

POLICE REFORM ACT 2002

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 6: Miscellaneous

Section 82: Nationality requirements

399. **Section 3** of the Act of Settlement 1700 provides that ‘no person born out of the kingdoms of England, Scotland or Ireland or the dominions thereunto belonging... shall... enjoy any office or place of trust either civil [sic] or military.’ Section 6 of the Aliens (Restriction) Amendment Act 1919 provides that no alien shall be appointed to any office or place in the Civil Service of the State, though there are various exceptions to these provisions. The prohibitions do not apply to Commonwealth citizens or to citizens of the Irish Republic by virtue of the British Nationality Act 1981, while the Aliens’ Employment Act 1955 as amended by the [European Communities \(Employment in the Civil Service\) Order 1991 \(SI 1991/1221\)](#) disapplies the prohibitions to various groups, such as British protected persons. Nonetheless, currently – and in consequence of the above – employment as a member of a police force of England and Wales, Scotland, Northern Ireland, NCIS, NCS, BTP, the United Kingdom Atomic Energy Authority Constabulary (UKAEAC), the Royal Parks Constabulary, or the Special Constabulary, is restricted to British citizens, citizens of the Irish Republic and Commonwealth citizens. If an applicant is a citizen of the Irish Republic or a Commonwealth citizen other residential and ancestry conditions must be satisfied.
400. **Subsection (1)** of this section provides that the prohibition on the employment of persons born out of the UK and the prohibition arising from nationality do not apply to employment in the police services of England and Wales, Scotland, Northern Ireland (including the Reserve Police Service of Northern Ireland), NCIS, NCS, BTP, UKAEAC, the Royal Parks Constabulary, and the Special Constabulary. Any person, regardless of birth or nationality, may be attested and may hold office as a constable.
401. **Subsections (2) and (3)** provide that the capability of holding office as a constable or special constable or for membership of any force or constabulary or for appointment to particular ranks, offices or positions will be subject to any regulations as to qualifications for appointment; or (in respect of members of NCIS and NCS) to terms and conditions of service; or (in relation to BTP, UKAEAC and Royal Parks Constabulary) to any other arrangements for appointment.
402. **Subsection (4)** states that these regulations, terms and conditions or arrangements for appointment may include, amongst other things, the setting of standards for competence in written and spoken English, qualification as to residence in the UK, and the ability to reserve certain posts which may be of a particularly sensitive nature for UK nationals or EEA nationals. Regulations covering competence in written and spoken English and

immigration status must be made in relation to police forces in England and Wales and Scotland, the Police Service of Northern Ireland, NCIS and NCS.

403. All new constables in England and Wales will still be obliged to take the oath of office as amended by section 83 of this Act.

Section 83: Attestation of constables

404. Every police officer and every special constable is required, on appointment, to be attested by making a declaration in a prescribed form before a justice of the peace in the force area concerned. The Police Advisory Board for England and Wales, on which all the main police organisations are represented, advised the Home Secretary in December 2000 that the wording of the attestation should be changed to make it clear that police officers had a duty to uphold the rights of and protect everyone living or staying in the country, not just Her Majesty's subjects. The Home Secretary has accepted the advice of the Police Advisory Board.
405. The prescribed form of wording is currently set out in Schedule 4 to the 1996 Act. This section inserts a new form of words for the attestation into Schedule 4 to the 1996 Act. The existing and revised declarations are set out below with the words to be omitted or added shown in italics in each case.
406. Existing form of declaration:
- I, of do solemnly and sincerely declare and affirm that I will well and truly serve *Our Sovereign Lady* the Queen in the office of constable, *without favour or affection, malice or ill will*; and that I will to the best of my power cause the peace to be kept and preserved, and prevent all offences against *the persons and properties of Her Majesty's subjects*; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law.
407. Revised form of declaration:
- I, of do solemnly and sincerely declare and affirm that I will well and truly serve the Queen in the office of constable, *with fairness, integrity, diligence and impartiality, upholding fundamental human rights and according equal respect to all people*; and that I will, to the best of my power, cause the peace to be kept and preserved and prevent all offences against *people and property*; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof faithfully according to law.
408. When the new attestation comes into effect, an order will be made under the Welsh Language Act to enable Welsh-speaking officers to make the attestation in Welsh.

Section 84: Delegation of functions in relation to senior appointments

409. The Secretary of State has a statutory responsibility to approve every appointment made by a police authority of officers from the rank of assistant chief constable upwards, together with the equivalent ranks in the Metropolitan Police, by virtue of sections 9F, 9FA, 9G, 11, 11A and 12 of 1996 Act. Section 12A of the 1996 Act also requires the Secretary of State to approve an officer acting as a chief constable for more than 3 months. In both cases, his approval power has always been exercised on the basis of professional advice.
410. New arrangements for considering the approval of these posts were set up in spring 2001. These arrangements were designed to make the approval process more transparent. A Senior Appointments Panel, chaired by HM Chief Inspector of Constabulary (HMCIC), which includes representatives from the Association of Police Authorities, the Association of Chief Police Officers and the Home Office, together with an independent member, now looks at all cases.

411. As part of the new arrangements, it was decided that the Panel should be able to exercise the Secretary of State's power of approval in routine cases. A change to the primary legislation is needed to allow this to happen. This section introduces provision allowing the Secretary of State to delegate his approval. Since the Panel is not a statutory body, the approval powers are being delegated to HMCIC. In practice, HMCIC will act in agreement with the Panel.
412. The section similarly confers powers to delegate powers of approval of an officer acting as a chief constable for more than 3 months to HMCIC.

Section 85: Director General of NCIS

413. This section amends section 6 of the Police Act 1997 to broaden the eligibility for appointment as Director General of the National Criminal Intelligence Service. Currently the post is open only to chief constables; the Commissioner of the City of London Police; the Commissioner, Deputy Commissioner, Assistant Commissioners and Deputy Assistant Commissioners of the Metropolitan Police; or officers eligible to be appointed to these ranks. The Director General holds the rank of chief constable. The intention is that any person with relevant experience and expertise should be eligible to apply.
414. NCIS is a multi-agency organisation employing civilians and police officers. The Director General's job is not comparable to that of a chief constable in so far as the exercise of police powers is concerned. NCIS's focus is on intelligence, not operational work, and police officers are not the only individuals with the skills and expertise necessary to head the organisation.
415. The section provides that if a police officer is appointed as Director General, he will (as now) hold the rank of chief constable. A civilian so appointed will not have that rank, but will have the necessary powers to carry out his functions through existing legislative provision. The authority the Director General has is drawn from his position as Director General, rather than by virtue of being a Chief Constable. For example, the Director General is specifically mentioned in the Regulation of Investigatory Powers Act 2000, and in the Police Act 1997 relating to mutual aid and temporary service.
416. *Subsection (2)* provides that a panel of the Service Authority shall draw up a shortlist of candidates for approval by the Secretary of State. The current wording restricts the list of candidates to those "eligible for appointment".
417. *Subsection (3)* deletes section 6(3) of the 1997 Act. That subsection lists the police officers eligible to apply to be Director General.
418. *Subsection (4)* adds a new subsection (5A), which provides that the Director General shall not be attested as a constable if he was not a serving officer before his appointment, or is already attested as a constable.
419. *Subsection (5)* provides that sections 6(6) and 6(7) of the 1997 Act will not apply if the Director General is not a police officer. These subsections confer on the Director General the powers of a constable and the rank of chief constable.
420. *Subsection (6)* adds two new subsections to section 6 of the 1997 Act, defining terms used in that section.

Section 86: Police members of NCIS

421. With the exception of senior officers, the Police Act 1997 only allows police officers to be seconded to NCIS, rather than working there permanently. Furthermore, it restricts secondments to NCIS to officers from the forty-three forces of England and Wales, forces in Scotland and the Police Service of Northern Ireland.

422. This section amends section 9 of the Police Act 1997 to provide, for the first time, that NCIS may recruit police officers of any rank directly from police forces, rather than rely solely on secondments. NCIS will advertise for officers in the same way as territorial forces. The intention is that only serving police officers may apply, but from a wide range of forces. In addition to the forces from which NCIS will be able to second, NCIS will be able to recruit officers from the BTP and from the Channel Islands and Isle of Man. The recruitment pool (but not the secondment pool) for NCIS and NCS will be identical.
423. *Subsection (2)* provides that, subject to new subsection (3), police officers of any rank may be appointed as police members of NCIS, in addition to being engaged there on temporary service.
424. *Subsection (3)* replaces the existing subsection (3) to provide that police officers may be recruited from: any force maintained under section 2 of the 1996 Act; the Metropolitan Police; the City of London Police; police forces in Scotland; the Police Service of Northern Ireland; the National Crime Squad; the Ministry of Defence Police; the British Transport Police; and the police forces of Jersey, Guernsey and the Isle of Man. It also provides that officers on temporary service may be recruited on a permanent basis.
425. *Subsection (4)* amends subsection (9) to provide that the appointment of police officers at the rank of assistant chief constable may not be delegated to the Director General from the Service Authority.
426. *Subsection (5)* adds a new subsection (9A), which defines ‘temporary service’. The effect of this provision is to define the pool of officers who may be recruited by NCIS in reliance on section 9(3)(k) of the 1997 Act.

Section 87: Police members of NCS

427. With the exception of senior officers, the Police Act 1997 only allows police officers to be seconded to NCS, rather than working there permanently. Furthermore, it restricts secondments to NCS to officers from the forty-three forces of England and Wales. This is more limited than the provisions in the 1997 Act relating to NCIS, and reflects the fact that the NCS operates only in England and Wales.
428. This section amends section 55 of the 1997 Act to provide, for the first time, that NCS may recruit police officers of any rank directly from police forces, rather than rely solely on secondments. NCIS will advertise for officers in the same way as territorial forces. The intention is that only serving police officers may apply, but from a wide range of forces. In addition to the forces from which NCS will be able to second, NCS will be able to recruit officers from Scotland, Northern Ireland, the BTP and from the Channel Islands and Isle of Man. The recruitment pool (but not the secondment pool) for NCIS and NCS will be identical.
429. *Subsection (2)* provides that, subject to new subsection (3) police officers of any rank may be appointed as police members of NCS, in addition to being engaged there on temporary service.
430. *Subsection (3)* replaces the existing subsection (3) to provide that police officers may be recruited from: any force maintained under section 2 of the 1996 Act; the Metropolitan Police; the City of London Police; police forces in Scotland; the Police Service of Northern Ireland; the National Criminal Intelligence Service; the Ministry of Defence Police; the British Transport Police; and the police forces of Jersey, Guernsey and the Isle of Man. It also provides that officers on temporary service in the NCS may be recruited on a permanent basis.
431. *Subsection (4)* amends subsection (9) to provide that the appointment of police officers at the rank of assistant chief constable may not be delegated to the Director General from the Service Authority.

432. *Subsection (5)* adds a new subsection (9A), which defines ‘temporary service’. The effect of this provision is to define the pool of officers who may be recruited by NCS in reliance on section 55(3(k)) of the 1997 Act.

Sections 88 and 89: Regulations for NCIS and NCS

433. *Sections 88 and 89* introduce powers to make regulations in respect of NCIS and NCS similar to that contained in section 50 of the 1996 Act. This brings NCIS and NCS into line with police forces as regards the framework that applies to the employment of police officers. The need for such regulation-making powers is consequential on the introduction of direct recruitment provided for in sections 86 and 87. As a result of direct recruitment, the organisations will, for example, require a formal rank structure and promotion system. That has not been necessary in relation to officers on secondment, who bring their rank and conditions of service with them.
434. *Subsection (1)* of each section inserts into the Police Act 1997 a new section (sections 34A and 79A respectively). The regulations may cover such issues as pay and allowances, rank structure and promotion. In the case of NCIS, which has UK-wide jurisdiction, the Secretary of State is required to consult the Scottish Ministers before making regulations under this section. That is not a requirement for NCS, because NCS operates in England and Wales only.
435. *Subsection (2)* of each section amends, respectively, sections 37 and 81 of the Police Act 1997 to make similar provision for NCIS and NCS as section 36 does for the conduct of disciplinary proceedings against members of Home Office forces. This will enable regulations to be made for NCIS and NCS covering the rights of the IPCC in regards to disciplinary proceedings; the right of specified persons to participate in or to be present at disciplinary proceedings; the representation of persons subject to disciplinary proceedings; and to provide for inference to be drawn from a failure to mention a fact when questioned or charged in disciplinary proceedings. New subsection (2A) (c) does not appear in section 36 because section 84 of the 1996 Act already covers the representation of persons in police forces subject to disciplinary proceedings in sufficient detail. New subsection (2B) restricts application of these provisions to NCIS to England and Wales, since that is the jurisdiction of the IPCC.
436. *Subsection (3)* of each section introduces provisions that mirror section 85(1) of the 1996 Act, bringing NCIS and NCS into line with Home Office forces, where officers below the rank of chief superintendent can be reduced in rank as part of the disciplinary process.

Sections 90 and 91: Supplementary provisions about police membership of NCIS and NCS

437. The supplementary provisions contained in these sections provide that officers recruited to NCIS and NCS will be covered by the police representative institutions identified in the 1996 Act. Officers in NCIS and NCS will be eligible to be represented by the Police Federation. The Police Negotiating Board will represent their interests and the Secretary of State will be required to consult the Police Negotiating Board before making regulations under new section 34A or 79A. Similarly, the Police Advisory Board will have the duty of advising on general matters relating to officers recruited by either organisation and the Secretary of State will be required to consult the Police Advisory Board before making regulations in relation to such officers. *Subsections (6) and (7)* in each section makes it clear that the provisions in the Police Act 1997 relating to retirement of police members of NCIS and NCS in the interests of efficiency or effectiveness refer only to police officers of Assistant Chief Constable rank and above. The provisions do not apply to senior civilian members of the two organisations, who are covered by their terms and conditions of service.

Section 92: Police authorities to produce three-year strategy plans

438. This section amends the 1996 Act, requiring police authorities to produce, every three years, a plan that sets out the strategic direction and focus for the force area. The purpose of the plan is to focus on the medium to longer term direction of the force, which is often not possible in the annual plans that they already produce. It should be developed in consultation with the community and should highlight future developments required for the effective policing of the force area, taking into account local circumstances and proposed national initiatives.
439. *Subsection (1)* inserts a new section 6A in the 1996 Act. New *section 6A(1)* requires the production of a new three-year strategy plan by police authorities.
440. New *section 6A(2)* says that the first draft of the strategy plan is to be prepared for the police authority by the chief officer of the force area.
441. New *section 6A(5)* refers to the new annual National Policing Plan, which is introduced by section 1 of this Act. It requires a police authority or chief officer, in issuing, preparing or modifying the strategy plan, to have regard to the National Policing Plan currently in force. Consequently, and also in view of the possibility of local changes, new *section 6A(4)* makes provision for the police authority to amend the strategy plan during its three year span.
442. In turn, the three-year strategy plan will inform the subordinate plans already required of police authorities. New *section 6A(13)* ensures that this is the case for the best value plan required under section 6 of the Local Government Act 1999. Similarly, *subsection (2)* ensures that this is the case for the local policing plan required under section 8 of the 1996 Act. *Subsection (3)* requires that the police authority's annual report, provided for under section 9 of the 1996 Act, assesses the extent to which the strategy plan has been implemented.
443. New *section 6A(3)* requires the chief officer to have regard to the views of the public in the force area before he submits the first draft of the strategy plan. These are to be obtained in accordance with the procedures already in place under section 96 of the 1996 Act, which requires police authorities to make arrangements for, amongst other things, obtaining the views of the people in the force area about matters concerning the policing of the area.
444. New *section 6A(6)* says that the Secretary of State must issue (and can revise) guidance on the form and content of the strategy plans, to which police authorities and chief officers must have regard. Before issuing or revising such guidance, the Secretary of State must consult those whom he considers represent the interests of police authorities and chief officers of police. Where this formulation occurs in existing legislation, the Secretary of State currently consults the APA and ACPO and/or CPOSA. The Secretary of State may also consult anyone else he chooses (new *section 6A(7)*).
445. Before the plan, or any amendment to it, is finalised, the police authority is required to submit it to the Secretary of State (new *section 6A(8)*). If the Secretary of State concludes that the proposed plan, or any modification to it, is inconsistent with the National Policing Plan, he must inform the police authority of his conclusions, having first consulted the relevant authority and chief officer and persons whom he considers represent the interests of police authorities and chief officers of police as a whole (new *sections 6A(10)* and *(11)*). New *section 6A(9)* provides that plans should be published and a copy sent to the Secretary of State.
446. New *section 6A(12)* ensures that the police authority consults with the chief officer before altering a three-year strategy plan in any way.
447. New *section 6A(14)* provides that the procedure for submitting plans and the start date of the first set of strategy plans will be set out by regulations made by statutory instrument. The period to be covered by the first strategy plan may be less than three years to enable

the planning periods for police authority plans to be aligned with those for Crime and Disorder Reduction Partnerships.

Section 93: Quorum for the Service Authorities under the 1997 Act

448. This section replaces the quorum for the NCIS and NCS Service Authorities as set out in paragraph 4(1) of Schedule 2A to the Police Act 1997 (Schedule 2A was introduced by Schedule 6 to the Criminal Justice and Police Act 2001). The quorum provisions of the 2001 Act have not been brought into effect.
449. The quorum introduced in the 2001 Act replaced a simple quorum of one quarter of the membership. This was contained in Schedule 1 to the Police Act 1997 (Provisions in relation to the [NCIS Service Authority](#)) [Order 1998 \(SI 1998/63\)](#), which introduced provisions analogous to those applying to police authorities. That was repealed as a consequence of the repeal of section 44 of the 1997 Act.
450. The quorum currently in the 2001 Act requires the attendance of at least one ACPO member and at least one APA member, as well as an independent member appointed by the Secretary of State. The problem is that there is only one ACPO member and one APA member on the new NCIS Service Authority. If either one were absent, the effectiveness of the Service Authority would be seriously impeded, as it would not be able to conduct any formal business. The effect on the NCS Service Authority is less serious, because it has two ACPO and two APA members.
451. The quorum introduced in this Act will require a minimum of four members to be present (of a membership of 11). Of the four, at least one must be, under new *paragraph (1A)(a)*, a person appointed by the Secretary of State (an independent member) and at least two others must be, under new *paragraph (1A)(b)*, core members, but not Crown Servants appointed under paragraph 6 or 6A of Schedule 1 to the 1997 Act by the Secretary of State or a customs officer. The common core membership of the two service authorities is eight strong and comprises: 3 or 4 independent members (including the Chairman) appointed by the Secretary of State, 1 or 2 (depending on the number of independent members) Crown Servants appointed by the Secretary of State, 1 chief police officer, 1 member of a police authority, and 1 customs officer.
452. Paragraph 4(1) of Schedule 2A to the Police Act 1997 was not brought into effect with other provisions introduced by Schedule 6 to the Criminal Justice and Police Act 2001. Consequently there has been no statutory quorum for the Service Authorities since April 2002, when the new Authorities started work, but appropriate interim measures were introduced in the standing orders of the Service Authorities to cover the period up until the provisions contained in this section are brought into effect.

Section 94: Expenses of members of police authorities etc.

453. Paragraph 25 of Schedule 2 to the 1996 Act provided that a police authority may pay its members such expenses and allowances as the Secretary of State may determine. This provision was amended by section 107 of the Criminal Justice and Police Act 2001 to remove the Secretary of State's automatic prescription as to schemes for paying allowances. Police authorities are now free to determine their own schemes of allowances for their chairmen, vice chairmen and other members. The amended provision, however, requires police authorities when making or revising arrangements for the payment of allowances to have regard to any guidance from the Secretary of State. It also gives the Secretary of State a reserve power to limit by regulation the allowances paid. Separate provisions were made for the Metropolitan Police Authority and for all other police authorities outside London. This is because members of the Metropolitan Police Authority who are members of the Greater London Assembly are salaried and as such may not be paid allowances in performance of their duties on the police authority. The position as regards to expenses remained unchanged by the Criminal Justice and Police Act 2001.

454. This section aims to remove this distinction and bring the provisions relating to expenses into line with those on allowances. The exception is that while Greater London Assembly members of the Metropolitan Police Authority may not be paid allowances, they may receive reimbursement of expenses.
455. *Subsections (1) and (2)* amend paragraph 25A of Schedule 2 to the 1996 Act and paragraph 20A of Schedule 2A to the 1996 Act to add the reimbursement of expenses to existing provision on the payment of allowances to members of police authorities outside London and to members of the Metropolitan Police Authority.
456. *Subsection (3)* amends sub-paragraph (6) of paragraph 20A of Schedule 2A to the 1996 Act to make it clear that the reference in that sub-paragraph disallowing payment to any member of the Metropolitan Police Authority who is also a member of the London Assembly refers only to allowances and not to expenses.
457. *Subsections (4)(a) and (b)* repeal the remaining provisions in the 1996 Act whereby police authorities outside London and the Metropolitan Police Authority may only make reimbursement of expenses as the Secretary of State may determine.

Section 95: Duties under the Health and Safety at Work etc. Act 1974

458. This section amends health and safety legislation so that police authorities are deemed to be the employers of police officers for the purposes of that legislation. The legislation previously provided for this role to be undertaken by chief officers of police.
459. *Subsections (1) to (3)* amend health and safety and related legislation so that police authorities are deemed to be employers for the purposes of health and safety legislation; equivalent changes are made for the National Criminal Intelligence Service, the National Crime Squad, and other bodies of constables.
460. *Subsection (4)* makes it clear that in relation to contraventions of the Health and Safety at Work etc. Act 1974, it is the police authority who is treated as the employer of officers rather than the chief officer who would otherwise be vicariously liable for unlawful conduct of officers under his direction and control. Subsection (4) also introduces a regulation-making power to enable the position of chief officers in relation to health and safety decisions, and to police premises, to be clarified if this becomes necessary in the light of experience.
461. *Subsections (5) and (6)* make consequential amendments.
462. *Subsection (7)* repeals the provision under which police authorities may indemnify chief officers against damages etc. awarded against them as a result of health and safety proceedings brought against them as employers.

Section 96: President of ACPO

463. The Association of Chief Police Officers of England, Wales and Northern Ireland represents chief officers of police above the rank of chief superintendent. The President of ACPO, elected by the membership, is drawn from among the ranks of the chief constables of England, Wales and Northern Ireland, the Commissioner, Deputy Commissioner and Assistant Commissioners of the Metropolitan Police Service (MPS) and the Commissioner of the City of London Police. (The Deputy Commissioner and Assistant Commissioners of the MPS are equivalent ranks to chief constable.) Currently, the President of ACPO serves for one year and remains in charge of his force during that time. From April 2003, the ACPO President will be elected for three years and will either resign or retire from his force. This section makes provision for the President of ACPO to retain the office of constable and the rank of chief constable during his term of office.

Section 97: Crime and disorder reduction partnerships

464. The Crime and Disorder Act 1998 provides a statutory framework for ‘responsible authorities’ – currently chief officers of police and local authorities, and commonly known as Crime and Disorder Reduction Partnerships (CDRPs) – to formulate and implement a strategy to reduce crime and disorder in their area. They must co-operate with a wide range of other local agencies, including probation, health, police authorities and the private and voluntary sector. There are 354 CDRPs in England and 22 in Wales.
465. Drug Action Teams (DATs) were set up in 1995 under the white paper *Tackling Drugs Together* (CM 2846) with responsibility for delivering the Government’s anti-drugs programmes at a local level. Although not formally accountable for their overall performance (they do not have statutory status), DATs are financially accountable for the sums of money which come to them as pooled budgets. There are 149 DATs in England, aligned along local authority boundaries. They bring together senior representatives of all the local agencies involved in tackling the misuse of drugs, including the health authority, local authority, police, probation, social services, education and youth services, and the voluntary sector. In Wales, the relevant bodies are Drug and Alcohol Action Teams (DAATs) with responsibility for delivery of local strategies on substance misuse.
466. This section requires CDRPs also to formulate and implement a strategy for combating the misuse of drugs. This will raise local delivery of the National Drugs Strategy onto a statutory footing. In order to maintain the profile of treatment-related aspects of the Drugs Strategy and the contribution of health to the wider crime and disorder reduction agenda, Primary Care Trusts in England and health authorities in Wales will be deemed responsible authorities for development and delivery of the wider crime reduction agenda. This should also – particularly in conjunction with the other changes – provide greater scope to consider how best CDRPs and DATs can work together more effectively at the local level. The section also raises police authorities to the level of responsible authorities (currently, existing responsible authorities are required to co-operate with police authorities in formulating a crime and disorder reduction strategy, and vice versa, but police authorities are not responsible authorities). In addition, the section designates fire authorities as responsible authorities. The Act also proposes that partnership areas may merge in the interests of reducing crime and disorder or the misuse of drugs.
467. This section and section 98 apply slightly differently to Wales compared to England. This is because local government is a devolved matter, for which the National Assembly for Wales is responsible.
468. Moreover, in as far as this section and section 98 relate to local government areas in Wales, they come into force on the days that the National Assembly for Wales will specify by order made by statutory instrument (see section 108(4)).
469. *Subsection (1)* provides for amendments to the Crime and Disorder Act 1998, which establishes the requirement for responsible authorities – chief officers of police and local authorities – jointly to formulate and implement a crime and disorder reduction strategy for their area.
470. *Subsection (2)* adds police authorities and fire authorities to the list of responsible authorities required to formulate and implement a crime and disorder reduction strategy. It also provides that the relevant health organisation is added to that list. In England, this is every Primary Care Trust the whole or part of which lies within the local government area; in Wales, this is every health authority the whole or part of which lies within the local government area.
471. *Subsection (3)* provides that the Secretary of State may by order merge two or more partnership areas in England if he considers it would be in the interests of reducing crime and disorder or the misuse of drugs. Such an order may be at the joint request

of the relevant responsible authorities or on the direction of the Secretary of State after consultation with the responsible authorities.

472. *Subsection (4)* amends the provisions in the 1998 Act for consultation with stakeholders who are not responsible authorities under that Act. The effect of *subsection (4)(a)* is to remove the obligation to consult the relevant police authority and health organisation, as under this Act these are now responsible authorities. *Subsection (4)(b)* adds that, in Wales, the National Assembly for Wales may specify by order other persons or bodies to be consulted.
473. *Subsection (5)* allows the National Assembly for Wales to specify by order other persons or bodies to be asked to participate in the exercise of functions by the responsible authorities. This is in addition to those whom the Secretary of State may specify by order under current legislation.
474. *Subsection (7)* maintains the requirement for the responsible authorities in England and Wales to produce a strategy for the reduction of crime and disorder in the area and provides a new requirement for those in England to produce a strategy for combating misuse of drugs and for those in Wales to produce a strategy combating substance misuse (reflecting the wider remit of DAATs in Wales than DATs in England).
475. *Subsection (8)* makes further provision for responsible authorities in Wales when formulating and implementing a strategy combating substance misuse: responsible authorities must also have regard to guidance issued by the National Assembly for Wales.
476. *Subsection (9)* makes similar provision for reviews by responsible authorities as *subsection (7)* does regarding the production of strategies by responsible authorities. It retains the existing requirement for responsible authorities in England and Wales to carry out a review of the levels of patterns of crime and disorder in the area, and provides a new requirement for those in England to carry out a review of the levels and patterns of the misuse of drugs in the area and for those in Wales to carry out a review of the levels and patterns of substance misuse in the area.
477. *Subsection (10)* provides for the responsible authorities to submit a review of implementation of their strategies within one month of the end of each reporting period – in England to the Secretary of State, and in Wales to the Secretary of State and to the National Assembly for Wales.
478. *Subsection (11)* provides that the reporting period for submission of a review on implementation of the strategy shall be on an annual basis.
479. *Subsection (12)* adds combined fire authorities to those authorities on which there is a duty to do all that they reasonably can do to prevent crime and disorder in their area in the exercise of their functions. This brings combined fire authorities into line with non-metropolitan local authorities exercising their function as fire authorities and metropolitan fire authorities who are presently tasked under section 17(2) of the Crime and Disorder Act 1998 with this duty.
480. *Subsection (13)* allows the National Assembly of Wales as well as the Secretary of State to exercise powers of Ministers by statutory instrument. It also stipulates that the new order-making powers for the Secretary of State (but not the National Assembly for Wales) proposed under this section will be subject to negative resolution procedure.
481. *Subsection (14)* addresses a different matter. It amends section 115(2) of the Crime and Disorder Act 1998 to permit any person (including a chief officer of police) to make disclosures, including personal information, to a parish council (sometimes known as a town council) in England and a community council in Wales, where it is expedient for the purposes of that Act.

482. *Subsection (15)* makes transitional provision for England to ensure that the provisions of the Act apply to the period before Primary Care Trusts are established.

Section 98: Secretary of State's functions in relation to strategies

483. This section inserts a new section 6A in the Crime and Disorder Act 1998, which requires the formulation and implementation of local strategies for the reduction of crime and disorder.
484. New *section 6A(1)* provides for the Secretary of State by order subject to the negative resolution procedure to require responsible authorities to make provision in their strategies for specified areas of crime or disorder. It also makes provision for the Secretary of State by order subject to the negative resolution procedure to require responsible authorities in England to ensure that any strategies combating the misuse of drugs encompass such other forms of substance misuse as the order specifies. This would enable bringing the remit of English responsible authorities into line with that of their Welsh counterparts.
485. New *section 6A(2)* requires that responsible authorities submit a copy of their strategies, and a copy of the documents required under section 6(5), to the Secretary of State. The documents referred to under section 6(5) must include a list of co-operating persons and bodies, the reviews discussed in section 97, a report based on the review, and the strategy – including objectives, lead groups pursuing those objectives, and performance targets. New *section 6A(3)* stipulates that responsible authorities must have regard to any guidance issued by the Secretary of State on the form and content for the publication of any document to be published under section 6(5). New *section 6A(4)* provides that any proposed changes by the responsible authorities to their strategies must also be sent to the Secretary of State.
486. New *section 6A(5)* states that all references to the Secretary of State in new *sections 6A(2) to 6A(4)* refer, in relation to a local government area in Wales, to the National Assembly for Wales as well as the Secretary of State. Consequently, the power to issue guidance is only exercisable by the Secretary of State and the National Assembly for Wales acting jointly.
487. New *section 6A(6)* provides definitions of terms used in the section.

Section 99: Power to modify the functions and structure of PITO

488. The Police Information Technology Organisation was established by Part IV of the Police Act 1997 (the 1997 Act) to carry out activities relating to information technology equipment and systems for the use of the police service. PITO acquired its statutory status on 1st April 1998. It is a body corporate and an executive NDPB. It operates within the provisions set out in the 1997 Act and any relevant subordinate legislation. The Home Office is the sponsor Department. Schedule 8 to the 1997 Act sets out the constitution of the PITO Board, conditions applying to Board membership, conditions applying to appointment of staff (regarding numbers, terms and conditions), membership and conduct of Committees, regulation of proceedings, evidence, money, requirements for an annual report and the status of the organisation with respect to the Crown.
489. As currently constituted, PITO has two broad statutory functions:
- to carry out activities relating to information technology (IT) equipment and systems for the use of the police service; and
 - to provide the police with a procurement, contract management and advisory service covering both IT and non-IT related goods and services.

490. NDPB status, coupled with a tripartite governance involving ACPO, the APA and the Home Office, was adopted to enable partnership working and to better reflect policing IT requirements.
491. This section provides a broad enabling power which will allow amendment, by affirmative procedure secondary legislation, to Part IV (sections 109-111 and Schedule 8) of the 1997 Act, to enable changes in the functions, name, structure, accountability and management practices of PITO.
492. *Subsection (1)* sets out the scope of the amendments that can be made to the provisions governing PITO. *Subsection (1)(a)* ensures that the amendments can give PITO additional functions or amend existing functions. *Subsection (1)(b)* ensures that the amendments can impose duties on PITO in relation to how its functions are to be carried out. *Subsection (1)(c)* ensures that the amendments can modify the constitution of PITO (currently set out in Schedule 8 to the 1997 Act) and can also modify any provision in Schedule 8 to or sections 109-111 of the 1997 Act which relate to the management or control of PITO. *Subsection (1)(d)* ensures that the amendments can give the Secretary of State powers in relation to the functions, duties, constitution, management or control of PITO.
493. *Subsection (2)* clarifies the provisions that can be made under this section. Under *subsection (2)(a)*, the provisions can amend primary legislation in Part IV of the 1997 Act in such manner as the Secretary of State thinks fit (as long as the purpose of the amendment falls within one of the purposes set out in subsection (1)). The power also enables other statutes that refer to PITO, such as the 1996 Act, to be amended to ensure that their provision is consistent with any amendments made under this section to Part IV of the 1997 Act. Under *subsection (2)(b)*, the provisions, if they are intended to confer functions on PITO, can confer functions on any agencies, bodies, organisations and persons outside those connected with policing, but not outside the criminal justice system. Under *subsection (2)(c)*, the provisions can require any persons in relation to whom PITO has been given functions to consult with PITO and perform other tasks related to PITO as specified by the order. Under *subsection (2)(d)*, the provisions, as a consequence of any change to PITO's functions under subsection 1(a) can also change PITO's name. This is to ensure that if PITO's functions are changed, the name continues to accurately reflect the functions of the organisation. This provision does not mean that PITO can be abolished – the same legal entity would continue in operation, but under a different name. Under *subsection (2)(e)*, the provisions can impose obligations on PITO under subsection 1(b) in relation to PITO's planning process and in relation to any consultation that the Secretary of State may decide to require PITO to undertake. Under *subsection (2)(f)*, any provisions made under subsection (1) can also provide for the Secretary of State to make determinations, or give approval, or give an opinion from time to time, in relation to any matter. This is to ensure that requirements can be made under subsection (1) for PITO to seek approval or an opinion from the Secretary of State, or to comply with his determination on any given matter.
494. *Subsection (3)* ensures that the prison service and the probation service are included in the definition of 'criminal justice system' in subsection 2(b).
495. *Subsection (4)* places an obligation on the Secretary of State to consult with Scottish Ministers prior to making any order under this section.
496. *Subsection (5)* provides that any orders made under this section are subject to the affirmative resolution procedure.

Section 100: Metropolitan Police Authority Housing

497. Paragraph 51 of Schedule 27 to the Greater London Authority Act 1999 (GLA Act) amended the Housing Act 1985 (the 1985 Act) by adding the Metropolitan Police Authority (MPA) to the definition of local authorities in section 4 of that Act. This meant that the MPA fulfilled the 'landlord conditions' for the purpose of creating

secure tenancies under the 1985 Act, leading to a number of police officers occupying properties owned by the MPA being able to exercise a right to buy their properties at a discount once the two year qualifying period elapsed – which happened on 3 July 2002.

- 498. The creation of the secure tenancies was unintended. The amendment removes the MPA from the secure tenancy regime, and makes various other provisions regarding affected tenants, not least because the amendment became law after the qualifying date for secure tenants to be able to exercise the right to buy at a discount had been reached.
- 499. In addition to the measures specified on the face of the Act, in March/April 2001 the Metropolitan Police Service came to an agreement with the Police Federation to extend the period officers could occupy MPA housing, if they had been secure tenants and they did not exercise their right to buy prior to the amendment being brought into effect, by 2 years (up to a maximum occupancy of 7 years).
- 500. Future tenancies granted by the MPA will be assured shorthold tenancies.
- 501. The effect of *subsection (1)* is to remove the Metropolitan Police Authority from the definition of local authorities contained in section 4 of the Housing Act 1985. This will result in the Metropolitan Police Authority no longer fulfilling the ‘landlord conditions’ for the purpose of creating secure tenancies under the 1985 Act. Secure tenancies already granted will cease to be secure and in particular tenants will no longer be able to exercise a right to buy.
- 502. *Subsection (2)* removes the Metropolitan Police Authority from the definition of local authority in Schedule 1 to the Housing Act 1988. This enables the Metropolitan Police Authority to grant assured shorthold tenancies consistent with its practice before amendment of the Housing Act 1985.
- 503. The effect of *subsection (3)(a)* is to allow any secure tenant who acquired the right to buy before the day on which the Act was passed and either served a notice claiming to exercise that right before the Act was passed, or served such a notice within 3 months of the Act being passed, to complete the purchase process within the framework of the Housing Act 1985.
- 504. *Subsection (3)(b)* will enable former secure tenants to count the period spent as a secure tenant towards the qualifying period for acquiring the right to buy (and the calculation for discount) if they move to another secure tenancy (though not one with the Metropolitan Police Authority).
- 505. *Subsection (4)* ensures that those tenancies not purchased within the provisions of subsection (3)(a) become assured shorthold tenancies.
- 506. This section – and the consequential repeals as a result of this section, listed in Schedule 8 – came into effect on Royal Assent (see section 108(3)).

Section 101: Provision of goods and services by police authorities

- 507. The Local Authorities Goods and Services Act 1970 provides that a local authority may supply goods and services to any public body. Under section 18 of the 1996 Act, the provisions of the 1970 Act apply to any police authority established under section 3 of the 1996 Act, and, following amendment by the Greater London Authority Act 1999, to the Metropolitan Police Authority. The reference in the 1970 Act to “any public body” was widened in section 18 to read “any person”.
- 508. Consequently, police authorities benefit by being able to supply, by agreement, goods and services to any person.
- 509. The Common Council of the City of London was not established as a police authority under section 3 of the Act and has therefore not been able to benefit in the same way as other authorities. The purpose of the amendment in this section is to bring the Common Council in line with other police authorities.

510. The provision amends section 18 of the 1996 Act.
511. New *subsection (1)(b)* will enable the Common Council of the City of London, in its capacity as Police Authority to the City of London Police, to be able to benefit, as other police authorities do, from the Local Authorities Goods and Services Act 1970.

Section 102: Liability for wrongful acts of constables etc.

512. This section clarifies the liabilities of chief officers of police in the UK, the Home Secretary, the Directors General of NCIS and the NCS, the Secretary of State for Northern Ireland, the Police Ombudsman of Northern Ireland, the Central Police Training and Development Agency and the Police Information Technology Organisation by making them liable for any unlawful conduct of those whom they employ or whom act under their control.
513. *Subsection (1)* substitutes the words “any unlawful conduct of” for each reference to “torts committed by” in the sections and Schedules listed in *subsection (2)*. It also replaces “in respect of any such tort” with “, in the case of a tort,” in those sections and Schedules. *Subsection (3)* makes similar provision covering the Police Information Technology Organisation. *Subsections (7)* and *(8)* make similar provision for Scotland.
514. *Subsection (4)* substitutes the words “any unlawful conduct of” for each reference to “a tort committed by” in the sections and Schedules listed in *subsection (5)*.
515. Section 42(6)(a) of the Police Act 1997 ensured that section 42(1), regarding the liability of the Director General of NCIS, applied to Scotland by making necessary modifications to that section. As a result of the changes in this section of this Act, separate provision regarding Scotland is no longer necessary (section 42(1) as amended will apply equally), so *subsection (6)* omits section 42(6)(a) of the 1997 Act accordingly.
516. In as far as this section amends the Police (Scotland) Act 1967, it comes into force on the days that Scottish Ministers will specify by order (see section 108(5)).

Section 103: Liability in respect of members of teams

517. The purpose of this section is to provide a legal basis for civil liabilities arising from operations of joint investigation teams involving police officers from England, Wales, Scotland, Northern Ireland and law enforcement officers from abroad. The United Kingdom is obliged, if it agrees to the setting up of such teams through its participation in international agreements such as the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union, to provide arrangements for the satisfaction of civil claims that may arise from actions of team members when they are not operating in their own country. These arrangements are intended to provide a firmer legal basis for the setting up of such teams which are important in strengthening police co-operation between participating countries by allowing for the speedier and more effective sharing of information and expertise across national boundaries in combating the common threat from serious and organised crime.
518. *Subsection (1)* inserts new subsections (6), (7) and (8) into section 88 of the 1996 Act to extend the liabilities of chief officers of police by providing that they shall be liable for any unlawful conduct of members of international joint investigation teams formed in accordance with the specified international agreements. The specified agreements may be added to by an order made by the Secretary of State, subject to the negative resolution procedure.
519. *Subsections (2), (3), (4) and (5)* similarly extend the liabilities of the Directors General of the National Criminal Intelligence Service and the National Crime Squad, Scottish chief constables and the chief constable of the Police Service of Northern Ireland respectively. *Subsection (2)* inserts new subsections (5A), (5B) and (5C) into section 42

of the Police Act 1997. *Subsection (3)* inserts new subsections (6), (7) and (8) into section 86 of the Police Act 1997. *Subsection (4)* inserts new subsections (5), (6) and (7) into section 39 of the Police (Scotland) Act 1967. *Subsection (5)* inserts new subsections (6), (7) and (8) into section 29 of the Police (Northern Ireland) Act 1998.

520. *Subsections (6) and (7)* oblige the Secretary of State to pass on any sums received by him by way of reimbursement to a police fund (etc.) which has paid out sums in settlement of a claim in respect of the conduct of a member of an international investigation team to that fund.
521. In as far as this section amends the Police (Scotland) Act 1967, it comes into force on the days that Scottish Ministers will specify by order (see section 108(5)).

Section 104: Assaults on members of teams

522. The purpose of this section is to provide, in accordance with obligations under international agreements to which the United Kingdom is a party, that members of international joint investigation teams from abroad are treated in the same way as constables while in England, Wales, Scotland and Northern Ireland with respect to offences committed against them.
523. This section inserts new subsections into section 89 of the 1996 Act, section 41 of the Police (Scotland) Act 1967 and section 66 of the Police (Northern Ireland) Act 1998 to provide that just as it is already an offence to assault or obstruct a constable or a person assisting a constable in the execution of his duty, it shall also be an offence to assault or obstruct members of international joint investigation teams carrying out the team's functions. This would apply whether or not the team member from abroad was in the company of a constable.
524. In as far as this section amends the Police (Scotland) Act 1967, it comes into force on the days that Scottish Ministers will specify by order (see section 108(5)).