Section 30	Directions	
Section 31	Transfer of staff, property etc	
Section 32	Interpretation of Chapter 1	
Section 33	The Police Complaints Commissioner for Scotland	
Section 34	"Relevant complaint" and "person serving with the police"	
Section 35	Examination of manner of handling of complaint	Only for the purpose of enabling regulations to be made

<i>Column 1 Provision of the Act</i>	<i>Column 2 Subject matter</i>	<i>Column 3 Purpose</i>
Section 36	Duty of Commissioner not to proceed with certain complaint handling reviews	Only for the purpose of enabling regulations to be made
Section 38(4)	Reconsideration of a complaint: duties to keep persons informed	
Section 39	Power of Commissioner to discontinue reconsideration	Only for the purpose of enabling regulations to be made
Section 41	Appropriate authority in relation to a complaint	
Section 44	Provision of information to the Commissioner	Only for the purpose of enabling regulations to be made
Section 47	Interpretation of Chapter 2	
Section 83	Retention of samples etc.: prosecutions for sexual and violent offences	
Section 84	Testing of arrested persons for Class A drugs	Only for the purpose of enabling an order under section 20A(3)(c) of the 1995 Act to be made
Section 85(3)	Assessment following positive test under section 20A of the 1995 Act	
Section 90	Interpretation of sections 85 to 88	Only for the purpose of enabling regulations to be made to prescribe the qualifications and experience which a suitably qualified person must have.
Section 101	Modification of enactments	Only for the purpose of bringing into force the provisions of schedule 6 to the Act specified in column 1 of this Table
Schedule 1, paragraphs 1 to 9, 10(1), 11(1), (5) to (8), 12, 13, 14(1) and (3), 15 and 16	The Scottish Police Services Authority	
Schedule 2, paragraphs 1 to 6, 8 and 9	Membership of the Scottish Crime and Drug Enforcement Agency	
Schedule 3	Transfers of staff and property	
Schedule 4	The Police Complaints Commissioner for Scotland	
Schedule 6, paragraphs 5(4) and (5), 7 and 12	Modifications of enactments	

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force further provisions of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (“the Act”) (asp 10).

Article 3 and the schedule bring the following provisions of the Act into force on 1st January 2007–

- (a) section 1(1) (establishment of the Scottish Police Services Authority);
- (b) section 1(2) (establishment of the Scottish Police Services Authority) but only for the purpose of bringing into force the provisions of schedule 1 specified in column 1 of the Table in the schedule;
- (c) section 2(1) (duty to establish and maintain the Agency);
- (d) section 4 (strategic priorities of the Authority), section 8 (provision of information to the Scottish Ministers), section 10 (grants);
- (e) section 12(1)(a), (b) and (d), (2) (members of the Agency), section 13 (strategic priorities of the Agency), section 16(1) (general functions of Director General of the Agency), section 18 (Scottish Ministers’ power to modify section 17), section 23 (regulations relating to the Agency), section 24 (the police support services: modification by order), section 25 (use of the police support services), section 30 (directions), section 31 (transfer of staff, property etc), section 32 (interpretation of Chapter 1);
- (f) section 33 (Police Complaints Commissioner for Scotland), section 34 (“relevant complaint” and “person serving with the police”), section 38(4) (reconsideration of a complaint: duties to keep persons informed), section 41 (appropriate authority in relation to a complaint) and section 47 (interpretation of Chapter 2);
- (g) section 83 (retention of samples etc.: prosecutions for sexual and violent offences);
- (h) section 85(3) (assessment following positive test under section 20A of the 1995 Act);
- (i) section 101 (modification of enactments) but only for the purpose of bringing into force the provisions of schedule 6 specified in column 1 of the Table in schedule 1;
- (j) schedule 1, paragraphs 1 to 9, 10(1), 11(1), (5) to (8), 12, 13, 14(1) and (3), 15 and 16 (the Scottish Police Services Authority);
- (k) schedule 2, paragraphs 1 to 6, 8 and 9 (membership of the Scottish Crime and Drug Enforcement Agency);
- (l) schedule 3 (transfers of staff and property);
- (m) schedule 4 (Police Complaints Commissioner for Scotland); and
- (n) schedule 6, paragraphs 5(4) and (5), 7 and 12 (modifications of enactments).

Article 3 and the schedule also bring section 35 (examination of manner of handling of complaint), section 36 (duty of Commissioner not to proceed with certain complaint handling reviews), section 39 (power of Commissioner to discontinue reconsideration), section 44 (provision of information to the Commissioner), section 84 (testing of arrested persons for Class A drugs) and section 90 (interpretation of sections 85 to 88) into force on the 1st January 2007 but only for the purpose of enabling orders and regulations under those provisions to be made.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

*(This note is not part of the Order)*

The following provisions of the Police, Public Order and Criminal Justice (Scotland) Act 2006 have been brought into force by commencement order made before the date of this Order:

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.S.I. No.</i>
Chapter 3 Part 1 (sections 48 to 50), chapter 1 of Part 2 (sections 51 to 69), schedule 5, Chapter 3 of Part 2 (sections 73 to 80), sections 81, 98, 101 (insofar as it relates to the specified provisions of schedule 6), schedule 6, paragraphs 1(1), (2), (4)(a), (5)(a), (5)(c), (5)(d), (8) and 2 to 4	1st September 2006	2006/432

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