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**Changes to legislation:** There are currently no known outstanding effects for the Police and Justice Act 2006, Cross  
Heading: Power to give directions to police authority or chief officer of police. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 2

#### AMENDMENTS TO THE POLICE ACT 1996

##### *Power to give directions to police authority or chief officer of police*

27 For section 40 (power to give directions to police authority) there is substituted—

##### **“40 Power to give directions in relation to police force**

- (1) Where the Secretary of State is satisfied that the whole or any part of a police force is failing to discharge any of its functions in an effective manner, whether generally or in particular respects, he may direct the police authority responsible for maintaining the force to take specified measures for the purpose of remedying the failure.
- (2) Where the Secretary of State is satisfied that the whole or a part of a police force will fail to discharge any of its functions in an effective manner, whether generally or in particular respects, unless remedial measures are taken, he may direct the police authority responsible for maintaining the force to take specified measures in order to prevent such a failure occurring.
- (3) The measures that may be specified in a direction under subsection (1) or (2) include the submission to the Secretary of State of an action plan setting out the measures which the person or persons submitting the plan propose to take for the purpose of remedying the failure in question or (as the case may be) preventing such a failure occurring.
- (4) The Secretary of State shall not give a direction under this section in relation to any police force unless—
  - (a) the police authority responsible for maintaining the force and the chief officer of police of that force have each been given such information about the Secretary of State's grounds for proposing to give that direction as he considers appropriate for enabling them to make representations or proposals under the following paragraphs of this subsection;
  - (b) that police authority and chief officer have each been given an opportunity of making representations about those grounds;
  - (c) that police authority and chief officer have each had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and
  - (d) the Secretary of State has considered any such representations and any such proposals.
- (5) Subsection (4) does not apply if the Secretary of State is satisfied that—

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- (a) the police authority responsible for maintaining the force and the chief officer of police of that force have already been made aware of the matters constituting the Secretary of State's grounds for proposing to give a direction under this section;
  - (b) the information they had about those matters was sufficient to enable them to identify remedial measures that would have made the giving of the direction unnecessary; and
  - (c) they have each had a reasonable opportunity to take such measures.
- (6) The Secretary of State shall not give a direction under this section unless Her Majesty's Chief Inspector of Constabulary has been given—
- (a) the same information about the grounds for proposing to give that direction as is required to be given under subsection (4)(a) (or would be so required but for subsection (5)); and
  - (b) an opportunity of making written observations about those grounds.
- The Secretary of State shall publish any such observations in such manner as appears to him to be appropriate.
- (7) A police authority that is given a direction under this section shall comply with it.

#### **40A Power to give directions in relation to police authority**

- (1) Where the Secretary of State is satisfied that a police authority is failing to discharge any of its functions in an effective manner, whether generally or in particular respects, he may direct the police authority to take specified measures for the purpose of remedying the failure.
- (2) Where the Secretary of State is satisfied that a police authority will fail to discharge any of its functions in an effective manner, whether generally or in particular respects, unless remedial measures are taken, he may direct the police authority to take specified measures in order to prevent such a failure occurring.
- (3) The measures that may be specified in a direction under subsection (1) or (2) include the submission to the Secretary of State of an action plan setting out the measures which the authority submitting the plan proposes to take for the purpose of remedying the failure in question or (as the case may be) preventing such a failure occurring.
- (4) The Secretary of State shall not give a direction under this section in relation to a police authority unless—
  - (a) the police authority has been given such information about the Secretary of State's grounds for proposing to give that direction as he considers appropriate for enabling it to make representations or proposals under the following paragraphs of this subsection;
  - (b) the police authority has been given an opportunity of making representations about those grounds;
  - (c) the police authority has had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and

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- (d) the Secretary of State has considered any such representations and any such proposals.
- (5) Subsection (4) does not apply if the Secretary of State is satisfied that—
  - (a) the police authority has already been made aware of the matters constituting the Secretary of State's grounds for proposing to give a direction under this section;
  - (b) the information the authority had about those matters was sufficient to enable it to identify remedial measures that would have made the giving of the direction unnecessary; and
  - (c) the authority has had a reasonable opportunity to take such measures.
- (6) The Secretary of State shall not give a direction under this section unless Her Majesty's Chief Inspector of Constabulary has been given—
  - (a) the same information about the grounds for proposing to give that direction as is required to be given under subsection (4)(a) (or would be so required but for subsection (5)); and
  - (b) an opportunity of making written observations about those grounds.

The Secretary of State shall publish any such observations in such manner as appears to him to be appropriate.
- (7) A police authority that is given a direction under this section shall comply with it.
- (8) Nothing in this section or in section 40 prevents the Secretary of State from exercising (whether in relation to the same matter or different matters or at the same time or at different times) both his powers under this section and his powers under section 40.

#### **40B Procedure for directions under section 40 or 40A**

- (1) The Secretary of State may by regulations make further provision as to the procedure to be followed in cases where—
  - (a) a proposal is made for the giving of a direction under section 40;
  - (b) a proposal is made for the giving of a direction under section 40A.
- (2) Before making any regulations under this section, the Secretary of State shall consult with—
  - (a) the Association of Police Authorities;
  - (b) the Association of Chief Police Officers; and
  - (c) such other persons as he thinks fit.
- (3) Regulations under this section may make different provision for different cases and circumstances.
- (4) A statutory instrument containing regulations under this section shall not be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.
- (5) On giving a direction under section 40 or section 40A to a police authority, the Secretary of State shall notify the chief officer of police of the force in question that he has given that direction.

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- (6) Where the Secretary of State gives a direction under section 40 or section 40A he shall lay before Parliament—
- (a) a copy of the direction; and
  - (b) a report about it.
- (7) A report under subsection (7)—
- (a) shall be prepared at such time as the Secretary of State considers appropriate; and
  - (b) may relate to more than one direction.”

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**Commencement Information**

**I1** Sch. 2 para. 27 in force at 1.4.2007 by S.I. 2007/709, art. 3(c) (with arts. 6, 7)

- 28 In section 41 (directions as to minimum budget), in subsection (1), after “section 40” there is inserted “ or 40A ”.

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**Commencement Information**

**I2** Sch. 2 para. 28 in force at 1.4.2007 by S.I. 2007/709, art. 3(c) (with arts. 6, 7)

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