

Police and Justice Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office, are published separately as Bill 119 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Mr Secretary Clarke has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Police and Justice Bill are compatible with the Convention rights.

Police and Justice Bill

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A
B I L L

TO

Establish a National Policing Improvement Agency; to make provision about police forces and police authorities; to make provision about police powers and about the powers and duties of community support officers, weights and measures inspectors and others; to make further provision for combatting crime and disorder; to establish the office of Her Majesty’s Chief Inspector for Justice, Community Safety and Custody; to amend the Computer Misuse Act 1990; to make provision about the forfeiture of indecent images of children; to provide for the conferring of functions on the Independent Police Complaints Commission in relation to the exercise of enforcement functions by officials involved with immigration and asylum; to amend the Extradition Act 2003; and for connected purposes.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

POLICE REFORM

National Policing Improvement Agency

1 National Policing Improvement Agency

- (1) There is to be a body corporate to be known as the National Policing Improvement Agency. 5
- (2) The following are abolished—
 - (a) the Central Police Training and Development Authority;
 - (b) the Police Information Technology Organisation.
- (3) Schedule 1 (further provision about the National Policing Improvement Agency, and related amendments) has effect. 10

*Police forces and police authorities***2 Amendments to the Police Act 1996**

Schedule 2 (which makes amendments to the Police Act 1996 (c. 16)) has effect.

3 Police authorities as best value authorities

- (1) In section 1 of the Local Government Act 1999 (c. 27) (authorities that are best value authorities) – 5
- (a) in subsection (1), at the beginning of paragraph (d) there is inserted “(subject to subsection (8))”; 10
 - (b) in subsection (4), for “subsection (1)(d)” there is substituted “this section”; 10
 - (c) in subsection (6), at the beginning of paragraph (c) there is inserted “(subject to subsection (8))”; 15
 - (d) after subsection (7) there is inserted – 15
 - “(8) A police authority is not a best value authority for the purposes of the following provisions of this Part – 15
 - section 5 (best value reviews);
 - section 6 (best value performance plans);
 - sections 7 to 9 (audit of best value performance plans);
 - section 13(5) (requirement of best value performance plan to record fact of adverse report etc); 20
 - section 15(2)(a) and (b) (directions relating to best value performance plans).” 20
- (2) A reference in any provision contained in or made under any Act other than the Local Government Act 1999 to an authority that is a best value authority for the purposes of Part 1 of that Act includes, if the context allows, a police authority. 25

*Community support officers etc***4 Standard powers and duties of community support officers**

- (1) In section 38 of the Police Reform Act 2002 (c. 30) (police powers for police authority employees), after subsection (5) there is inserted – 30
- “(5A) A person designated under this section as a community support officer shall also have the standard powers and duties of a community support officer (see section 38A(2)).”
- (2) After section 38 of the Police Reform Act 2002 there is inserted – 35
- “38A Standard powers and duties of community support officers**
- (1) The Secretary of State may by order provide for provisions of Part 1 of Schedule 4 to apply to every person who under section 38 is designated as a community support officer.
 - (2) The powers and duties conferred or imposed by the provisions for the time being applied under subsection (1) are to be known as the standard powers and duties of a community support officer. 40

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- (3) Before making an order under subsection (1), the Secretary of State shall consult with—
- (a) persons whom he considers to represent the interests of police authorities; and
 - (b) persons whom he considers to represent the interests of chief officers of police. 5
- (4) The Secretary of State shall not make an order containing (with or without any other provision) any provision authorised by subsection (1) unless a draft of that order has been laid before Parliament and approved by a resolution of each House. 10
- (5) A provision of Part 1 of Schedule 4 may be applied to a person concurrently by an order under subsection (1) and a designation under section 38.
- (6) If an order under subsection (1) confers or imposes additional powers and duties on a person who is under the direction and control of a chief officer of police of a police force, that chief officer must ensure that the person receives adequate training in the exercise and performance of the additional powers and duties.” 15
- 5 Community support officers: power to deal with truants**
- In Schedule 4 to the Police Reform Act 2002 (c. 30) (exercise of police powers etc by civilians), after paragraph 4B there is inserted —
- “Power to remove truants to designated premises etc.*
- 4C Where a designation applies this paragraph to any person, that person shall—
- (a) as respects any area falling within the relevant police area and specified in a direction under section 16(2) of the Crime and Disorder Act 1998, but 25
 - (b) only during the period specified in the direction, have the powers conferred on a constable by section 16(3) of that Act (power to remove truant found in specified area to designated premises or to the school from which truant is absent).” 30
- 6 Exercise of police powers by civilians**
- Schedule 3 which—
- makes amendments consequential on section 4 (standard powers and duties of community support officers), and 35
 - makes other minor amendments in connection with the exercise of police powers by civilians,
- has effect.

PART 2

POWERS OF POLICE ETC

Police powers

- 7 Police bail** 5
- Schedule 4, which amends provisions in the Police and Criminal Evidence Act 1984 (c. 60) that relate to bail –
- (a) granted by a constable elsewhere than at a police station, or
 - (b) granted at a police station,
- has effect.
- 8 Power to stop and search at aerodromes** 10
- (1) In Part 3 of the Aviation Security Act 1982 (c. 36) (policing of airports), before section 25 there is inserted –
- “Power to stop and search at aerodromes*
- 24B Power of constable to stop and search persons, vehicles etc**
- (1) Subject to subsection (2) below, a constable may search – 15
 - (a) any person, vehicle or aircraft in an aerodrome, or
 - (b) anything which is in or on such a vehicle or aircraft, for stolen or prohibited articles.
 - (2) This section does not give a constable power to search a person, vehicle or aircraft, or anything in or on a vehicle or aircraft, unless he has reasonable grounds for suspecting that he will find stolen or prohibited articles. 20
 - (3) For the purposes of exercising the power conferred by subsection (1) above, a constable may – 25
 - (a) enter any part of an aerodrome;
 - (b) detain a person, vehicle or aircraft;
 - (c) board an aircraft.
 - (4) If in the course of a search under subsection (1) above a constable discovers an article which he has reasonable grounds for suspecting to be a stolen or prohibited article, he may seize it. 30
 - (5) An article is prohibited for the purposes of this section if it is an article – 35
 - (a) made or adapted for use in the course of or in connection with criminal conduct, or
 - (b) intended by the person having it with him for such use by him or by some other person.
 - (6) In this section “criminal conduct” means conduct which –
 - (a) constitutes an offence in the part of the United Kingdom in which the aerodrome is situated, or

- (b) would constitute an offence in that part of the United Kingdom if it occurred there.
- (7) The powers conferred by this section on a constable are without prejudice to any powers exercisable by him apart from this section.
- (8) The exercise of a power under this section does not require a warrant. 5
- (9) Nothing in this section authorises a constable to enter a dwelling.”

Travel and freight information

9 Information gathering powers: extension to domestic flights and voyages

- (1) The Immigration, Asylum and Nationality Act 2006 is amended as follows.
- (2) In section 32 (police powers to gather information relating to flights and voyages to or from the United Kingdom), in subsection (1) (ships and aircraft to which section applies), for paragraphs (a) and (b) there is substituted –
 - “(a) arriving, or expected to arrive, at any place in the United Kingdom (whether from a place in the United Kingdom or from outside the United Kingdom), or 15
 - (b) leaving, or expected to leave, from any place in the United Kingdom (whether for a place in the United Kingdom or for outside the United Kingdom).”
- (3) In each of section 32(5) (interpretation of section) and section 33(5) (police powers to gather information about freight entering or leaving the United Kingdom: interpretation of section), after paragraph (c) there is inserted “, and 20
 - (d) “ship” includes –
 - (i) every description of vessel used in navigation, and
 - (ii) hovercraft.”
- (4) In section 36 (duty to share travel and freight information), in subsection (9) (interpretation of section), after the definition of “Revenue and Customs purposes” there is inserted “, and 25
 - “ship” includes –
 - (a) every description of vessel used in navigation, and
 - (b) hovercraft.” 30
- (5) In section 38 (disclosure of travel and freight information for security purposes), after subsection (5) there is inserted –
 - “(5A) In subsection (4) “ship” includes –
 - (a) every description of vessel used in navigation, and
 - (b) hovercraft.” 35

*Fixed penalty notices***10 Accreditation of weights and measures inspectors**

- (1) After section 41 of the Police Reform Act 2002 (c. 30) there is inserted –
- “41A Accreditation of weights and measures inspectors**
- (1) The chief officer of police of any police force may, on the making of an application for the purpose by such person and in such manner as he may require, grant accreditation under this section to a weights and measures inspector. 5
- (2) A weights and measures inspector to whom an accreditation under this section is granted by a chief officer of police may exercise the powers conferred by the accreditation in the chief officer’s police area. 10
- (3) Schedule 5A (which sets out the powers that may be conferred on inspectors accredited under this section) shall have effect.
- (4) A chief officer of police shall not grant accreditation to a weights and measures inspector under this section unless he is satisfied that – 15
- (a) the inspector is a suitable person to exercise the powers that will be conferred on him by virtue of the accreditation; and
- (b) the inspector has received adequate training for the exercise of those powers.
- (5) A chief officer of police may charge such fee as he considers appropriate for one or both of the following – 20
- (a) considering an application for or for the renewal of an accreditation under this section;
- (b) granting an accreditation under this section.
- (6) A weights and measures inspector authorised or required to do anything by virtue of an accreditation under this section – 25
- (a) shall not be authorised or required by virtue of that accreditation to engage in any conduct otherwise than in the course of his duties as a weights and measures inspector; and
- (b) shall be so authorised or required subject to such other restrictions and conditions (if any) as may be specified in his accreditation. 30
- (7) An accreditation under this section, unless it is previously withdrawn or ceases to have effect in accordance with subsection (8), shall remain in force for such period as may be specified in the accreditation, but it may be renewed at any time with effect from the time when it would otherwise expire. 35
- (8) An accreditation under this section shall cease to have effect if the accredited inspector ceases to hold office as a weights and measures inspector.” 40
- (2) After Schedule 5 to that Act there is inserted the Schedule set out in Schedule 5 to this Act.

11 Power to apply accreditation provisions

After section 41A of the Police Reform Act 2002 (c. 30) (inserted by section 10 above) there is inserted –

“41B Power to apply accreditation provisions

- (1) The Secretary of State may by order provide for section 41A and any other provision of this Chapter relating to accredited inspectors to apply (with or without modification) in relation to persons of a description specified in the order. 5
- (2) The provision which may be made by an order under this section includes such modifications of other enactments as appear to the Secretary of State to be necessary or appropriate. 10
- (3) No order shall be made under this section unless a draft of it has been laid before and approved by a resolution of each House of Parliament.”

Conditional cautions

12 Conditional cautions: types of condition 15

- (1) Part 3 of the Criminal Justice Act 2003 (c. 44) (conditional cautions) is amended as follows.
- (2) In section 22, for subsection (3) (types of conditions that may be attached to cautions) there is substituted –
 - “(3) The conditions which may be attached to such a caution are those which have one or more of the following objects – 20
 - (a) facilitating the rehabilitation of the offender;
 - (b) ensuring that the offender makes reparation for the offence;
 - (c) punishing the offender.”
- (3) After that subsection there is inserted – 25
 - “(3A) The conditions which may be attached to a conditional caution include –
 - (a) a condition that the offender pay a financial penalty (as to which see section 23A);
 - (b) a condition that the offender attend at a specified place at specified times. 30“Specified” means specified by a relevant prosecutor.
 - (3B) Conditions attached by virtue of subsection (3A)(b) may not require the offender to attend for more than 20 hours in total, not including any attendance required by conditions attached for the purpose of facilitating the offender’s rehabilitation. 35
 - (3C) The Secretary of State may by order amend subsection (3B) by substituting a different figure.”
- (4) After section 23 (requirements for conditional caution to be given) there is

inserted –

“23A Financial penalties

- (1) This section applies where a conditional caution given in respect of an offence has attached to it a condition that the offender pay a financial penalty. 5
- (2) A relevant prosecutor must specify the amount of the penalty.
- (3) The amount must not exceed –
- (a) one quarter of the amount of the maximum fine for which a person is liable on summary conviction of the offence, or
- (b) £500, 10
- whichever is the lower.
- (4) The Secretary of State may by order amend subsection (3) by –
- (a) substituting a different fraction in paragraph (a);
- (b) substituting a different figure in paragraph (b).
- (5) The relevant prosecutor must also specify – 15
- (a) the designated officer for a local justice area to whom the penalty is to be paid, and
- (b) the address of that officer.
- (6) To comply with the condition, the offender must pay the penalty to the specified officer. 20
- (7) The offender may pay a sum in respect of the penalty by pre-paying and posting a letter containing that sum (in cash or otherwise) to the address specified under subsection (5)(b).
- (8) If a person –
- (a) claims to have made payment by the method described in subsection (7), and 25
- (b) shows that his letter was posted,
- then, unless the contrary is proved, payment is to be regarded as made at the time at which the letter would be delivered in the ordinary course of post. 30
- (9) Subsection (7) is not to be read as preventing payment by other means.”

13 Arrest for failing to comply with conditional caution

- (1) In Part 3 of the Criminal Justice Act 2003 (c. 44) (conditional cautions), after section 24 there is inserted –

“24A Arrest for failure to comply 35

- (1) If a constable has reasonable grounds for believing that the offender has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution, he may arrest him without warrant.
- (2) A person arrested under this section must be –
- (a) charged with the offence in question, 40
- (b) released without charge and on bail to enable a decision to be made as to whether he should be charged with the offence, or

-
- (c) released without charge and without bail (with or without any variation in the conditions attached to the caution).
- (3) Subsection (2) also applies in the case of –
- (a) a person who, having been released on bail under subsection (2)(b), returns to a police station to answer bail or is otherwise in police detention at a police station; 5
 - (b) a person who, having been released on bail under section 30A of the 1984 Act (bail elsewhere than at police station) as applied by section 24B below, attends at a police station to answer bail or is otherwise in police detention at a police station; 10
 - (c) a person who is arrested under section 30D or 46A of the 1984 Act (power of arrest for failure to answer to police bail) as applied by section 24B below.
- (4) Where a person is released under subsection (2)(b), the custody officer must inform him that he is being released to enable a decision to be made as to whether he should be charged with the offence in question. 15
- (5) A person arrested under this section, or any other person in whose case subsection (2) applies, may be kept in police detention –
- (a) to enable him to be dealt with in accordance with that subsection, or
 - (b) where applicable, to enable the power under section 37D(1) of the 1984 Act (power of custody officer to appoint a different or additional time for answering to police bail), as applied by section 24B below, to be exercised.
- If the person is not in a fit state to enable him to be so dealt with, or to enable that power to be exercised, he may be kept in police detention until he is. 25
- (6) The power under subsection (5)(a) includes power to keep the person in police detention if it is necessary to do so for the purpose of investigating whether he has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution. 30
- (7) Subsection (2) must be complied with as soon as practicable after the person arrested arrives at the police station or, in the case of a person arrested at the police station, as soon as practicable after the arrest.
- (8) Subsection (2) does not require a person who – 35
- (a) falls within subsection (3)(a) or (b), and
 - (b) is in police detention in relation to a matter other than the conditional caution,
- to be released if he is liable to be kept in detention in relation to that other matter. 40
- (9) In this Part –
“the 1984 Act” means the Police and Criminal Evidence Act 1984;
“police detention” has the same meaning as in the 1984 Act (see section 118(2) of that Act).
- 24B Application of PACE provisions** 45
- (1) In the case of a person arrested under section 24A, the provisions of the 1984 Act specified in subsection (2) apply, with the modifications

specified in subsection (3) and with such further modifications as are necessary, as they apply in the case of a person arrested for an offence.

- (2) The provisions are –
- (a) section 30 (arrest elsewhere than at police station);
 - (b) sections 30A to 30D (bail elsewhere than at police station); 5
 - (c) section 31 (arrest for further offence);
 - (d) section 34(1) to (5) (limitations on police detention);
 - (e) section 36 (custody officers at police stations);
 - (f) section 37(4) to (6) (record of grounds for detention);
 - (g) section 38 (duties of custody officer after charge); 10
 - (h) section 39 (responsibilities in relation to persons detained);
 - (i) section 55A (x-rays and ultrasound scans).
- (3) The modifications are –
- (a) in section 30CA(5)(a), for the reference to being involved in the investigation of the offence mentioned in that provision substitute a reference to being involved – 15
 - (i) in the investigation of the offence in respect of which the person was given the conditional caution, or
 - (ii) in investigating whether the person has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution; 20
 - (b) in section 36(5) and (7), for the references to being involved in the investigation of an offence for which the person is in police detention substitute references to being involved – 25
 - (i) in the investigation of the offence in respect of which the person was given the conditional caution, or
 - (ii) in investigating whether the person has failed, without reasonable excuse, to comply with any of the conditions attached to the conditional caution;
 - (c) in section 38(1)(a)(iii) and (iv), for “arrested for” substitute “charged with”; 30
 - (d) in section 39(2) and (3), for the references to an offence substitute references to a failure to comply with conditions attached to the conditional caution.
- (4) Section 40 of the 1984 Act (review of police detention) applies to a person in police detention by virtue of section 24A above as it applies to a person in police detention in connection with the investigation of an offence, but with the following modifications – 35
- (a) omit subsections (8) and (8A);
 - (b) in subsection (9), for the reference to section 37(9) or 37D(5) substitute a reference to the second sentence of section 24A(5) above. 40
- (5) The following provisions of the 1984 Act apply to a person released on bail under section 24A(2)(b) above as they apply to a person released on bail under section 37 of that Act – 45
- (a) section 37D(1) to (3) (power of custody officer to appoint a different or additional time for answering to police bail);
 - (b) section 46A (power of arrest for failure to answer to police bail);
 - (c) section 47 (bail after arrest).

- (6) Section 54 of the 1984 Act (searches of detained persons) applies in the case of a person who falls within subsection (3) of section 24A above and is detained in a police station under that section as it applies in the case of a person who falls within section 34(7) of that Act and is detained at a police station under section 37. 5
- (7) Section 54A of the 1984 Act (searches and examination to ascertain identity) applies with the following modifications in the case of a person who is detained in a police station under section 24A above –
- (a) in subsections (1)(a) and (12), after “as a person involved in the commission of an offence” insert “or as having failed to comply with any of the conditions attached to his conditional caution”; 10
 - (b) in subsection (9)(a), after “the investigation of an offence” insert “, the investigation of whether the person in question has failed to comply with any of the conditions attached to his conditional caution”.” 15
- (2) The reference in subsection (1) of section 24A of the Criminal Justice Act 2003 (c. 44) (inserted by subsection (1) above) to a failure to comply with conditions attached to a conditional caution is to any such failure occurring on or after the day on which this section comes into force.

PART 3 20

CRIME AND ANTI-SOCIAL BEHAVIOUR

Crime and disorder reduction

14 Amendments to the Crime and Disorder Act 1998

Schedule 6 (which contains amendments to the Crime and Disorder Act 1998 (c. 37) in relation to crime and disorder strategies and other matters relating to the reduction of crime and disorder) has effect. 25

15 Role of local authority overview and scrutiny committees

After section 21 of the Local Government Act 2000 (c. 22) (overview and scrutiny committees) there is inserted –

“21A Crime and disorder matters: role of overview and scrutiny committees 30

- (1) For the purposes of this section –
- (a) the “responsible authorities”, in relation to a local authority, are the bodies and persons who are responsible authorities within the meaning given by section 5 of the Crime and Disorder Act 1998 (authorities responsible for crime and disorder strategies) in relation to the local authority’s area; 35
 - (b) the “co-operating persons and bodies” are the persons with whom, and bodies with which, the responsible authorities have a duty to co-operate under subsection (2) of that section; 40
 - (c) “crime and disorder functions” are functions conferred by or under section 6 of that Act (formulation and implementation of crime and disorder strategies).

- (2) Executive arrangements by a local authority must ensure that the authority have an overview and scrutiny committee (the “relevant committee”) with power –
- (a) to review or scrutinise decisions made, or other action taken, in connection with the discharge by the responsible authorities of their crime and disorder functions, and 5
 - (b) to make reports or recommendations to the local authority or the executive with respect to the discharge of those functions.
- (3) Where by virtue of subsection (2)(b) the relevant committee makes a report or recommendations it must provide a copy to each of the responsible authorities and to each of the co-operating persons and bodies. 10
- (4) Where a councillor of a local authority is asked to consider a local crime and disorder matter by a person who lives or works in the area which the councillor represents – 15
- (a) the councillor must consider the matter and respond to the person who asked him to consider it, indicating what (if any) action he proposes to take;
 - (b) the councillor may refer the matter to the relevant committee and, if he does not, the person who asked him to consider it may refer the matter to the executive of the local authority in question. 20
- In this subsection and subsections (5) and (6) “local authority” does not include the county council for an area for which there are district councils. 25
- (5) Where a matter is referred under subsection (4)(b) to the executive of a local authority, the executive –
- (a) must consider the matter, and
 - (b) may refer it to the relevant committee.
- (6) The relevant committee must consider any local crime and disorder matter – 30
- (a) referred to it by a councillor of the local authority in question (whether under subsection (4)(b) or not), or
 - (b) referred to it under subsection (5),
- and may make a report or recommendations to the local authority or the executive with respect to it. 35
- (7) Where the relevant committee makes a report or recommendations under subsection (6) it must provide a copy to such of the responsible authorities and to such of the co-operating persons and bodies as it thinks appropriate. 40
- (8) An authority, person or body to which a copy of a report or recommendations is provided under subsection (3) or (7) must –
- (a) consider the report or recommendations;
 - (b) respond to the relevant committee indicating what (if any) action it proposes to take; 45
 - (c) have regard to the report or recommendations in exercising its functions.

- (9) In this section “local crime and disorder matter” means a matter concerning –
- (a) crime and disorder (including anti-social and other behaviour adversely affecting the local environment) in the area represented by the councillor in question, or
 - (b) the misuse of drugs, alcohol or other substances in that area.

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21B Guidance and regulations regarding crime and disorder matters

- (1) The Secretary of State may issue guidance to –
- (a) local authorities in England,
 - (b) councillors of those authorities, and
 - (c) overview and scrutiny committees of those authorities,
- with regard to the exercise of their functions under section 21A.

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- (2) The National Assembly for Wales, after consulting the Secretary of State, may issue guidance to –
- (a) local authorities in Wales,
 - (b) councillors of those authorities, and
 - (c) overview and scrutiny committees of those authorities,
- with regard to the exercise of their functions under section 21A.

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- (3) The Secretary of State may by regulations make provision supplementing that made by section 21A in relation to local authorities in England.

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- (4) The Secretary of State, after consulting the National Assembly for Wales, may by regulations make provision supplementing that made by section 21A in relation to local authorities in Wales.

- (5) Regulations under subsection (3) or (4) may in particular make provision –

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- (a) as to the co-opting of additional members to serve on the relevant committee of a local authority when the committee is exercising functions under section 21A;
- (b) as to the frequency with which the power mentioned in section 21A(2)(a) is to be exercised;
- (c) requiring information to be provided to the relevant committee by the responsible authorities and the co-operating persons and bodies;
- (d) imposing restrictions on the provision of information to the relevant committee by the responsible authorities and the co-operating persons and bodies;
- (e) requiring officers or employees of the responsible authorities and the co-operating persons and bodies to attend before the relevant committee to answer questions;
- (f) specifying how a person is to refer a matter to a councillor, or to the executive of a local authority, under section 21A(4);
- (g) specifying the periods within which –
 - (i) a councillor is to deal with a request under section 21A(4);
 - (ii) the executive of a local authority is to deal with a matter referred under section 21A(4)(b);

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- (iii) the relevant committee is to deal with a matter referred as mentioned in section 21A(6);
 - (iv) the responsible authorities and the co-operating persons and bodies are to consider and respond to a report or recommendations made under or by virtue of section 21A. 5
- (6) Regulations made by virtue of subsection (5)(a) may provide for a person co-opted to serve as a member of a relevant committee when it is exercising functions under section 21A to have the same entitlement to vote as any other member. 10
- (7) In this section “relevant committee”, “responsible authorities” and “co-operating persons and bodies” have the same meaning as in section 21A.”

Parenting contracts and parenting orders

16 Parenting contracts: local authorities and registered social landlords 15

- (1) In Part 3 of the Anti-social Behaviour Act 2003 (c. 38) (parental responsibilities), after section 25 there is inserted –

“25A Parenting contracts in respect of anti-social behaviour: local authorities

- (1) A local authority may enter into a parenting contract with a parent of a child or young person if – 20
- (a) the local authority has reason to believe that the child or young person has engaged, or is likely to engage, in anti-social behaviour, and
 - (b) the child or young person resides, or appears to reside, in the local authority’s area. 25
- (2) A parenting contract is a document which contains –
- (a) a statement by the parent that he agrees to comply with such requirements as may be specified in the document for such period as may be so specified, and 30
 - (b) a statement by the local authority that it agrees to provide support to the parent for the purpose of complying with those requirements.
- (3) The requirements mentioned in subsection (2)(a) may include (in particular) a requirement to attend a counselling or guidance programme. 35
- (4) The purpose of the requirements mentioned in subsection (2)(a) is to prevent the child or young person from engaging in anti-social behaviour or further anti-social behaviour.
- (5) A parenting contract must be signed by the parent and signed on behalf of the local authority. 40
- (6) A parenting contract does not create any obligations in respect of whose breach any liability arises in contract or in tort.
- (7) In carrying out their functions in relation to parenting contracts –

- (a) local authorities in England shall have regard to any guidance which is issued by the Secretary of State from time to time for that purpose;
- (b) local authorities in Wales shall have regard to any guidance which is issued by the National Assembly for Wales from time to time for that purpose. 5

25B Parenting contracts in respect of anti-social behaviour: registered social landlords

- (1) A registered social landlord may enter into a parenting contract with a parent of a child or young person if – 10
 - (a) the registered social landlord has reason to believe that the child or young person –
 - (i) has engaged in anti-social behaviour, or
 - (ii) is likely to engage in such behaviour,and 15
 - (b) that behaviour directly or indirectly relates to or affects the housing management functions of the registered social landlord (or, where paragraph (a)(ii) applies, would do so if the behaviour were engaged in).
- (2) A parenting contract is a document which contains – 20
 - (a) a statement by the parent that he agrees to comply with such requirements as may be specified in the document for such period as may be so specified, and
 - (b) a statement by the registered social landlord that it agrees to make arrangements for the provision of support to the parent for the purpose of complying with those requirements. 25
- (3) The requirements mentioned in subsection (2)(a) may include (in particular) a requirement to attend a counselling or guidance programme.
- (4) The purpose of the requirements mentioned in subsection (2)(a) is to prevent the child or young person from engaging in anti-social behaviour or further anti-social behaviour. 30
- (5) A parenting contract must be signed by the parent and signed on behalf of the registered social landlord.
- (6) A parenting contract does not create any obligations in respect of whose breach any liability arises in contract or in tort. 35
- (7) In carrying out their functions in relation to parenting contracts –
 - (a) registered social landlords on the register maintained by the Housing Corporation shall have regard to any guidance which is issued by the Secretary of State from time to time for that purpose; 40
 - (b) registered social landlords on the register maintained by the National Assembly for Wales shall have regard to any guidance which is issued by the Assembly from time to time for that purpose.” 45
- (2) In section 29(1) of that Act (interpretation of sections 25 to 29) the following definitions are inserted at the appropriate places –

- ““housing accommodation” has the meaning given by section 153E(9) of the Housing Act 1996;”;
- ““housing management functions”, in relation to a registered social landlord, include –
- (a) functions conferred by or under any enactment; 5
 - (b) the powers and duties of the landlord as the holder of an estate or interest in housing accommodation;”;
- ““local authority” means –
- (a) a county council in England;
 - (b) a metropolitan district council; 10
 - (c) a non-metropolitan district council for an area for which there is no county council;
 - (d) a London borough council;
 - (e) the Common Council of the City of London;
 - (f) the Council of the Isles of Scilly; 15
 - (g) a county council or county borough council in Wales;”;
- ““registered social landlord” means a body registered as such under Chapter 1 of Part 1 of the Housing Act 1996;”.

17 Parenting orders: local authorities and registered social landlords

In Part 3 of the Anti-social Behaviour Act 2003 (c. 38) (parental responsibilities), after section 26 there is inserted – 20

“26A Parenting orders in respect of anti-social behaviour: local authorities

- (1) A local authority may apply for a parenting order in respect of a parent of a child or young person if –
 - (a) the local authority has reason to believe that the child or young person has engaged in anti-social behaviour, and 25
 - (b) the child or young person resides, or appears to reside, in the local authority’s area.

An application for such an order may be made to a magistrates’ court or, where section 26C so allows, to a county court. 30
- (2) If such an application is made, the court may make a parenting order in respect of a parent of the child or young person if it is satisfied –
 - (a) that the child or young person has engaged in anti-social behaviour, and
 - (b) that making the order would be desirable in the interests of preventing the child or young person from engaging in further anti-social behaviour. 35
- (3) A parenting order is an order which requires the parent –
 - (a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order, and 40
 - (b) subject to subsection (4), to attend, for a concurrent period not exceeding three months, such counselling or guidance programme as may be specified in directions given by the responsible officer.
- (4) A parenting order under this section may, but need not, include a requirement mentioned in subsection (3)(b) in any case where a 45

- parenting order under this section or any other enactment has been made in respect of the parent on a previous occasion.
- (5) A counselling or guidance programme which a parent is required to attend by virtue of subsection (3)(b) may be or include a residential course but only if the court is satisfied that the following two conditions are fulfilled. 5
- (6) The first condition is that the attendance of the parent at a residential course is likely to be more effective than his attendance at a non-residential course in preventing the child or young person from engaging in further anti-social behaviour. 10
- (7) The second condition is that any interference with family life which is likely to result from the attendance of the parent at a residential course is proportionate in all the circumstances.
- 26B Parenting orders in respect of anti-social behaviour: registered social landlords** 15
- (1) A registered social landlord may apply for a parenting order in respect of a parent of a child or young person if –
- (a) the registered social landlord has reason to believe that the child or young person has engaged in anti-social behaviour, and
 - (b) the behaviour in question directly or indirectly relates to or affects the housing management functions of the registered social landlord. 20
- An application for such an order may be made to a magistrates' court or, where section 26C so allows, to a county court.
- (2) If such an application is made, the court may make a parenting order in respect of a parent of the child or young person if it is satisfied –
- (a) that the child or young person has engaged in anti-social behaviour, and
 - (b) that making the order would be desirable in the interests of preventing the child or young person from engaging in further anti-social behaviour. 30
- (3) A parenting order is an order which requires the parent –
- (a) to comply, for a period not exceeding twelve months, with such requirements as are specified in the order, and
 - (b) subject to subsection (4), to attend, for a concurrent period not exceeding three months, such counselling or guidance programme as may be specified in directions given by the responsible officer. 35
- (4) A parenting order under this section may, but need not, include a requirement mentioned in subsection (3)(b) in any case where a parenting order under this section or any other enactment has been made in respect of the parent on a previous occasion. 40
- (5) A counselling or guidance programme which a parent is required to attend by virtue of subsection (3)(b) may be or include a residential course but only if the court is satisfied that the following two conditions are fulfilled. 45

- (6) The first condition is that the attendance of the parent at a residential course is likely to be more effective than his attendance at a non-residential course in preventing the child or young person from engaging in further anti-social behaviour.
- (7) The second condition is that any interference with family life which is likely to result from the attendance of the parent at a residential course is proportionate in all the circumstances. 5
- (8) A registered social landlord must not make an application under this section without first consulting the local authority in whose area the child or young person in question resides or appears to reside. 10

26C Applications under section 26A or 26B in county court proceedings

- (1) Where a local authority or registered social landlord (a “relevant authority”) –
- (a) is a party to proceedings in a county court, and
- (b) considers that a party to those proceedings is a person in relation to whom it would be reasonable for it to make an application for a parenting order under section 26A or 26B (a “parenting order application”), 15
- it may make such an application to that court in relation to that person.
- (2) Where –
- (a) a relevant authority considers that a party to proceedings in a county court is a person in relation to whom it would be reasonable for it to make a parenting order application, but
- (b) the relevant authority is not a party to those proceedings, 20
- it may apply to be joined to those proceedings to enable it to make a parenting order application. 25
- (3) Where –
- (a) there are proceedings in a county court to which a relevant authority is a party, and
- (b) the relevant authority considers that a child or young person has engaged in anti-social behaviour that is material in relation to the proceedings, 30
- the relevant authority may apply for a person who is a parent of the child or young person to be joined to the proceedings to enable it to make a parenting order application in relation to him. 35
- (4) A person must not be joined to proceedings in pursuance of subsection (3) unless the anti-social behaviour in question is material in relation to those proceedings.”

18 Contracting out of local authority functions with regard to parenting contracts and parenting orders 40

In Part 3 of the Anti-social Behaviour Act 2003 (c. 38) (parental responsibilities), after section 28 there is inserted –

“28A Contracting out of local authority functions

- (1) An order made by –
- (a) the Secretary of State as regards local authorities in England, or 45

- (b) the National Assembly for Wales as regards local authorities in Wales,
may provide that a local authority may make arrangements with a person who is specified in the order, or is of a description so specified, for the exercise of any function it has under or by virtue of section 25A or 26A. 5
- (2) The order may provide—
- (a) that the power of the local authority to make the arrangements is subject to such conditions as are specified in the order;
 - (b) that the arrangements must be subject to such conditions as are so specified; 10
 - (c) that the arrangements may be made subject to such other conditions as the local authority thinks appropriate.
- (3) The order may provide that the arrangements may authorise the exercise of the function— 15
- (a) either wholly or to such extent as may be specified in the order or arrangements;
 - (b) either generally or in such cases or areas as may be so specified.
- (4) An order under this section may provide that the person with whom arrangements are made in pursuance of the order is to be treated as if he were a public body for the purposes of section 1 of the Local Authorities (Goods and Services) Act 1970. 20
- (5) The Secretary of State or (as the case may be) the National Assembly for Wales must not make an order under this section without first consulting— 25
- (a) such representatives of local government as appear to be appropriate;
 - (b) such other persons as appear to be appropriate.
- (6) Any arrangements made by a local authority in pursuance of an order under this section do not prevent the local authority from exercising the function to which the arrangements relate. 30
- (7) The following provisions of the Deregulation and Contracting Out Act 1994 apply for the purposes of arrangements made in pursuance of an order under this section as they apply for the purposes of an authorisation to exercise functions by virtue of an order under section 70(2) of that Act— 35
- (a) section 72 (effect of contracting out);
 - (b) section 73 (termination of contracting out);
 - (c) section 75 and Schedule 15 (provision relating to disclosure of information); 40
 - (d) paragraph 3 of Schedule 16 (authorised persons to be treated as officers of local authority).
- (8) For the purposes of subsection (7), any reference in the provisions specified in paragraphs (a) to (d) to a person authorised to exercise a function is to be construed as a reference to a person with whom an arrangement is made for the exercise of the function in pursuance of an order under this section. 45

- (9) Local authorities in England and any person with whom they make arrangements in pursuance of an order under this section must have regard to any guidance issued by the Secretary of State for the purposes of this section.
- (10) Local authorities in Wales and any person with whom they make arrangements in pursuance of an order under this section must have regard to any guidance issued by the National Assembly for Wales for the purposes of this section.” 5

Injunctions

19 Anti-social behaviour injunctions 10

For section 153A of the Housing Act 1996 (c. 52) there is substituted –

“153A Anti-social behaviour injunction

- (1) In this section –
- “anti-social behaviour injunction” means an injunction that prohibits the person in respect of whom it is granted from engaging in housing-related anti-social conduct of a kind specified in the injunction; 15
 - “anti-social conduct” means conduct capable of causing nuisance or annoyance to some person (who need not be a particular identified person); 20
 - “conduct” means conduct anywhere;
 - “housing-related” means directly or indirectly relating to or affecting the housing management functions of a relevant landlord.
- (2) The court on the application of a relevant landlord may grant an anti-social behaviour injunction if the condition in subsection (3) is satisfied. 25
- (3) The condition is that the person against whom the injunction is sought is engaging, has engaged or threatens to engage in housing-related conduct capable of causing a nuisance or annoyance to –
- (a) a person with a right (of whatever description) to reside in or occupy housing accommodation owned or managed by a relevant landlord, 30
 - (b) a person with a right (of whatever description) to reside in or occupy other housing accommodation in the neighbourhood of housing accommodation mentioned in paragraph (a), 35
 - (c) a person engaged in lawful activity in, or in the neighbourhood of, housing accommodation mentioned in paragraph (a), or
 - (d) a person employed (whether or not by a relevant landlord) in connection with the exercise of a relevant landlord’s housing management functions. 40
- (4) Without prejudice to the generality of the court’s power under subsection (2), a kind of conduct may be described in an anti-social behaviour injunction by reference to a person or persons and, if it is, may (in particular) be described by reference –
- (a) to persons generally, 45
 - (b) to persons of a description specified in the injunction, or

(c) to persons, or a person, specified in the injunction.”

20 Injunctions in local authority proceedings: power of arrest and remand

- (1) This section applies to proceedings in which a local authority is a party by virtue of section 222 of the Local Government Act 1972 (c. 70) (power of local authority to bring, defend or appear in proceedings for the promotion or protection of the interests of inhabitants of their area). 5
- (2) If the court grants an injunction which prohibits conduct which is capable of causing nuisance or annoyance to a person it may, if subsection (3) applies, attach a power of arrest to any provision of the injunction.
- (3) This subsection applies if the local authority applies to the court to attach the power of arrest and the court thinks that either – 10
 - (a) the conduct mentioned in subsection (2) consists of or includes the use or threatened use of violence, or
 - (b) there is a significant risk of harm to the person mentioned in that subsection. 15
- (4) Where a power of arrest is attached to any provision of an injunction under subsection (2), a constable may arrest without warrant a person whom he has reasonable cause for suspecting to be in breach of that provision.
- (5) After making an arrest under subsection (4) the constable must as soon as is reasonably practicable inform the local authority. 20
- (6) Where a person is arrested under subsection (4) –
 - (a) he shall be brought before the court within the period of 24 hours beginning at the time of his arrest, and
 - (b) if the matter is not then disposed of forthwith, the court may remand him. 25
- (7) For the purposes of subsection (6), when calculating the period of 24 hours referred to in paragraph (a) of that subsection, no account shall be taken of Christmas Day, Good Friday or any Sunday.
- (8) Schedule 7 applies in relation to the power to remand under subsection (6).
- (9) If the court has reason to consider that a medical report will be required, the power to remand a person under subsection (6) may be exercised for the purpose of enabling a medical examination and report to be made. 30
- (10) If such a power is so exercised the adjournment shall not be in force –
 - (a) for more than three weeks at a time in a case where the court remands the accused person in custody, or 35
 - (b) for more than four weeks at a time in any other case.
- (11) If there is reason to suspect that a person who has been arrested under subsection (4) is suffering from mental illness or severe mental impairment the court shall have the same power to make an order under section 35 of the Mental Health Act 1983 (c. 20) (remand for report on accused’s mental condition) as the Crown Court has under that section in the case of an accused person within the meaning of that section. 40
- (12) For the purposes of this section –

- (a) “harm” includes serious ill-treatment or abuse (whether physical or not);
- (b) “local authority” has the same meaning as in section 222 of the Local Government Act 1972 (c. 70);
- (c) “the court” means the High Court or a county court and includes— 5
 - (i) in relation to the High Court, a judge of that court, and
 - (ii) in relation to a county court, a judge or district judge of that court.

PART 4

HER MAJESTY’S CHIEF INSPECTOR FOR JUSTICE, COMMUNITY SAFETY AND CUSTODY 10

Appointment of Chief Inspector

21 Appointment of Chief Inspector

- (1) Her Majesty may appoint a person to be Chief Inspector for Justice, Community Safety and Custody.
- (2) The person so appointed is referred to in this Part as “the Chief Inspector”. 15

Functions of Chief Inspector

22 General duty of Chief Inspector

- (1) It is the duty of the Chief Inspector to inspect, and to report to the responsible ministers on, the operation of— 20
 - (a) the courts system in England and Wales;
 - (b) the criminal justice system in England and Wales;
 - (c) the immigration enforcement system.

For the purposes of this Part “the responsible ministers” are the Secretary of State, the Lord Chancellor and the Attorney General.
- (2) “The courts system” means— 25
 - (a) the system that supports the carrying on of the business of the Crown Court, of county courts and of magistrates’ courts;
 - (b) the services provided for those courts.

The responsible ministers may by order amend paragraph (a) so as to add or remove a court. 30
- (3) “The criminal justice system” includes—
 - (a) the carrying out by police forces of their functions, and the carrying out of functions of a similar nature exercisable by public authorities other than police forces;
 - (b) the carrying out by police authorities of their functions; 35
 - (c) the carrying out of functions concerned with the prevention or reduction of—
 - (i) crime and disorder (including anti-social and other behaviour adversely affecting the local environment), and
 - (ii) the misuse of drugs, alcohol and other substances; 40
 - (d) criminal proceedings;

- (e) proceedings for the forfeiture of property obtained from or held in connection with criminal conduct;
 - (f) the carrying out of functions exercisable by the Director of Public Prosecutions;
 - (g) the provision of support or help for – 5
 - (i) victims,
 - (ii) persons associated with victims, and
 - (iii) witnesses;
 - (h) the carrying out of functions exercisable under Chapter 4 of Part 2 of the Serious Organised Crime and Police Act 2005 (c. 15) (protection of witnesses and other persons); 10
 - (i) the carrying out of functions concerned with the way in which persons suspected of or charged with offences are treated, managed and dealt with;
 - (j) the carrying out of functions concerned with the way in which persons convicted of offences are treated, managed and dealt with. 15
- (4) “The immigration enforcement system” means the carrying out by immigration officers of the following enforcement functions –
- (a) powers of entry;
 - (b) powers to search persons or property; 20
 - (c) powers to seize or detain property;
 - (d) powers to arrest persons;
 - (e) powers to detain persons;
 - (f) powers to examine persons or otherwise to obtain information (including powers to take fingerprints or to acquire other personal data); 25
 - (g) powers in connection with the removal of persons from the United Kingdom.
- (5) Subject to –
- (a) subsections (6) to (8), 30
 - (b) sections 23 and 25,
 - (c) a provision of any other Act corresponding to paragraph 10 of Schedule 8, and
 - (d) any provision not contained in this Part conferring functions, or enabling functions to be conferred, on the Chief Inspector, 35
- it is for the Chief Inspector to determine the particular matters into which inspections are to be carried out.
- (6) This section does not entitle the Chief Inspector –
- (a) to inspect the carrying out of functions by a person or body that – 40
 - (i) is not a public authority, and
 - (ii) is not carrying out those functions on behalf of or by arrangement with a public authority;
 - (b) to inspect persons – 45
 - (i) making judicial decisions, or
 - (ii) exercising any judicial discretion;
 - (c) to do anything that he is required to do by or under any enactment not contained in this Part.

- (7) The Chief Inspector is not to carry out an inspection under this section into anything that appears to him to be subject to adequate inspection by any other person or body.
- (8) The responsible ministers may by order specify functions, organisations or matters that, as regards the whole or any specified aspect or part, are not to be subject to inspection under this section. 5
- (9) In this section –
 “immigration officer” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971 (c. 77); 10
 “victim” and “witness” have the meaning given by section 52 of the Domestic Violence, Crime and Victims Act 2004 (c. 28).

23 Duties of Chief Inspector with regard to prisons etc

- (1) It is the duty of the Chief Inspector to inspect prisons in England and Wales and to report to the responsible ministers on them. 15
 He shall in particular report to the responsible ministers on the treatment of prisoners and conditions in prisons.
- (2) Subsection (1) applies to –
 (a) young offender institutions in England and Wales,
 (b) custody areas at Crown Courts, county courts and magistrates’ courts in England and Wales, and 20
 (c) custody areas at police stations in England and Wales,
 and to persons detained in them, as it applies to prisons and prisoners.
- (3) Subsection (1) applies to prison escort arrangements, and to persons to whom such arrangements apply, as it applies to prisons and prisoners. 25
- (4) Subsection (1) applies to removal centres and short-term holding facilities (whether in England and Wales or elsewhere in the United Kingdom), and to persons detained in them, as it applies to prisons and prisoners in England and Wales.
- (5) Subsection (1) applies to immigration escort arrangements (whether carried out in England and Wales or elsewhere in the United Kingdom), and to persons to whom such arrangements apply, as it applies to prisons and prisoners in England and Wales. 30
- (6) In its application by virtue of subsection (3) or (5), subsection (1) applies with any necessary modifications. 35
- (7) This section does not entitle the Chief Inspector to inspect –
 (a) the making of judicial decisions, or
 (b) the exercise of any judicial discretion,
 by an adjudicator or a reviewer under rules made under section 47 of the Prison Act 1952 (c. 52). 40
- (8) The responsible ministers may by order amend this section so as to make it apply or cease to apply –
 (a) to a specified category of place or institution in which persons are held in detention of any kind;
 (b) to a specified category of escort arrangements. 45

- (9) An order under subsection (8) may not—
 - (a) prevent this section from applying to prisons, young offender institutions or removal centres;
 - (b) provide for this section to apply to any category of place, institution or escort arrangements if it is within the legislative competence of the Scottish Parliament to make provision for inspection of that category of place, institution or arrangements. 5
 - (10) In this section—
 - “immigration escort arrangements” means arrangements made by the Secretary of State under section 156 of the Immigration and Asylum Act 1999 (c. 33); 10
 - “prison” does not include a naval, military or air force prison;
 - “prison escort arrangements” means arrangements made by the Secretary of State under section 80 of the Criminal Justice Act 1991 (c. 53);
 - “removal centre” and “short-term holding centre” have the meaning given by section 147 of the Immigration and Asylum Act 1999. 15
 - (11) Until the coming into force of section 59 of the Criminal Justice and Court Services Act 2000 (c. 43), this section has effect as if subsection (2)(a) included a reference to remand centres.
- 24 Power to confer additional functions on Chief Inspector 20**
- (1) The responsible ministers may by order confer on the Chief Inspector additional functions in relation to anything that is, or is an aspect of, a matter in respect of which he has a duty under this Part to carry out inspections.
 - (2) An order under this section may remove from the Chief Inspector any function conferred by a previous order under this section. 25
 - (3) An order under this section may include provision amending—
 - (a) any Act (including this one),
 - (b) any Northern Ireland legislation, or
 - (c) any subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)), 30whenever passed or made.
 - (4) Before making an order under this section the responsible ministers shall consult the Chief Inspector and such of the persons and bodies mentioned in subsection (5) as appear to the responsible ministers to be appropriate.
 - (5) Those persons and bodies are— 35
 - (a) the Lord Chief Justice;
 - (b) the inspection authorities listed in subsection (6).
 - (6) The inspection authorities are— 40
 - (a) Her Majesty’s Chief Inspector of Schools in England;
 - (b) the Adult Learning Inspectorate;
 - (c) the Commission for Healthcare Audit and Inspection;
 - (d) the Commission for Social Care Inspection;
 - (e) the Audit Commission.

- (7) Subsection (4), so far as it applies to an order that relates (to any extent) to devolved Welsh matters, has effect as if subsection (6) included a reference to the Auditor General for Wales.
- (8) The responsible ministers may not make an order under this section that relates (to any extent) to devolved Welsh matters without the agreement of the National Assembly for Wales. 5

25 Ministerial directions

- (1) The responsible ministers may direct the Chief Inspector to carry out an inspection into and report to them on— 10
- (a) any specific part or aspect of a system that the Chief Inspector has a duty to inspect under section 22(1);
- (b) any specific matter falling within the scope of his duties under sections 22 and 23.
- (2) The responsible ministers may direct the Chief Inspector to provide them with advice on any matter in respect of which he has a duty to carry out inspections. 15
- (3) In exercising any of his functions the Chief Inspector shall have regard to such aspects of government policy as the responsible ministers may direct.
- (4) Before giving a direction under subsection (1) the responsible ministers shall consult such of the persons and bodies mentioned in subsection (5) as appear to the responsible ministers to be appropriate. 20
- (5) Those persons and bodies are—
- (a) the Lord Chief Justice;
- (b) the inspection authorities listed in section 24(6).
- (6) Subsection (4), so far as it applies to a direction that relates (to any extent) to devolved Welsh matters, has effect as if section 24(6) included a reference to the Auditor General for Wales. 25
- (7) The responsible ministers shall consult the Chief Inspector before giving a direction under this section.
- (8) The responsible ministers may not give a direction under this section that relates (to any extent) to devolved Welsh matters without the agreement of the National Assembly for Wales. 30
- (9) The restriction imposed by subsection (4) or (8) does not apply where the responsible ministers consider it necessary by reason of urgency to dispense with the restriction.

Inspection powers 35

26 Powers of persons carrying out inspections

- (1) This section applies to a person involved in the carrying out of an inspection by the Chief Inspector under this Part.
- (2) A person to whom this section applies may, on showing evidence of his authority (if required to do so), enter any premises for the purposes of the inspection. 40

- (3) A person to whom this section applies may for the purposes of the inspection –
- (a) require documents to be produced;
 - (b) inspect, copy or take away any document produced;
 - (c) require an explanation to be given of any document produced;
 - (d) require any other information to be provided. 5
- (4) Subsection (2) does not entitle a person to whom this section applies –
- (a) to be present when a court mentioned in section 22(2)(a) is hearing proceedings in private;
 - (b) to attend any private deliberations of persons having jurisdiction to hear or determine any proceedings. 10
- (5) A reference in subsection (3) to the production of a document includes a reference to the production of –
- (a) a legible and intelligible copy of information recorded otherwise than in legible form, or
 - (b) information in a form from which it can readily be produced in legible and intelligible form. 15
- (6) A person exercising the power under subsection (3) to inspect documents –
- (a) is entitled to have access to, and inspect and check the operation of, any computer and associated apparatus or material that is or has been in use in connection with the documents in question; 20
 - (b) may require –
 - (i) the person by whom or on whose behalf the computer is or has been used, or
 - (ii) any person having charge of, or otherwise concerned with the operation of, the computer, apparatus or material, 25
 to afford him such reasonable assistance as he may require.

Reports

27 Reports by Chief Inspector

- (1) The Chief Inspector shall in each year submit to the responsible ministers a report on the discharge of his duties under this Part. 30
- (2) The responsible ministers shall lay before Parliament a copy of –
- (a) each report submitted under subsection (1);
 - (b) any other report submitted to them under this Part with a request by the Chief Inspector that it be laid before Parliament.
- (3) The Chief Inspector shall arrange for every report submitted to the responsible ministers under this Part to be published in such manner as appears to him to be appropriate. 35
- (4) The responsible ministers may –
- (a) exclude from a report laid before Parliament under this section any material the publication of which, in their opinion, would be against the interests of national security or might jeopardise the safety of any person; 40
 - (b) direct the exclusion of any such material from a report published under this section.

Supplemental

28 Further provision

Schedule 8 (further provision about the Chief Inspector) has effect.

29 Abolition of existing inspectorates

- | | |
|---|----|
| (1) The following are abolished – | 5 |
| (a) Her Majesty’s Chief Inspector of Prisons; | |
| (b) Her Majesty’s Inspectors of Constabulary; | |
| (c) Her Majesty’s Chief Inspector of the Crown Prosecution Service; | |
| (d) Her Majesty’s Inspectorate of the National Probation Service for England and Wales; | 10 |
| (e) Her Majesty’s Inspectorate of Court Administration. | |
| (2) Accordingly, the following are repealed – | |
| (a) section 5A of the Prison Act 1952 (c. 52); | |
| (b) sections 54 to 56 of the Police Act 1996 (c. 16); | |
| (c) the Crown Prosecution Service Inspectorate Act 2000 (c. 10); | 15 |
| (d) sections 6 and 7 of the Criminal Justice and Court Services Act 2000 (c. 43); | |
| (e) sections 58 to 61 of the Courts Act 2003 (c. 39). | |

30 Transfer of staff and property etc

Schedule 9 (transfer of staff and property etc to the Chief Inspector) has effect. 20

31 Consequential amendments

Schedule 10 (consequential amendments) has effect.

32 Interpretation

- | | |
|---|----|
| (1) In this Part – | |
| “Chief Inspector” has the meaning given by section 21(2); | 25 |
| “devolved Welsh matters” means matters in relation to which the National Assembly for Wales has functions; | |
| “the Lord Chief Justice” means the Lord Chief Justice of England and Wales; | |
| “responsible ministers” has the meaning given by section 22(1). | 30 |
| (2) In this Part “public authority” includes any person certain of whose functions are functions of a public nature, but does not include either House of Parliament or a person exercising functions in connection with proceedings in Parliament. | |
| (3) In relation to a particular act, a person is not a public authority by virtue of subsection (2) if the nature of the act is private. | 35 |

PART 5

MISCELLANEOUS

Computer misuse

33 Increased penalty etc for offence of unauthorised access to computer material

In the Computer Misuse Act 1990 (c. 18) (“the 1990 Act”), in section 1 (offence of unauthorised access to computer material), for subsection (3) there is substituted— 5

- “(3) A person guilty of an offence under this section shall be liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both; 10
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
 - (c) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.” 15

34 Unauthorised acts with intent to impair operation of computer, etc

For section 3 of the 1990 Act (unauthorised modification of computer material) there is substituted—

“3 Unauthorised acts with intent to impair operation of computer, etc. 20

- (1) A person is guilty of an offence if—
- (a) he does any unauthorised act in relation to a computer; and
 - (b) at the time when he does the act he has the requisite intent and the requisite knowledge.
- (2) For the purposes of subsection (1)(b) above the requisite intent is an intent to do the act in question and by so doing— 25
- (a) to impair the operation of any computer,
 - (b) to prevent or hinder access to any program or data held in any computer, or
 - (c) to impair the operation of any such program or the reliability of any such data, 30
- whether permanently or temporarily.
- (3) The intent need not be directed at—
- (a) any particular computer;
 - (b) any particular program or data; or 35
 - (c) a program or data of any particular kind.
- (4) For the purposes of subsection (1)(b) above the requisite knowledge is knowledge that the act in question is unauthorised.
- (5) In this section—
- (a) a reference to doing an act includes a reference to causing an act to be done; 40

- (b) “act” includes a series of acts.
- (6) A person guilty of an offence under this section shall be liable –
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both; 5
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
 - (c) on conviction on indictment, to imprisonment for a term not exceeding ten years or to a fine or to both.” 10
- 35 Making, supplying or obtaining articles for use in computer misuse offences**
- After section 3 of the 1990 Act insert –
- “3A Making, supplying or obtaining articles for use in offence under section 1 or 3**
- (1) A person is guilty of an offence if he makes, adapts, supplies or offers to supply any article – 15
- (a) knowing that it is designed or adapted for use in the course of or in connection with an offence under section 1 or 3; or
 - (b) intending it to be used to commit, or to assist in the commission of, an offence under section 1 or 3. 20
- (2) A person is guilty of an offence if he obtains any article with a view to its being supplied for use to commit, or to assist in the commission of, an offence under section 1 or 3.
- (3) In this section “article” includes any program or data held in electronic form. 25
- (4) A person guilty of an offence under this section shall be liable –
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both; 30
 - (c) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.”
- 36 Transitional and saving provision** 35
- (1) The amendments made by –
- (a) section 33, and
 - (b) paragraphs 15, 16, 17(3) and (4), 18, 19(2) and (7) and 20 of Schedule 13, do not apply in relation to an offence committed before that section comes into force. 40
- (2) An offence is not committed under the new section 3 unless every act or other event proof of which is required for conviction of the offence takes place after section 34 above comes into force.

- (3) In relation to a case where, by reason of subsection (2), an offence is not committed under the new section 3 –
- (a) section 3 of the 1990 Act has effect in the form in which it was enacted;
 - (b) paragraphs 11, 17, 19(4) and (5) and 21 of Schedule 13 do not apply.
- (4) An offence is not committed under the new section 3A unless every act or other event proof of which is required for conviction of the offence takes place after section 35 above comes into force. 5
- (5) In the case of an offence committed before section 154(1) of the Criminal Justice Act 2003 (c. 44) comes into force, the following provisions have effect as if for “12 months” there were substituted “six months” – 10
- (a) paragraph (a) of the new section 1(3);
 - (b) paragraph (a) of the new section 2(5);
 - (c) subsection (6)(a) of the new section 3;
 - (d) subsection (4)(a) of the new section 3A.
- (6) In this section – 15
- (a) “the new section 1(3)” means the subsection (3) substituted in section 1 of the 1990 Act by section 33 above;
 - (b) “the new section 2(5)” means the subsection (5) substituted in section 2 of the 1990 Act by paragraph 9 of Schedule 13 to this Act;
 - (c) “the new section 3” means the section 3 substituted in the 1990 Act by section 34 above; 20
 - (d) “the new section 3A” means the section 3A inserted in the 1990 Act by section 35 above.

Forfeiture of indecent photographs of children

- 37 Forfeiture of indecent photographs of children** 25
- (1) The Protection of Children Act 1978 (c. 37) is amended as follows.
- (2) In section 4 (entry, search and seizure) –
- (a) subsection (3) is omitted, and
 - (b) for subsection (4) there is substituted –
- “(4) In this section “premises” has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 23 of that Act).” 30
- (3) For section 5 (forfeiture) there is substituted –
- “5 Forfeiture**
- The Schedule to this Act makes provision about the forfeiture of indecent photographs and pseudo-photographs.” 35
- (4) At the end of the Act there is inserted the Schedule set out in Schedule 11 to this Act.
- (5) The amendment made by paragraph (b) of subsection (2) has effect only in relation to warrants issued under section 4 of the Protection of Children Act 1978 (c. 37) after the commencement of that paragraph. 40

- (6) The amendments made by subsections (2)(a), (3) and (4) and Schedule 11 have effect whether the property in question was lawfully seized before or after the coming into force of those provisions.
This is subject to subsection (7).
- (7) Those amendments do not have effect in a case where the property has been brought before a justice of the peace under section 4(3) of the Protection of Children Act 1978 (c. 37) before the coming into force of those provisions. 5

Independent Police Complaints Commission

38 Immigration and asylum enforcement functions: complaints and misconduct

- (1) The Secretary of State may make regulations conferring functions on the Independent Police Complaints Commission in relation to – 10
- (a) the exercise by immigration officers of specified enforcement functions;
 - (b) the exercise by officials of the Secretary of State of specified enforcement functions relating to immigration or asylum.
- (2) In subsection (1) the reference to enforcement functions includes, in particular, reference to – 15
- (a) powers of entry,
 - (b) powers to search persons or property,
 - (c) powers to seize or detain property,
 - (d) powers to arrest persons, 20
 - (e) powers to detain persons,
 - (f) powers to examine persons or otherwise to obtain information (including powers to take fingerprints or to acquire other personal data), and
 - (g) powers in connection with the removal of persons from the United Kingdom. 25
- (3) Regulations under subsection (1) may not confer functions on the Independent Police Complaints Commission in relation to the exercise by any person of a function conferred on him by or under Part 8 of the Immigration and Asylum Act 1999 (c. 33). 30
- (4) Regulations under subsection (1) –
- (a) may apply (with or without modification) or make provision similar to any provision of or made under Part 2 of the Police Reform Act 2002 (c. 30) (complaints);
 - (b) may make provision for payment by the Secretary of State to or in respect of the Independent Police Complaints Commission. 35
- (5) The Independent Police Complaints Commission and the Parliamentary Commissioner for Administration may disclose information to each other for the purposes of the exercise of a function – 40
- (a) by virtue of this section, or
 - (b) under the Parliamentary Commissioner Act 1967 (c. 13).
- (6) The Independent Police Complaints Commission and the Parliamentary Commissioner for Administration may jointly investigate a matter in relation to which –

- (a) the Independent Police Complaints Commission has functions by virtue of this section, and
 - (b) the Parliamentary Commissioner for Administration has functions by virtue of the Parliamentary Commissioner Act 1967 (c. 13).
- (7) Regulations under subsection (1) shall relate only to the exercise of functions in or in relation to England and Wales. 5
- (8) In this section “immigration officer” means a person appointed as an immigration officer under paragraph 1 of Schedule 2 to the Immigration Act 1971 (c. 77).

Extradition 10

39 Amendments to the Extradition Act 2003 etc

Schedule 12 (which in Part 1 makes amendments to the Extradition Act 2003 (c. 41) and in Part 2 makes other amendments concerning extradition) has effect.

PART 6 15

SUPPLEMENTAL

40 Orders and regulations

- (1) Subsections (2) to (5) apply to any power to make an order or regulations that is conferred by this Act on –
- (a) the Secretary of State, or 20
 - (b) the responsible ministers (within the meaning of Part 4).
- Subsections (2) and (3) also apply to any power to make an order that is conferred by this Act on the Scottish Ministers or the National Assembly for Wales.
- (2) The power is exercisable by statutory instrument. 25
- (3) The power may be exercised so as –
- (a) to make different provision for different purposes or different areas;
 - (b) to make provision generally or for specified cases or circumstances;
 - (c) to make incidental, supplemental, consequential, saving or transitional provision. 30
- (4) A statutory instrument made under any power to which this subsection applies, other than –
- (a) an order to which subsection (5) applies, or
 - (b) an order under section 44,
- is subject to annulment in pursuance of a resolution of either House of Parliament. 35
- (5) A statutory instrument containing –
- (a) an order under –
- section 22(2) or (8),
 - section 23(8), or 40
 - paragraph 46 of Schedule 1,

- or
- (b) an order that includes provision made by virtue of section 24(3)(a) or (b) or section 42(3)(b)(i) or (ii),
may not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament. 5
- (6) A statutory instrument containing an order under section 42 made by the Scottish Ministers, other than an order to which subsection (7) applies, is subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (7) A statutory instrument containing an order under section 42 made by the Scottish Ministers that includes provision made by virtue of subsection (3)(b)(i) of that section may not be made unless a draft has been laid before, and approved by a resolution of, the Scottish Parliament. 10
- 41 Money**
- (1) *There is to be paid out of money provided by Parliament –*
(a) *any expenditure incurred by a Minister of the Crown by virtue of this Act;* 15
(b) *any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.*
- (2) *Sums received by a Minister of the Crown by virtue of this Act are to be paid into the Consolidated Fund.*
- 42 Power to make consequential and transitional provision etc** 20
- (1) The Secretary of State may by order make –
(a) any supplementary, incidental or consequential provision, and
(b) any transitional or saving provision,
that he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to any provision of this Act. 25
- (2) The power conferred by subsection (1) is exercisable by the Scottish Ministers (rather than the Secretary of State) where the provision to be made is within the legislative competence of the Scottish Parliament.
- (3) An order under this section may in particular –
(a) provide for any provision of this Act which comes into force before another provision has come into force to have effect, until that other provision has come into force, with specified modifications; 30
(b) amend or repeal –
(i) any Act (including this Act and any Act passed in the same Session as this Act); 35
(ii) Northern Ireland legislation;
(iii) subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) made before the passing of this Act.
- (4) Nothing in this section limits the power under section 40 to include transitional or saving provision in a commencement order under section 44. 40
- (5) The amendments that may be made by virtue of subsection (3)(b) are in addition to those that are made by, or may be made under, any other provision of this Act.

43 Amendments and repeals

Schedules 13 (minor and consequential amendments) and 14 (repeals) have effect.

44 Commencement

- (1) Subject to subsections (2) to (7) – 5
 - (a) Parts 1 to 5, and
 - (b) section 43 (and Schedules 13 and 14),come into force in accordance with provision made by order by the Secretary of State.
- (2) Subsection (1) does not apply to – 10
 - (a) paragraphs 9(3)(a) and 21 to 23 of Schedule 2 (and section 2 so far as relating to those paragraphs);
 - (b) paragraphs 33, 35 and 44 of Schedule 13;
 - (c) the repeals in Part 1(B) of Schedule 14 that relate to the paragraphs mentioned in paragraphs (a) and (b); 15
 - (d) section 43 so far as relating to any of those paragraphs and repeals.
- (3) An order bringing the following provisions into force may be made only with the consent of the Scottish Ministers –
 - (a) section 1(2)(b);
 - (b) Parts 5 and 6 of Schedule 1 and paragraphs 49 to 51 of that Schedule (and section 1(3) so far as relating to those provisions); 20
 - (c) in Part 1(A) of Schedule 14, the repeals in or of the following provisions (and section 43 so far as relating to those repeals) –
 - (i) the Police (Scotland) Act 1967 (c. 77);
 - (ii) sections 109 to 111 of the Police Act 1997 (c. 50), Schedule 8 to that Act and paragraphs 10, 12 and 14 of Schedule 9 to that Act; 25
 - (iii) the Scottish Public Services Ombudsman Act 2002 (asp 11).
- (4) The following provisions come into force in accordance with provision made by order by the Scottish Ministers –
 - (a) sections 33 to 36 so far as they extend to Scotland; 30
 - (b) paragraphs 9 to 11 and 21 of Schedule 13 so far as they extend to Scotland;
 - (c) paragraph 17 of that Schedule;
 - (d) the repeals in Part 5 of Schedule 14 of –
 - (i) provisions in section 13 of the Computer Misuse Act 1990 (c. 18); 35
 - (ii) section 17(7) of that Act so far as it extends to Scotland;
 - (iii) paragraph 77 of Schedule 4 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40);
 - (e) section 43 so far as relating to those paragraphs and repeals. 40
- (5) Paragraph 7(2) of Schedule 6 (and section 14 so far as relating to that paragraph), so far as relating to fire and rescue authorities in Wales, comes into force in accordance with provision made by order by the National Assembly for Wales.

- (6) The following provisions, so far as relating to local authorities in Wales, come into force in accordance with provision made by order by the National Assembly for Wales –
- (a) section 15 and paragraph 27 of Schedule 13 (and section 43 so far as relating to that paragraph); 5
 - (b) section 20 and Schedule 7;
 - (c) the repeal in Part 3 of Schedule 14 of section 91 of the Anti-social Behaviour Act 2003 (c. 38) (and section 43 so far as relating to that repeal).
- (7) The following provisions, so far as relating to local authorities in Wales or registered social landlords on the register maintained by the National Assembly for Wales, come into force in accordance with provision made by order by the Assembly – 10
- (a) sections 16 to 18;
 - (b) paragraphs 38 to 42 of Schedule 13 (and section 43 so far as relating to those paragraphs). 15
- (8) The provision that may (by virtue of section 40(3)(c)) be made in an order under this section bringing section 3 into force includes provision prescribing modifications of Part 1 of the Local Government Act 1999 (c. 27) in its application to police authorities. 20

45 Extent

- (1) Subject to subsections (2) and (3), Parts 1 to 5 extend to England and Wales only.
- (2) The following provisions extend also to Scotland and Northern Ireland –
- section 1(2)(b); 25
 - Parts 5 and 6 of Schedule 1 (and section 1(3) so far as relating to those Parts);
 - Part 4;
 - section 36;
 - section 38. 30
- (3) Any amendment or repeal made by this Act extends to the same part or parts of the United Kingdom as the provision to which it relates.
- (4) In section 60 of the Immigration, Asylum and Nationality Act 2006 (extent), after subsection (3) (power to extend Act to Channel Islands or Isle of Man with or without modification or adaptation) there is inserted – 35
- “(3A) In subsection (3), the reference to this Act includes –
- (a) a reference to this Act as it has effect with the amendments and repeals made in it by the Police and Justice Act 2006, and
 - (b) a reference to this Act as it has effect without those amendments and repeals.” 40

46 Short title

This Act may be cited as the Police and Justice Act 2006.

SCHEDULES

SCHEDULE 1

Section 1

NATIONAL POLICING IMPROVEMENT AGENCY

PART 1

OBJECTS AND POWERS 5

The Agency's objects

- 1 The objects of the Agency are –
- (a) the identification, development and promulgation of good practice in policing;
 - (b) the provision to listed police forces of expert advice about, and expert assistance in connection with, operational and other policing matters; 10
 - (c) the identification and assessment of –
 - (i) opportunities for, and
 - (ii) threats to, 15police forces within the meaning given by section 101 of the Police Act 1996 (c. 16) (police forces for police areas in England and Wales), and the making of recommendations to the Secretary of State in the light of its assessment of any opportunities and threats;
 - (d) the international sharing of understanding of policing issues; 20
 - (e) the provision of support to listed police forces in connection with –
 - (i) information technology,
 - (ii) the procurement of goods, other property and services, and
 - (iii) training and other personnel matters;
 - (f) the doing of all such other things as are incidental or conducive to the attainment of any of the objects mentioned in paragraphs (a) to (e). 25

The Agency's principal power

- 2 (1) The Agency may do anything it considers appropriate for the attainment of its objects, subject to sub-paragraphs (4) and (5).
- (2) In exercise of the power under sub-paragraph (1), the Agency – 30
- (a) for the purpose of providing such support to listed police forces as is mentioned in paragraph 1(e) –
 - (i) may carry on activities itself with a view to forces making use of what is provided through the carrying-on of the activities,
 - (ii) may support forces in their carrying-on of activities themselves, and 35

- (iii) may support forces in any other way the Agency considers appropriate; and
 - (b) may (subject to sub-paragraph (4)) accept gifts, and loans, of money and other property.
- (3) The terms on which the Agency accepts a gift or loan of money or other property may (in particular) include provision for the commercial sponsorship of any activity of the Agency. 5
- (4) The Agency may borrow money or other property only with the consent of the Secretary of State.
- (5) In the case of a restrictedly listed police force, the Agency may provide advice, assistance or support to or for the force only with the agreement of— 10
- (a) the entity within paragraph 3(3)(k) to (r) that is comprised in the force,
 - (b) the person whose control that entity is under, or
 - (c) the authority responsible for maintaining that entity. 15
- (6) Sub-paragraphs (2) and (3) are to be taken not to prejudice the generality of sub-paragraph (1).

Meaning of “listed police force” and “restrictedly listed police force” in paragraphs 1 and 2

- 3 (1) In paragraphs 1 and 2(2) “listed police force” means an entity within sub-paragraph (3), together with persons employed for the purposes of the entity. 20
- (2) In paragraph 2(5) “restrictedly listed police force” means an entity within sub-paragraph (3)(k) to (r), together with persons employed for the purposes of the entity.
- (3) Those entities are— 25
- (a) any police force within the meaning given by section 101 of the Police Act 1996 (c. 16) (police forces for police areas in England and Wales), including the cadets and special constables under the control of the chief officer of police of that force,
 - (b) the Serious Organised Crime Agency, 30
 - (c) the Ministry of Defence Police,
 - (d) the Royal Navy Regulating Branch,
 - (e) the Royal Military Police,
 - (f) the Royal Air Force Police,
 - (g) the Royal Marines Police, 35
 - (h) the British Transport Police Force, including the cadets and special constables under the direction and control of the chief constable of that force,
 - (i) the Civil Nuclear Constabulary,
 - (j) any person who under sub-paragraph (4) is to be treated as a listed police force, 40
 - (k) any police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77), including the cadets under the control of the chief constable of that force,

-
- (l) the Scottish Police Services Authority and any institution, organisation or other body established and maintained by the Authority,
- (m) the Police Service of Northern Ireland,
- (n) the Police Service of Northern Ireland Reserve, 5
- (o) the States of Jersey Police Force,
- (p) the salaried police force of the Island of Guernsey,
- (q) the Isle of Man Constabulary, and
- (r) any person who is engaged outside the United Kingdom in the carrying-on of activities similar to any carried on by a police force within the meaning given by section 101 of the Police Act 1996 (c. 16). 10
- (4) The Secretary of State may by order provide for a person specified in the order, or of a description so specified, to be treated as being a listed police force for the purposes of paragraphs 1 and 2(2).
- Consultation: exercise of powers in relation to Scotland or Northern Ireland* 15
- 4 (1) The Agency must consult the Scottish consultees –
- (a) before doing anything in relation to any of the persons mentioned in sub-paragraph (2) in exercise of its power under paragraph 2(1), and
- (b) before doing anything in exercise of that power that may or will affect what it may do in relation to any of those persons in future exercise of that power. 20
- (2) Those persons are –
- (a) a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77),
- (b) cadets under the control of the chief constable of such a force, 25
- (c) persons employed for the purposes of such a force,
- (d) the Scottish Police Services Authority, and
- (e) any institution, organisation or other body established and maintained by that Authority.
- (3) In sub-paragraph (1) “the Scottish consultees” means – 30
- (a) the Scottish Police Services Authority, and
- (b) persons whom the Agency considers to represent the interests of chief constables of police forces in Scotland.
- (4) The Agency must consult the Secretary of State –
- (a) before doing anything in relation to any of the persons mentioned in sub-paragraph (5) in exercise of its power under paragraph 2(1), and 35
- (b) before doing anything in exercise of that power that may or will affect what it may do in relation to any of those persons in future exercise of that power.
- (5) Those persons are – 40
- (a) the Police Service of Northern Ireland,
- (b) the Police Service of Northern Ireland Reserve, and
- (c) persons employed for the purposes of either (or both) of those bodies.

Annual plans

- 5 (1) Before the beginning of each financial year the Agency must prepare a plan setting out how it intends during that year to exercise its powers.
- (2) The plan for a financial year (“the plan”) must state –
- (a) any priorities that the Agency has determined for that year, 5
 - (b) any current strategic priorities determined by the Secretary of State under paragraph 6,
 - (c) any current performance targets established by the Agency, and
 - (d) the financial resources that are expected to be available to the Agency for that year. 10
- (3) Priorities within sub-paragraph (2)(a) –
- (a) may relate to matters to which strategic priorities determined under paragraph 6 also relate, or
 - (b) may relate to other matters,
- but in any event must be so framed as to be consistent with strategic priorities determined under that paragraph. 15
- (4) The plan must state, in relation to each priority within sub-paragraph (2)(a) or (b), how the Agency intends to give effect to that priority.
- (5) The Agency must arrange for the plan to be published in such manner as it considers appropriate. 20
- (6) The Agency must send a copy of the plan to –
- (a) the Secretary of State,
 - (b) the police authority for each police area in England and Wales,
 - (c) the chief officer of police of each police force in England and Wales, and
 - (d) such other persons as the Agency considers appropriate. 25
- (7) Before finalising the plan, the Agency must consult –
- (a) the Secretary of State,
 - (b) persons whom the Agency considers to represent the interests of police authorities for police areas in England and Wales, 30
 - (c) persons whom the Agency considers to represent the interests of chief officers of police of police forces in England and Wales, and
 - (d) such other persons as the Agency considers appropriate.

Strategic priorities

- 6 (1) The Secretary of State may determine strategic priorities for the Agency. 35
- (2) Before determining any such priorities the Secretary of State must consult –
- (a) the Agency,
 - (b) persons whom he considers to represent the interests of chief officers of police of police forces in England and Wales, and
 - (c) persons whom he considers to represent the interests of police authorities for police areas in England and Wales. 40
- (3) Sub-paragraph (2)(b) and (c) do not apply in relation to strategic priorities for the Agency so far as the priorities relate –

- (a) to the doing of things by the Agency in relation to any of the persons mentioned in sub-paragraph (4) in exercise of its power under paragraph 2(1), or
 - (b) to the doing of things by the Agency in exercise of that power that may or will affect what it may do in relation to any of those persons in future exercise of that power, 5
- but before determining any such priorities so far as so relating, the Secretary of State must consult the Scottish Ministers.
- (4) Those persons are—
- (a) a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77), 10
 - (b) cadets under the control of the chief constable of such a force,
 - (c) persons employed for the purposes of such a force,
 - (d) the Scottish Police Services Authority, or
 - (e) any institution, organisation or other body established and maintained by that Authority. 15
- (5) The Secretary of State must arrange for any priorities determined under this paragraph to be published in such manner as he considers appropriate.

PART 2

MEMBERSHIP ETC 20

Chairman and other members

- 7 (1) The Agency is to consist of—
- (a) a chairman appointed by the Secretary of State,
 - (b) the chief executive of the Agency, and
 - (c) other members appointed by the Secretary of State. 25
- (2) Before appointing the chairman of the Agency, the Secretary of State must consult—
- (a) persons whom he considers to represent the interests of police authorities for police areas in England and Wales, and
 - (b) persons whom he considers to represent the interests of chief officers of police of police forces in England and Wales. 30
- (3) The Secretary of State may not appoint a person to be chairman of the Agency for more than five years at a time.
- (4) The Secretary of State must exercise his power under sub-paragraph (1)(c) to ensure that at all times the members appointed under that provision include—
- (a) at least one member nominated by persons whom the Secretary of State considers to represent the interests of police authorities for police areas in England and Wales,
 - (b) at least one member nominated by persons whom the Secretary of State considers to represent the interests of chief officers of police of police forces in England and Wales, and 40
 - (c) at least one member of Her Majesty’s Home Civil Service.
- (5) The Secretary of State may not under sub-paragraph (1)(c) appoint a person to be a member of the Agency for more than five years at a time. 45

- (6) In this Part of this Schedule “appointed member” means –
- (a) the chairman of the Agency, or
 - (b) a member appointed under sub-paragraph (1)(c).

Tenure

- | | | |
|----|--|----|
| 8 | Subject to paragraphs 9 and 10, an appointed member of the Agency shall hold and vacate office in accordance with the terms of his appointment. | 5 |
| 9 | An appointed member may resign by giving written notice to the Secretary of State. | |
| 10 | The Secretary of State may remove a person from office as an appointed member if the Secretary of State is satisfied that – | 10 |
| | (a) the person has been absent from meetings of the Agency, without its permission, for a period longer than four months, | |
| | (b) the person has been convicted of an offence in the British Islands or elsewhere, | |
| | (c) a bankruptcy order has been made against the person, or the person’s estate has been sequestrated, or the person has made a composition or arrangement with, or granted a trust deed for, his creditors, | 15 |
| | (d) the person has failed to comply with the terms of his appointment, or | |
| | (e) the person is unable or unfit to carry out his functions. | 20 |

Re-appointment

- | | | |
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| 11 | Previous service as an appointed member of the Agency does not affect a person’s eligibility for re-appointment. | |
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Remuneration, pensions etc of appointed members

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|----|--|----|
| 12 | (1) The Agency must pay to the appointed members such remuneration and allowances as the Secretary of State may determine. | 25 |
| | (2) The Agency must, if required to do so by the Secretary of State – | |
| | (a) pay to or in respect of a person who is or has been an appointed member such pensions or gratuities as the Secretary of State may determine; | 30 |
| | (b) pay such sums as the Secretary of State may determine towards provision for the payment of pensions or gratuities to or in respect of a person who is or has been an appointed member. | |
| | (3) Sub-paragraph (4) applies if – | |
| | (a) a person ceases to be an appointed member of the Agency, and | 35 |
| | (b) it appears to the Secretary of State that there are special circumstances which make it appropriate for the person to receive compensation. | |
| | (4) The Secretary of State may require the Agency to pay to the person such amount as the Secretary of State may determine. | 40 |

Chief executive

- 13 (1) The Secretary of State must appoint a person to be chief executive of the Agency.
- (2) Before doing so, the Secretary of State must consult the chairman of the Agency. 5
- (3) Sub-paragraph (2) does not apply to the first appointment of a chief executive of the Agency.
- (4) The chief executive of the Agency is a member of its staff.
- (5) The Agency must pay to its chief executive such remuneration and allowances as the Secretary of State may determine. 10

Staff remuneration

- 14 (1) The Agency shall pay to members of its staff such remuneration and allowances as it may determine.
- (2) Sub-paragraph (1) does not apply in relation to the chief executive of the Agency. 15
- (3) In relation to a person seconded to the Agency to serve as a member of its staff, sub-paragraph (1) has effect subject to the arrangements under which the person is seconded.
- (4) Arrangements under which a person is seconded to the Agency to serve as a member of its staff may (in particular) contain provision for the making of payments by the Agency in respect of remuneration and allowances paid to the person by another. 20

Staff pensions

- 15 (1) The Agency may pay, or make payments in respect of, such pensions or gratuities to or in respect of persons who are, or have been, members of its staff as the Agency may determine, including pensions or gratuities by way of compensation to or in respect of members of the Agency's staff who suffer loss of employment or loss or diminution of emoluments. 25
- (2) In Schedule 1 to the Superannuation Act 1972 (c. 11) (kinds of employment to which section 1 of that Act applies), at the appropriate place under the heading "Other Bodies" there is inserted – 30
"Employment as a member of the staff of the National Policing Improvement Agency."
- (3) The Agency must pay to the Minister for the Civil Service, at such times as that Minister may direct, such sums as that Minister may determine in respect of any increase attributable to this paragraph in the sums payable out of money provided by Parliament under the Superannuation Act 1972. 35
- 16 (1) Sub-paragraph (2) applies where –
- (a) a person is, by reference to employment as a member of the Agency's staff, a participant in a scheme under section 1 of the Superannuation Act 1972, and 40
- (b) the person becomes an appointed member of the Agency.

- (2) The Minister for the Civil Service may determine that the person’s service as an appointed member of the Agency is to be treated for the purposes of the scheme as employment as a member of the Agency’s staff (whether or not any benefits are payable to or in respect of him under paragraph 12).

Status of staff members as constables 5

- 17 (1) This paragraph applies where a person who is a constable is appointed as a member of the Agency’s staff.
- (2) The person continues to be a constable for the period during which he is a member of that staff.
- (3) If the person is appointed as chief executive, he holds the rank of chief constable for the period during which he is chief executive. 10

Liability for acts of police members of staff

- 18 (1) The Agency is liable for unlawful conduct of seconded constables in the carrying out, or purported carrying out, of their functions as members of the Agency’s staff in the same manner as an employer is liable for unlawful conduct of his employees in the course of their employment. 15
- (2) In the case of any such conduct by a seconded constable which is a tort, the Agency is accordingly to be treated as a joint tortfeasor.
- (3) In this paragraph “seconded constable” means a constable serving as a member of the Agency’s staff without being an employee of the Agency. 20

Payment of amounts in connection with unlawful conduct of any staff

- 19 The Agency may, in such cases and to such extent as appear to it to be appropriate –
- (a) pay damages or costs awarded against a member of the Agency’s staff in proceedings for any unlawful conduct of that person, 25
- (b) pay any costs incurred and not recovered by such a person in such proceedings, and
- (c) pay any sum required in connection with the settlement of a claim that has, or might have, given rise to such proceedings.

Delegation to committees, sub-committees and staff 30

- 20 (1) The Agency may delegate any of its functions (to such extent as the Agency may determine) to a committee of the Agency or to a member of the Agency’s staff.
- (2) A committee of the Agency may delegate any functions conferred on it (to such extent as the committee may determine) to a sub-committee of the Agency or to a member of the Agency’s staff. 35
- (3) A sub-committee of the Agency may delegate any functions conferred on it (to such extent as the sub-committee may determine) to a member of the Agency’s staff.
- (4) A committee or sub-committee of the Agency may include persons who are not members of the Agency. 40

- (5) The Agency may pay remuneration and allowances to any person who –
(a) is a member of a committee or sub-committee of the Agency, but
(b) is not a member of the Agency or a member of its staff.
- (6) Delegation of a function under this paragraph does not prevent the Agency or, as the case may be, the committee or sub-committee from exercising the function. 5

Procedure

- 21 (1) The Agency may –
(a) regulate its own procedure (including quorum), and
(b) regulate the procedure (including quorum) of its committees and sub-committees. 10
- (2) But the Agency must make provision for a quorum for meetings of each of its committees and sub-committees to include at least one person who is a member of the Agency or a member of its staff.
- 22 Proceedings of the Agency are not invalidated – 15
(a) by any vacancy among the Agency’s members;
(b) by any defect in the appointment of a member of the Agency.

Application of seal and proof of documents

- 23 The application of the Agency’s seal must be authenticated by the signature of – 20
(a) a member of the Agency, or
(b) any other person who has been authorised by the Agency (whether generally or specially) for that purpose.
- 24 A document purporting to be duly executed under the seal of the Agency or to be signed on the Agency’s behalf – 25
(a) shall be received in evidence, and
(b) unless the contrary is proved, shall be treated as so executed or signed.

Status

- 25 (1) The Agency is not to be regarded – 30
(a) as the servant or agent of the Crown, or
(b) as enjoying any status, privilege or immunity of the Crown.
- (2) Accordingly, the Agency’s property is not to be regarded as property of, or held on behalf of, the Crown.

PART 3 35

ACCOUNTABILITY AND SUPERVISION

Annual reports

- 26 (1) As soon as possible after the end of each financial year the Agency must prepare a report on the carrying out of its functions during that year.

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- (2) The report for a financial year (“the report”) must include an assessment of the extent to which the annual plan for that year under paragraph 5 has been carried out.
- (3) The Agency must arrange for the report to be published in such manner as it considers appropriate. 5
- (4) The Agency must send a copy of the report to—
- (a) the Secretary of State,
 - (b) the police authority for each police area in England and Wales,
 - (c) the chief officer of police of each police force in England and Wales, and 10
 - (d) such other persons as the Agency considers appropriate.
- (5) The Secretary of State must lay a copy of the report before each House of Parliament.

Reports to Secretary of State

- 27 (1) The Secretary of State may require the Agency to submit a report to him on specified matters— 15
- (a) connected with the carrying out of its functions, or
 - (b) otherwise connected with any of its activities.
- (2) A report under sub-paragraph (1) must be in such form as the Secretary of State may specify. 20
- (3) The Secretary of State may arrange, or require the Agency to arrange, for a report under this paragraph to be published in such manner as he considers appropriate.
- (4) The Secretary of State may exclude any part of a report from publication under sub-paragraph (3) if he considers that publication of that part— 25
- (a) would be against the interests of national security,
 - (b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders, or
 - (c) could jeopardise the safety of any person.
- (5) For the purposes of sub-paragraph (4)(b) “the detection of crime” shall be taken to include establishing by whom, for what purpose, by what means and generally in what circumstances any crime was committed. 30
- (6) For the purposes of sub-paragraphs (4)(b) and (5) “crime” means conduct—
- (a) which constitutes one or more criminal offences under the law of a part of the United Kingdom, or 35
 - (b) which is, or corresponds to, any conduct which, if it all took place in one part of the United Kingdom would constitute one or more criminal offences under the law of that part.

Inspections

- 28 (1) The Secretary of State may require Her Majesty’s Chief Inspector for Justice, Community Safety and Custody to inspect, and report on, the efficiency and effectiveness of the Agency. 40

- (2) A requirement under sub-paragraph (1) may be general or relate to a particular matter.
- (3) Section 26 (powers of persons carrying out inspections) applies to a person involved in the carrying out of an inspection under sub-paragraph (1) as it applies to a person involved in the carrying out of an inspection under Part 4 of this Act. 5

Inspection reports

- 29 (1) The Secretary of State must arrange for a report under paragraph 28(1) to be published in such manner as he considers appropriate.
- (2) The Secretary of State may exclude any part of a report from publication under sub-paragraph (1) if he considers that publication of that part – 10
 - (a) would be against the interests of national security,
 - (b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders, or
 - (c) could jeopardise the safety of any person. 15
- (3) The Secretary of State must send a copy of the published report to the Agency.
- (4) The Agency must –
 - (a) prepare comments on the published report, and
 - (b) arrange for its comments to be published in such manner as it considers appropriate. 20
- (5) The Agency must send a copy of any document published under sub-paragraph (4) to the Secretary of State.
- (6) For the purposes of sub-paragraph (2)(b) “the detection of crime” shall be taken to include establishing by whom, for what purpose, by what means and generally in what circumstances any crime was committed. 25
- (7) For the purposes of sub-paragraphs (2)(b) and (6) “crime” means conduct –
 - (a) which constitutes one or more criminal offences under the law of a part of the United Kingdom, or
 - (b) which is, or corresponds to, any conduct which, if it all took place in one part of the United Kingdom would constitute one or more criminal offences under the law of that part. 30

Post-inspection directions

- 30 (1) Sub-paragraph (2) applies where a report made to the Secretary of State under paragraph 28(1) states – 35
 - (a) that the Agency is failing to carry out any of its functions efficiently and effectively, whether generally or in particular respects, or
 - (b) that, unless remedial measures are taken, the Agency will cease to carry out any of its functions efficiently and effectively, whether generally or in particular respects. 40
- (2) The Secretary of State may direct the Agency to take such measures as may be specified in the direction.

PART 4

FINANCIAL PROVISION

Payments by Secretary of State to the Agency

- 31 The Secretary of State may make payments to the Agency.

Charges by the Agency and other receipts

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- 32 (1) The Agency may make such charges as it considers appropriate in connection with the carrying out of any of its functions.
- (2) The Agency must pay to the Secretary of State all sums received by it in the course of, or in connection with, the carrying out of its functions.
- (3) Sub-paragraph (2) –
- (a) does not apply to sums received by the Agency under paragraph 31, and
- (b) does not apply where the Secretary of State so directs.

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Payments by Agency to police authorities

- 33 The Agency may, for purposes it considers are related to any of its objects, make payments to –
- (a) the police authority for a police area in England and Wales;
- (b) the police authority for a police area in Scotland;
- (c) a joint police board constituted by a scheme under section 19 of the Police (Scotland) Act 1967 (c. 77);
- (d) the Scottish Police Services Authority.

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Accounts

- 34 (1) The Agency must –
- (a) keep proper accounts and proper records in relation to the accounts, and
- (b) prepare a statement of accounts in respect of each financial year.
- (2) The statement of accounts for a financial year must be in such form, and contain such information, as the Secretary of State may direct.
- (3) The Agency must, within such period following the end of each financial year as the Secretary of State may direct, send copies of the statement of accounts for that year –
- (a) to the Secretary of State, and
- (b) to the Comptroller and Auditor General.
- (4) The Comptroller and Auditor General must –
- (a) examine, certify and report on each statement of accounts sent to him under sub-paragraph (3), and
- (b) lay a copy of each such statement, and of his report on it, before each House of Parliament.

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PART 5

TRANSFER SCHEMES

Meaning of “scheme”

- 35 In this Part of this Schedule “scheme” means a scheme made by the Secretary of State. 5

Property, rights and liabilities

- 36 A scheme may make provision for the transfer to the Agency or the Secretary of State –
- (a) of property, rights and liabilities of the Central Police Training and Development Authority; 10
 - (b) of property, rights and liabilities of the Police Information Technology Organisation.

- 37 (1) The property, rights and liabilities for whose transfer a scheme under paragraph 36 may provide include (in particular) –
- (a) property, rights and liabilities that could not otherwise be transferred; 15
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) rights and liabilities under contracts of employment, subject to sub-paragraph (2). 20

(2) A scheme under paragraph 36 may not provide for the transfer to the Secretary of State of rights and liabilities under contracts of employment.

(3) Before making a scheme under paragraph 36 that provides for the transfer of rights and liabilities under contracts of employment, the Secretary of State must consult such persons appearing to represent the interests of the employees concerned as the Secretary of State considers appropriate. 25

38 A scheme may make provision for the creation, in favour of the Agency or the Secretary of State, of interests in, or rights in relation to, anything that could be transferred by a scheme under paragraph 36.

39 (1) A scheme under paragraph 36 may make provision for the creation of interests in or rights in relation to, or for the imposition of liabilities in relation to, anything that is or could be transferred by the scheme. 30

(2) A scheme under paragraph 38 may make provision for the imposition of liabilities in relation to anything created by the scheme.

(3) A scheme under paragraph 36 or 38 may contain provision about enforcement of a right or liability whose transfer, creation or imposition is provided for by the scheme. 35

- 40 (1) At the time appointed for the purpose by a scheme under paragraph 36 or 38 –
- (a) property, rights and liabilities for whose transfer the scheme provides, 40
 - (b) interests and rights for whose creation the scheme provides, and
 - (c) liabilities for whose imposition the scheme provides,

shall, by virtue of this sub-paragraph, be transferred or (as the case may be) created or imposed in accordance with the scheme.

- (2) A scheme under paragraph 36 or 38 may appoint different times for the transfer, creation or imposition of different things.

Effect of transfer of employees

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- 41 (1) This paragraph applies if a scheme under paragraph 36 provides for the transfer of rights and liabilities under a contract of employment.

- (2) The contract –

- (a) is not terminated by the transfer, and
 (b) has effect from the appointed time as if made between the employee and the Agency.

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- (3) The rights, powers, duties and liabilities of the old employer under or in connection with the contract are (by virtue of paragraph 40(1)) transferred to the Agency at the appointed time.

- (4) Anything done before the appointed time by or in relation to the old employer in respect of the contract or the employee is to be treated from that time as having been done by or in relation to the Agency.

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- (5) Sub-paragraphs (2) to (4) have effect subject to sub-paragraph (6).

- (6) If the employee informs the old employer or the Agency that he objects to the transfer –

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- (a) the rights, powers, duties and liabilities under or in connection with the contract are not transferred by virtue of the scheme, and
 (b) the contract is terminated immediately before the appointed time, but the employee is not to be treated, for any purpose, as having been dismissed.

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- (7) In this paragraph “the appointed time” means the time appointed by or under the scheme for the transfer of rights and liabilities under the contract.

- (8) Nothing in this Part of this Schedule affects any right the employee has to terminate his contract of employment if (apart from the change of employer) a substantial change is made to his detriment in his working conditions.

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Staff on secondment

- 42 (1) A scheme may make provision –

- (a) for an existing secondment to have effect, from a time appointed by the scheme, as a secondment to the Agency, and
 (b) for the seconded person to serve from that time as a member of the staff of the Agency.

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- (2) If the seconded person informs the Agency, or the body to which he is seconded or the body by which he is seconded, that he objects to the existing secondment becoming a secondment to the Agency –

- (a) the scheme does not cause the existing secondment to become a secondment to the Agency, and
 (b) the existing secondment is terminated immediately before the time mentioned in sub-paragraph (1)(a) (so that the person returns at that time to the body by which he was seconded).

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- (3) In this paragraph “existing secondment” means a secondment by virtue of which—
- (a) a person is the chief executive or another member of the staff of the Central Police Training and Development Authority, or
 - (b) a person is the chief executive or another member of the staff of the Police Information Technology Organisation. 5

Deciding matters under scheme

- 43 A scheme under this Part of this Schedule may contain provision—
- (a) for the Secretary of State, or any other person nominated by or in accordance with the scheme, to decide any matter requiring decision under or in consequence of the scheme, and 10
 - (b) as to the payment of fees charged, or expenses incurred, by any person nominated to decide any matter under paragraph (a).

Supplementary provision

- 44 A scheme under this Part of this Schedule may contain supplementary, incidental, transitional and consequential provision. 15

PART 6

INTERPRETATION AND MODIFICATION

Interpretation

- 45 (1) In Parts 1 to 5, and this Part, of this Schedule “the Agency” means the National Policing Improvement Agency. 20
- (2) In Parts 1 to 5 of this Schedule “financial year” means—
- (a) the period beginning with the day on which the Agency is established and ending with the following 31st March, and
 - (b) each subsequent period of 12 months ending with 31st March. 25
- (3) In Part 2 of this Schedule “appointed member” has the meaning given by paragraph 7(6).

Power to modify objects, functions and structure of the Agency

- 46 (1) The Secretary of State may by order make provision—
- (a) for modifying the objects, powers and duties of the Agency; 30
 - (b) for modifying the constitution of the Agency and any provision regulating its management and control;
 - (c) for conferring powers on the Secretary of State in relation to—
 - (i) the objects, powers and duties of the Agency,
 - (ii) the constitution of the Agency and the regulation of its management and control, and 35
 - (iii) members of the Agency’s staff;
 - (d) for imposing, on persons in relation to whom the Agency has or is given powers or duties, obligations to consult with the Agency or to do other things in relation to the Agency. 40

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- (2) In sub-paragraph (1) “modifying” includes adding to, varying and diminishing.
- (3) Power under sub-paragraph (1) may be exercised to give the Agency objects, powers or duties in relation to persons who have no functions in relation to, nor any connection with, policing if – 5
- (a) they carry out functions in, or in relation to, prisons in England or Wales,
 - (b) they are officers of a local probation board, or
 - (c) they are persons falling within neither of paragraphs (a) and (b) who carry out functions for the purposes of the criminal justice system in England and Wales. 10
- (4) Before making an order under sub-paragraph (1), the Secretary of State must consult –
- (a) the Agency,
 - (b) persons whom the Secretary of State considers to represent the interests of police authorities for police areas in England and Wales, and 15
 - (c) persons whom the Secretary of State considers to represent the interests of chief officers of police of police forces in England and Wales. 20
- (5) An order under sub-paragraph (1) may –
- (a) make provision for the making of determinations, or the giving of approvals, by the Secretary of State under the order;
 - (b) contain provision framed by reference to determinations made or approvals given under provision such as is mentioned in paragraph (a); 25
 - (c) contain provision framed by reference to the Secretary of State’s opinion, from time to time, as to any matter.
- (6) Provision under sub-paragraph (1) (including provision made under sub-paragraph (1) in reliance on section 40(3)) may take the form of amendments of enactments whenever passed or made, including – 30
- (a) enactments comprised in, or in instruments made under, Acts of the Scottish Parliament,
 - (b) enactments comprised in, or in instruments made under, Northern Ireland legislation, and 35
 - (c) enactments comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

PART 7

CONSEQUENTIAL AMENDMENTS

Public Records Act 1958 (c. 51) 40

- 47 In Part 2 of the Table at the end of paragraph 3 of Schedule 1 to the Public Records Act 1958 (bodies whose records are public records), at the appropriate place there is inserted –
- “National Policing Improvement Agency.”

Parliamentary Commissioner Act 1967 (c. 13)

- 48 In Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc subject to investigation), at the appropriate place there is inserted –
“National Policing Improvement Agency.”

Police (Scotland) Act 1967 (c. 77)

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- 49 The Police (Scotland) Act 1967 is amended as follows.
- 50 In section 38(3A) (status of certain constables on secondment), after “(bb)” there is inserted “or (bg)”.
- 51 (1) Section 38A (constables engaged on service outside their force) is amended as follows. 10
- (2) In subsection (1) (meaning of “relevant service”), after paragraph (bf) there is inserted –
“(bg) temporary service with the National Policing Improvement Agency on which a person is engaged with the consent of the appropriate authority;”. 15
- (3) In subsection (6)(a) (which provides for relevant service to be treated for certain purposes as service in constable’s home force), after “(bf),” there is inserted “(bg),”.

Health and Safety at Work etc. Act 1974 (c. 37)

- 52 In section 51A(2E) of the Health and Safety at Work etc. Act 1974 (provisions which impose liability on others for unlawful conduct of constables but which do not apply to liability under Part 1 of the 1974 Act), after paragraph (f) there is inserted –
“(g) paragraph 18 of Schedule 1 to the Police and Justice Act 2006;”. 20
25

House of Commons Disqualification Act 1975 (c. 24)

- 53 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies whose members are disqualified), at the appropriate place there is inserted –
“The National Policing Improvement Agency.” 30

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 54 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified), at the appropriate place there is inserted –
“The National Policing Improvement Agency.” 35

Police Pensions Act 1976 (c. 35)

- 55 The Police Pensions Act 1976 is amended as follows.
- 56 In section 7(2) (persons eligible for police pensions), after paragraph (ce)

there is inserted –

“(cf) a member of the staff of the National Policing Improvement Agency who holds the office of constable;”.

- 57 (1) Section 11 (interpretation) is amended as follows.
- (2) In subsection (1) (references to membership of a police force etc), after paragraph (be) there is inserted – 5
- “(bf) service, by a person holding the office of constable, as a member of the staff of the National Policing Improvement Agency;”.
- (3) In subsection (2) (meaning of “police authority”), after paragraph (e) there is inserted – 10
- “(f) in relation to any service such as is mentioned in subsection (1)(bf), it means the National Policing Improvement Agency;”.
- (4) In subsection (3) (meaning of “police force”), in paragraph (b), after “(be),” there is inserted “(bf),” 15

Race Relations Act 1976 (c. 74)

- 58 In Part 2 of Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty), at the appropriate place under the heading “Police” there is inserted – 20
- “The National Policing Improvement Agency.”

Police Act 1996 (c. 16)

- 59 The Police Act 1996 is amended as follows.
- 60 (1) Section 39A (power of Secretary of State to issue codes of practice for chief officers) is amended as follows. 25
- (2) In subsection (3) (preparation of drafts and revisions) –
- (a) for “Central Police Training and Development Authority” there is substituted “National Policing Improvement Agency”, and
- (b) for “that Authority” there is substituted “that Agency”.
- (3) In subsection (4) (consultation), for “Central Police Training and Development Authority” there is substituted “National Policing Improvement Agency”. 30
- 61 (1) Section 53A (regulation of procedures and practices of police forces) is amended as follows.
- (2) In subsection (2) (advice), for paragraph (b) there is substituted – 35
- “(b) the National Policing Improvement Agency.”
- (3) In subsection (5) (consultation), for “Central Police Training and Development Authority” there is substituted “National Policing Improvement Agency”.
- (4) In subsection (6)(a) (consideration of advice etc), for “Central Police Training and Development Authority” there is substituted “National Policing Improvement Agency”. 40

- 62 In section 57(5) (consultation about regulations requiring police forces to use specified facilities or services), for “Police Information Technology Organisation” there is substituted “National Policing Improvement Agency”.
- 63 (1) Section 97 (police officers engaged on service outside their force) is amended as follows. 5
- (2) In subsection (1) (meaning of “relevant service”), after paragraph (cf) there is inserted –
- “(cg) temporary service with the National Policing Improvement Agency on which a person is engaged with the consent of the appropriate authority;”. 10
- (3) In subsections (6)(a) and (8), after “(cf)” there is inserted “, (cg)”.

Police (Northern Ireland) Act 1998 (c. 32)

- 64 (1) Section 27 of the Police (Northern Ireland) Act 1998 (members of the Police Service of Northern Ireland engaged on other police service) is amended as follows. 15
- (2) In subsection (1) (meaning of “relevant service”), after paragraph (cb) there is inserted –
- “(cc) temporary service with the National Policing Improvement Agency on which a member of the Police Service of Northern Ireland is engaged with the consent of the Chief Constable;”. 20
- (3) In subsection (5)(b), after “(cb),” there is inserted “(cc),”.
- (4) In subsection (7) –
- (a) for “(1)(c), (ca)” there is substituted “(1)(ca)”, and
- (b) for “or (cb)” there is substituted “, (cb) or (cc)”. 25

Freedom of Information Act 2000 (c. 36)

- 65 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public bodies and offices), at the appropriate place there is inserted –
- “The National Policing Improvement Agency.”

Criminal Justice and Court Services Act 2000 (c. 43) 30

- 66 (1) Section 71 of the Criminal Justice and Court Services Act 2000 (access to driver licensing records) is amended as follows.
- (2) In subsection (1), for “Police Information Technology Organisation” there is substituted “National Policing Improvement Agency”.
- (3) In subsection (2), for “Organisation” there is substituted “National Policing Improvement Agency”. 35

Vehicles (Crime) Act 2001 (c. 3)

- 67 The Vehicles (Crime) Act 2001 is amended as follows.

68 In section 18(7) (access to information contained in register of registration plate suppliers), for “Police Information Technology Organisation” there is substituted “National Policing Improvement Agency”

69 (1) Section 36 (access to certain motor insurance information) is amended as follows. 5

(2) In subsection (1), for “Police Information Technology Organisation” there is substituted “National Policing Improvement Agency”.

(3) In subsection (2)(a), for “Organisation” there is substituted “Agency”.

Criminal Justice and Police Act 2001 (c. 16)

70 (1) Section 97 of the Criminal Justice and Police Act 2001 (regulations for police forces as to training and qualifications for deployment) is amended as follows. 10

(2) In subsection (4) (persons who must be consulted before regulations about training etc may be made), for paragraph (a) there is substituted –

“(a) the National Policing Improvement Agency;” 15

(3) For subsection (6) (interpretation of section) there is substituted –

“(6) In this section –

(a) references to the provision of police training are references to the provision of training and opportunities for professional development for persons serving or employed for policing purposes in England and Wales; 20

(b) references to the provision of training include references to the provision of assessment and examination services;

(c) references to a person serving or employed for policing purposes in England and Wales are references to a person who is – 25

(i) a member of a police force in England and Wales,

(ii) a special constable appointed under section 27 of the 1996 Act, or

(iii) a person employed for the purposes of a police force in England and Wales.” 30

Police Reform Act 2002 (c. 30)

71 In section 29(3)(c) of the Police Reform Act 2002 (meaning of references to a member of the public), for “Central Police Training and Development Authority” there is substituted “National Policing Improvement Agency”. 35

Sexual Offences Act 2003 (c. 42)

72 In section 94(3) of the Sexual Offences Act 2003 (supply of information to Secretary of State etc for verification), for paragraph (b) there is substituted –

“(b) the National Policing Improvement Agency;” 40

Commissioners for Revenue and Customs Act 2005 (c. 11)

- 73 In section 20(7)(a) of the Commissioners for Revenue and Customs Act 2005 (public interest disclosure), for “Police Information Technology Organisation” there is substituted “National Policing Improvement Agency”. 5

Serious Organised Crime and Police Act 2005 (c. 15)

- 74 (1) Section 153 of the Serious Organised Crime and Police Act 2005 (disclosure of information about insurance status of vehicles) is amended as follows.
(2) In subsections (1) and (3)(a) and (b), for “PITO” there is substituted “NPIA”.
(3) In subsection (4), for the definition of “PITO” there is substituted – 10
 ““NPIA” means the National Policing Improvement Agency.”

SCHEDULE 2

Section 2

AMENDMENTS TO THE POLICE ACT 1996

Basic command units

- 1 The heading immediately before section 1 (police areas) becomes “*Police areas and basic command units*”, and after that section there is inserted – 15
“1A Basic command units
(1) Every police area falling within paragraph (a) or (b) of section 1(2) shall be divided for operational purposes into two or more areas (“basic command units”). 20
(2) Schedule 1A has effect for supplementing this section.”
- 2 After Schedule 1 there is inserted –

“SCHEDULE 1A

BASIC COMMAND UNITS

Number and area of basic command units 25

- 1 (1) Except with the consent of the Secretary of State, any basic command unit must –
(a) be co-extensive with a local authority area, or with two or more adjoining local authority areas taken together, or
(b) be one of two or more adjoining basic command units that, taken together, are co-extensive with a local authority area. 30
(2) Subject to sub-paragraph (1) –
(a) the number of basic command units in any police area, and
(b) the area covered by each such unit,
shall be determined, and may from time to time be varied, by the chief officer of police of the police force maintained for that police area. 35

- (3) In this paragraph “local authority area” means –
- (a) in relation to England, a district or London borough, the Isle of Wight and the Isles of Scilly;
 - (b) in relation to Wales, a county or county borough.

Consultation by chief officer of police 5

- 2 (1) A chief officer of police making a determination or variation under paragraph 1 in relation to a police area must first consult –
- (a) the council for every local authority area lying within the police area;
 - (b) in the case of a police area that consists of or includes a county for which there is a council, that council; 10
 - (c) in the case of the metropolitan police district, the Greater London Authority;
 - (d) the police authority for the police area;
 - (e) every fire and rescue authority whose area lies wholly or partly within the police area; 15
 - (f) in the case of a police area in England, every Primary Care Trust whose area lies wholly or partly within the police area;
 - (g) in the case of a police area in Wales, every Local Health Board whose area lies wholly or partly within the police area; 20
 - (h) the Chief Crown Prosecutor for every area that lies wholly or partly within the police area;
 - (i) Her Majesty’s Courts Service; 25
 - (j) the Secretary of State having responsibility for prisons;
 - (k) every local probation board whose area lies wholly or partly within the police area;
 - (l) such other persons as the chief officer thinks fit.
- (2) In this paragraph – 30
- “Chief Crown Prosecutor” means a person designated as such under section 1(4) of the Prosecution of Offences Act 1985;
 - “fire and rescue authority” means –
 - (a) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies; 35
 - (b) a metropolitan county fire and rescue authority;
 - (c) the London Fire and Emergency Planning Authority; 40 - “local authority area” has the same meaning as in paragraph 1;
 - “local probation board” means a local probation board established under section 4 of the Criminal Justice and Court Services Act 2000. 45

Power to vary list of consultees

- 3 (1) The Secretary of State may by order amend paragraph 2 so as to vary the list of consultees, and to make any necessary consequential or supplemental provision.
- (2) A statutory instrument containing an order under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.” 5

Membership etc of police authorities

- 3 For section 4 (membership of police authorities outside Greater London) there is substituted – 10

“4 Membership of police authorities etc

- (1) The Secretary of State may by regulations make provision in relation to the membership of any police authority established under section 3.
- (2) Regulations under subsection (1) shall provide for a police authority to consist of – 15
- (a) persons who are members of a relevant council, and
 - (b) other persons.
- (3) Regulations under subsection (1) making provision as specified in subsection (2) shall specify – 20
- (a) the number of members of a police authority, and
 - (b) the number of members falling within paragraph (a) and paragraph (b) of that subsection,
- and shall secure that the majority of members of a police authority are persons falling within paragraph (a) of that subsection. 25
- (4) Regulations under subsection (1) may include provision as to –
- (a) how and by whom a member is to be appointed,
 - (b) qualification and disqualification for membership,
 - (c) the tenure of office of a member (including the circumstances in which a member ceases to hold office or may be removed or suspended from office), 30
 - (d) re-appointment as a member,
 - (e) the validity of acts and proceedings of a person appointed as a member in the event of his disqualification or lack of qualification, 35
 - (f) the validity of proceedings of a police authority in the event of a vacancy in membership or of a defect in the appointment of a member, and
 - (g) the payment of remuneration and allowances to a member and the reimbursement of expenses. 40
- (5) Regulations under subsection (1) making provision as specified in subsection (4)(a) may provide for members of a police authority to be appointed by a selection panel, and may include provision as to –
- (a) the number of members of a selection panel,
 - (b) how and by whom a member of a panel is to be appointed, 45

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| (c) | qualification and disqualification for membership of a panel, | |
| (d) | the tenure of office of a member of a panel (including the circumstances in which a member ceases to hold office or may be removed or suspended from office), | |
| (e) | re-appointment as a member of a panel, | 5 |
| (f) | the validity of acts and proceedings of a person appointed as a member of a panel in the event of his disqualification or lack of qualification, | |
| (g) | the validity of proceedings of a panel in the event of a vacancy in membership or of a defect in the appointment of a member, and | 10 |
| (h) | the payment of remuneration and allowances to a member of a panel and the reimbursement of expenses. | |
| (6) | The Secretary of State may by regulations make provision for the appointment of a chairman and vice-chairman from among the members of a police authority, including in particular provision as to— | 15 |
| (a) | how and by whom the chairman and vice-chairman are to be appointed, | |
| (b) | qualification and disqualification for appointment, | 20 |
| (c) | the tenure of office of the chairman and vice-chairman (including the circumstances in which a chairman or vice-chairman ceases to hold office or may be removed or suspended from office), | |
| (d) | eligibility for re-appointment, | 25 |
| (e) | the validity of acts and proceedings of a person appointed as chairman or vice-chairman in the event of his disqualification or lack of qualification, | |
| (f) | the validity of proceedings of a police authority in the event of a vacancy in the office of chairman or vice-chairman or of a defect in the appointment of the chairman or vice-chairman, and | 30 |
| (g) | the payment of remuneration and allowances to a chairman or vice-chairman and the reimbursement of expenses. | |
| (7) | The Secretary of State may by regulations make provision as to the payment of remuneration and allowances to, and the reimbursement of expenses of, members of the standards committee of a police authority established under section 3. | 35 |
| (8) | Before making any regulations under this section in relation to all police authorities established under section 3, the Secretary of State must consult— | 40 |
| (a) | persons whom he considers to represent the interests of those police authorities, | |
| (b) | persons whom he considers to represent the interests of county and district councils in England and county and county borough councils in Wales, and | 45 |
| (c) | such other persons as he thinks fit. | |
| (9) | Before making any regulations under this section to which subsection (8) does not apply, the Secretary of State must consult— | |
| (a) | any police authority to which the regulations are to apply, | 50 |

- (b) any relevant council in relation to such an authority, and
 - (c) such other persons as he thinks fit.
 - (10) For the purposes of this section, a “relevant council” in relation to a police authority means—
 - (a) in the case of a police authority in England, a county or district council; 5
 - (b) in the case of a police authority in Wales, a county or county borough council.
 - (11) Regulations under this section may make different provision for different police authorities. 10
 - (12) Regulations under this section may make transitional, consequential, incidental and supplemental provision or savings.
 - (13) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.” 15
- 4 Section 5 (reductions in size of police authorities) is repealed.
- 5 For section 5C (membership etc of the Metropolitan Police Authority) there is substituted—
- "5C Membership etc of the Metropolitan Police Authority**
- (1) The Secretary of State may by regulations make provision in relation to the membership of the Metropolitan Police Authority. 20
 - (2) Regulations under subsection (1) shall provide for the Metropolitan Police Authority to consist of—
 - (a) persons appointed from among the persons specified in subsection (3), and 25
 - (b) other persons.
 - (3) The persons referred to in subsection (2)(a) are—
 - (a) the Mayor of London,
 - (b) members of the London Assembly, and
 - (c) members of the councils of London boroughs. 30
 - (4) Regulations under subsection (1) making provision as specified in subsection (2) shall specify—
 - (a) the number of members of the Metropolitan Police Authority, and
 - (b) the number of members falling within paragraph (a) and paragraph (b) of that subsection, 35and shall secure that the majority of members of the Authority are persons falling within paragraph (a) of that subsection.
 - (5) Regulations under subsection (1) may include provision as to—
 - (a) how and by whom a member is to be appointed, 40
 - (b) qualification and disqualification for membership,
 - (c) the tenure of office of a member (including the circumstances in which a member ceases to hold office or may be removed or suspended from office),
 - (d) re-appointment as a member, 45

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| (e) | the validity of acts and proceedings of a person appointed as a member in the event of his disqualification or lack of qualification, | |
| (f) | the validity of proceedings of the Authority in the event of a vacancy in membership or of a defect in the appointment of a member, and | 5 |
| (g) | the payment of remuneration and allowances to a member and the reimbursement of expenses. | |
| (6) | Regulations under subsection (1) making provision as specified in subsection (5)(a) may provide for members of the Metropolitan Police Authority to be appointed by a selection panel, and may include provision as to – | 10 |
| (a) | the number of members of the selection panel, | |
| (b) | how and by whom a member of the panel is to be appointed, | |
| (c) | qualification and disqualification for membership of the panel, | 15 |
| (d) | the tenure of office of a member of the panel (including the circumstances in which a member ceases to hold office or may be removed or suspended from office), | |
| (e) | re-appointment as a member of the panel, | 20 |
| (f) | the validity of acts and proceedings of a person appointed as a member of the panel in the event of his disqualification or lack of qualification, | |
| (g) | the validity of proceedings of the panel in the event of a vacancy in membership or of a defect in the appointment of a member, and | 25 |
| (h) | the payment of remuneration and allowances to a member of the panel and the reimbursement of expenses. | |
| (7) | The Secretary of State may by regulations make provision for the appointment of a chairman and vice-chairman from among the members of the Metropolitan Police Authority, including in particular provision as to – | 30 |
| (a) | how and by whom the chairman and vice-chairman are to be appointed, | |
| (b) | qualification and disqualification for appointment, | 35 |
| (c) | the tenure of office of the chairman and vice-chairman (including the circumstances in which a chairman or vice-chairman ceases to hold office or may be removed or suspended from office), | |
| (d) | eligibility for re-appointment, | 40 |
| (e) | the validity of acts and proceedings of a person appointed as chairman or vice-chairman in the event of his disqualification or lack of qualification, | |
| (f) | the validity of proceedings of the Authority in the event of a vacancy in the office of chairman or vice-chairman or of a defect in the appointment of the chairman or vice-chairman, and | 45 |
| (g) | the payment of remuneration and allowances to a chairman or vice-chairman and the reimbursement of expenses. | |

- (8) The Secretary of State may by regulations make provision as to the payment of remuneration and allowances to, and the reimbursement of expenses of, members of the Metropolitan Police Authority’s standards committee.
- (9) Before making any regulations under this section, the Secretary of State must consult – 5
- (a) the Metropolitan Police Authority,
 - (b) the Greater London Authority,
 - (c) persons whom he considers to represent the interests of the councils of London boroughs, and 10
 - (d) such other persons as he thinks fit.
- (10) Regulations under this section may make transitional, consequential, incidental and supplemental provision or savings.
- (11) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.” 15
- 6 In section 19 (approval of decisions about precepts), in subsection (2)(b), for “appointed under paragraph 2 of Schedule 2” there is substituted “who are members of a relevant council as defined in section 4(10)”.
- 7 In section 20 (questions on police matters at council meetings), for subsection (3) there is substituted – 20
- “(3) In this section a council is a “relevant council” in relation to a police authority if –
- (a) it is the council for a county, district, or county borough which constitutes, or is wholly within, the authority’s police area, and 25
 - (b) in the case of a district council, the district is not in a county having a county council within paragraph (a).”
- 8 Schedules 2 to 3A (provision about membership of police authorities) are repealed. 30

Functions of police authorities

- 9 (1) Section 6 (general functions of police authorities) is amended as follows.
- (2) In subsection (1) –
- (a) the words after “section 3” become paragraph (a) of that subsection;
 - (b) at the end of that paragraph there is inserted “, and 35
 - (b) shall hold the chief officer of police of that force to account for the exercise of his functions and those of persons under his direction and control.”
- (3) In subsection (2) –
- (a) in paragraph (a), for “objectives determined by the Secretary of State under section 37” there is substituted “strategic priorities determined by the Secretary of State under section 37A”; 40
 - (b) in paragraph (b), for “under section 7” there is substituted “by virtue of section 6ZB”;

- (c) for paragraph (d) there is substituted –
 “(d) any plan issued by the authority by virtue of section 6ZB.”
- (4) Subsection (4) (police authorities to comply with directions given under section 38 or 40) is omitted. 5
- 10 After section 6 there is inserted –
- “6ZA Power to confer particular functions on police authorities**
- (1) The Secretary of State may by order confer particular functions on police authorities.
- (2) Without prejudice to the generality of subsection (1), an order under this section may contain provision requiring a police authority – 10
- (a) to monitor the performance of the police force maintained for its area in –
- (i) complying with any duty imposed on the force by or under this Act, the Human Rights Act 1998 or any other enactment; 15
- (ii) carrying out any plan issued by virtue of section 6ZB;
- (b) to secure that arrangements are made for that force to co-operate with other police forces whenever necessary or expedient; 20
- (c) to promote diversity within that force and within the authority.
- (3) Before making an order under this section the Secretary of State must consult –
- (a) persons whom he considers to represent the interests of police authorities, 25
- (b) persons whom he considers to represent the interests of chief officers of police, and
- (c) such other persons as he thinks fit.
- (4) An order under this section may make different provision for different police authorities. 30
- (5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- Police authorities: objectives, plans and reports* 35
- 11 After section 6ZA (inserted by paragraph 10) there is inserted –
- “6ZB Policing objectives, policing plans and policing reports**
- (1) The Secretary of State may by order require police authorities –
- (a) to determine objectives, and
- (b) to issue plans and reports, 40
- concerning the policing of their areas.
- (2) An order under this section requiring objectives to be determined may contain provision as to –

-
- (a) the periods to which objectives are to relate, and, as regards each period, the date by which objectives are to be determined;
- (b) the matters to which objectives are to relate;
- (c) persons who are to be consulted, and matters that are to be considered, in determining objectives. 5
- (3) An order under this section requiring plans to be issued may contain provision as to –
- (a) the periods to be covered by plans, and, as regards each period, the date by which plans are to be issued; 10
- (b) the matters to be dealt with in plans;
- (c) the contribution to be made by chief officers of police to the preparation of plans;
- (d) persons who are to be consulted, and matters that are to be considered, in preparing plans; 15
- (e) modification of plans;
- (f) persons to whom copies of plans are to be sent.
- (4) An order under this section requiring reports to be issued may contain provision as to –
- (a) the periods to be covered by reports, and, as regards each period, the date by which reports are to be issued; 20
- (b) the matters to be dealt with in reports;
- (c) persons to whom copies of reports are to be sent.
- (5) Before making an order under this section the Secretary of State must consult – 25
- (a) persons whom he considers to represent the interests of police authorities,
- (b) persons whom he considers to represent the interests of chief officers of police, and
- (c) such other persons as he thinks fit. 30
- (6) An order under this section may make different provision for different police authorities.
- (7) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.” 35
- 12 The following sections are repealed –
- section 6A (three-year strategy plans);
- section 7 (local policing objectives);
- section 8 (local policing plans);
- section 9 (annual reports by police authorities). 40
- 13 In section 9A (general functions of Commissioner of Police of the Metropolis), in subsection (2), for the words after “shall have regard” there is substituted “to –
- (a) any arrangements involving the metropolitan police force that are made by virtue of section 6ZA(2)(b); 45
- (b) any objectives determined by the Metropolitan Police Authority by virtue of section 6ZB(1)(a);

- (c) any plans issued by that Authority by virtue of section 6ZB(1)(b).”
- 14 In section 10 (general functions of chief constables), in subsection (2), for the words after “shall have regard” there is substituted “to –
- (a) any arrangements involving his force that are made by virtue of section 6ZA(2)(b); 5
- (b) any objectives determined by the police authority for his area by virtue of section 6ZB(1)(a);
- (c) any plans issued by that authority by virtue of section 6ZB(1)(b).” 10
- 15 In section 96B (national and international functions: application of requirements relating to reports etc) –
- (a) in subsection (2), for “section 7(1)” there is substituted “section 6ZB(1)”; 15
- (b) subsections (3) and (4) are omitted.
- Civilian employees of police authorities*
- 16 (1) Section 15 (civilian employees) is amended as follows.
- (2) For subsection (2) (civilians employed by police authority to be under direction and control of chief officer of police) there is substituted –
- “(2) A police authority shall exercise its powers under section 101 (and section 107) of the Local Government Act 1972 so as to secure that, subject to section 24(3A), any person employed by the authority under this section solely to assist the police force maintained by the authority is under the direction and control of the chief officer of police of that force.” 20
- (3) Subsection (3) (power to agree or determine exceptions to section 15(2)) is omitted. 25
- 17 In section 24 (aid of one police force by another), after subsection (3) there is inserted –
- “(3A) While a person employed by a police authority under section 15 solely to assist the police force maintained by that authority is provided under this section for the assistance of another police force, he shall, notwithstanding section 15(2), be under the direction and control of the chief officer of police of that other force.” 30
- Jurisdiction of special constables* 35
- 18 (1) Section 30 (jurisdiction of constables) is amended as follows.
- (2) For subsection (2) (jurisdiction of special constables) there is substituted –
- “(2) A special constable shall have all the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters.” 40
- (3) Subsections (3) and (4) are omitted.

19 In section 24(3) (constable assisting another police force to be under direction and control of chief officer of that force), for “section 10(1)” there is substituted “sections 9A(1) and 10(1)”.

20 In section 27(2) (special constables to be under direction and control of chief officer), after “Subject to” there is inserted “section 24(3) and”.

5

Secretary of State’s strategic functions in relation to police authorities

21 Sections 36A (National Policing Plan) and 37 (setting of objectives for police authorities) are repealed.

22 Before section 38 there is inserted –

“37A Setting of strategic priorities for police authorities

10

(1) The Secretary of State may determine strategic priorities for the policing of the areas of all police authorities to which this section applies.

(2) Before determining any such priorities the Secretary of State shall consult –

15

(a) persons whom he considers to represent the interests of police authorities to which this section applies, and

(b) persons whom he considers to represent the interests of chief officers of police of forces maintained by those authorities.

(3) The Secretary of State shall arrange for any priorities determined under this section to be published in such manner as he considers appropriate.

20

(4) The police authorities to which this section applies are those established under section 3 and the Metropolitan Police Authority.”

23 (1) Section 38 (setting of performance targets) is amended as follows.

25

(2) In subsection (1) –

(a) for “an objective has been determined under section 37” there is substituted “a strategic priority has been determined under section 37A”;

(b) for “to achieve the objective” there is substituted “to give effect to that priority”.

30

(3) In subsection (2), for “section 37” there is substituted “section 37A”.

(4) After subsection (4) there is inserted –

“(5) A police authority that is given a direction under this section shall comply with it.”

35

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

24 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 – 5
- (a) the chief officer of police of the force,
 - (b) the police authority responsible for maintaining the force, or
 - (c) both of them,
- 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 – 10
- (a) the chief officer of police of the force,
 - (b) the police authority responsible for maintaining the force, or 15
 - (c) both of them,
- 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. 20
- (4) The Secretary of State shall not give a direction under this section in relation to any police force unless – 25
- (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; 30
 - (b) that police authority and chief officer have each been given an opportunity of making representations about those grounds; 35
 - (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. 40
- (5) Subsection (4) does not apply if the Secretary of State is satisfied that –
- (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; 45

- (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. 5
- (6) Where—
 - (a) a police authority responsible for maintaining a police force requests the Secretary of State to give a direction under this section to the chief officer of police of that force, and
 - (b) the Secretary of State declines to do so, 10the Secretary of State shall give reasons for his decision to the police authority.
- (7) A chief officer of police or police authority that is given a direction under this section shall comply with it.
- (8) Nothing in this section shall authorise the Secretary of State— 15
 - (a) to require a chief officer of police to do or not to do anything in a particular case identified for the purposes of the requirement, or in relation to a particular person so identified; or
 - (b) to direct the inclusion of any such requirement in an action plan. 20

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. 25
- (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. 30
- (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. 35
- (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; 40
 - (b) the police authority has been given an opportunity of making representations about those grounds; 45

-
- (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
- (d) the Secretary of State has considered any such representations and any such proposals. 5
- (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; 10
- (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. 15
- (6) A police authority that is given a direction under this section shall comply with it.
- (7) 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. 20
- 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 – 25
- (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 – 30
- (a) persons whom he considers to represent the interests of police authorities;
- (b) persons whom he considers to represent the interests of chief officers of police; and 35
- (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. 40
- (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.
- (6) On giving a direction under section 40 to the chief officer of police of a force, the Secretary of State shall notify the police authority 45

- responsible for maintaining that force that he has given that direction.
- (7) 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 5
 - (b) a report about it.
- (8) 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.” 10
- 25 In section 41 (directions as to minimum budget), in subsection (1), after “section 40” there is inserted “or 40A”.

Power to give directions as to action plans

- 26 Sections 41A and 41B (power to give directions as to action plans, and procedure for doing so) are repealed. 15

Arrangements for obtaining the views of the community on policing

- 27 For section 96 there is substituted –
- “96 Arrangements for obtaining the views of the community on policing**
- (1) The Secretary of State may by order require arrangements to be made by the police authority for each police area to which the order applies –
- (a) for obtaining the views of people in that area about matters concerning the policing of the area;
 - (b) for obtaining their co-operation with the police in preventing crime and anti-social behaviour in the area. 25
- (2) An order under this section may contain –
- (a) provision requiring the authority in question to review arrangements made under the order from time to time;
 - (b) provision as to persons whom the authority in question must consult, and matters to which it must have regard, in making or reviewing the arrangements; 30
 - (c) provision for the Secretary of State, if not satisfied with the adequacy of arrangements made under the order by a police authority, to require the authority –
 - (i) to submit reports to him concerning the arrangements; 35
 - (ii) to review the arrangements.
- (3) Before making an order under this section the Secretary of State must consult –
- (a) persons whom he considers to represent the interests of police authorities, 40
 - (b) persons whom he considers to represent the interests of chief officers of police, and
 - (c) such other persons as he thinks fit.

- (4) An order under this section may make different provision for different police authorities.
- (5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

5

SCHEDULE 3

Section 6

EXERCISE OF POLICE POWERS BY CIVILIANS

- 1 The Police Reform Act 2002 (c. 30) is amended as follows.
- 2 (1) Section 38 (police powers for police authority employees) is amended as follows. 10
- (2) In subsection (4)(c) (person not to be designated unless adequately trained), after “conferred” there is inserted “or imposed”.
- (3) Before subsection (6) there is inserted –
- “(5B) The reference in subsection (4)(c) to the powers and duties to be conferred or imposed on a person by virtue of his designation, so far as it is a reference to the standard powers and duties of a community support officer, is a reference to the powers and duties that at the time of the person’s designation are the standard powers and duties of a community support officer.” 15
- (4) After subsection (6) there is inserted – 20
- “(6A) Subsection (6) has effect subject to subsections (5A) and (8).”
- 3 (1) Section 42 (supplementary provisions relating to designations etc) is amended as follows.
- (2) Before subsection (1) there is inserted –
- “(A1) A person who exercises or performs any power or duty in relation to any person in reliance on his designation under section 38 as a community support officer, or who purports to do so, shall produce to that person evidence of his designation, if requested to do so. 25
- (B1) A person who exercises or performs any non-standard power or non-standard duty in relation to any person in reliance on his designation under section 38 as a community support officer, or who purports to do so, shall produce to that person evidence that the power or duty has been conferred or imposed on him, if requested to do so. 30
- (C1) For the purposes of subsection (B1), a power or duty is “non-standard” if it is not one of the standard powers and duties of a community support officer.” 35
- (3) After subsection (1) there is inserted –
- “(1A) Subsection (1) does not apply to a person who exercises or performs any power or duty in reliance on his designation under section 38 as a community support officer, or who purports to do so.” 40

- 4 In section 105 (orders and regulations), in subsection (3)(b), after “section 19(3)” there is inserted “, 38A(4)”.
- 5 (1) Schedule 4 (powers exercisable by police civilians) is amended as follows.
- (2) In paragraph 1(3) (community support officers: power to issue fixed penalty notices: definition of “relevant fixed penalty offence”) – 5
- (a) in paragraph (a), for “1(2)(a) to (d)” there is substituted “(2)(a) to (e)”, and
- (b) in paragraph (b), for “that person’s designation as an offence he” there is substituted “a designation by which this paragraph is applied to the designated person as an offence which the designated person”. 10
- (3) In paragraph 1A(2) (community support officers: power to require name and address: confining the power), for “Such a designation may specify that, in relation to that person, the application of sub-paragraph (3)” there is substituted “A designation by which this paragraph is applied to a person may specify that the application of sub-paragraph (3) by that designation to that person”. 15
- (4) In paragraph 2(3A)(b) (community support officers: powers under byelaws to remove persons from places), for “under paragraph 1A” there is substituted “applying paragraph 1A to the CSO,”. 20
- (5) In paragraph 2(4) (person required to wait with community support officer may be given choice to go to police station), for “this Part of this Schedule applies” there is substituted “this paragraph is applied”.
- (6) In paragraph 2(6) (meaning of “relevant offence”), in the words after paragraph (b), after “may provide that” there is inserted “, for the purposes of this paragraph as applied to that person by that designation,”. 25
- (7) In paragraph 2(8) (application of paragraph 2 by other provisions effective only where paragraph 2 is itself applied to community support officer) –
- (a) for “or 7A(8)” there is substituted “, 7A(8) or 7C(2)”, and
- (b) “under this paragraph” is omitted. 30
- (8) In paragraph 4 (power to use reasonable force to detain or control person required to wait with community support officer) –
- (a) in sub-paragraph (1), for “This paragraph applies” there is substituted “Sub-paragraph (3) applies”,
- (b) in sub-paragraph (1)(b), for “sets out the matters” there is substituted “sets out matters”, and
- (c) in sub-paragraph (2), for “as the matters” there is substituted “as matters”. 35
- (9) In paragraph 7B(2)(a) (community support officer’s power to seize controlled drugs found in person’s possession), for the words from “(whether” to the end there is substituted “(whether or not the CSO finds it in the course of searching the person by virtue of any paragraph of this Part of this Schedule being applied to the CSO by a designation); and”. 40
- (10) In paragraphs 34(2) and 35(4) (escort officer’s powers to carry out non-intimate searches of persons), for “designation under” there is substituted “application of”. 45

- (11) In paragraph 35A (staff custody officer to have powers of a custody officer), in each of sub-paragraphs (3) and (4), for “under” there is substituted “applying”.
- (12) In paragraph 36(1)(a) (meaning of “the relevant police area”), for “designation” there is substituted “person designated”. 5
- (13) In paragraph 36, for sub-paragraphs (2) and (3) there is substituted –
- “(2) In Part 1 of this Schedule “a designation” means –
- (a) a designation under section 38, or
- (b) an order under section 38A(1) (and, accordingly, the power to make such an order – 10
- (i) is extended by paragraphs 1(3)(b), 1A(2) and (7), 2(6) and 4(1)(b), but
- (ii) is subject to paragraphs 2(2), 4(2) and 11B(5)).
- (2A) In Parts 2 and 4A of this Schedule “a designation” means a designation under section 38. 15
- (3) In Parts 3 and 4 of this Schedule “a designation” means a designation under section 38 or 39.”
- 6 (1) Paragraph 1 of Schedule 5 (power of accredited persons to issue fixed penalty notices) is amended as follows.
- (2) In sub-paragraph (2) (powers conferred on a person when paragraph 1 is applied to him), in the words before paragraph (a) (which refer to a relevant offence), after “relevant” there is inserted “fixed penalty”. 20
- (3) In sub-paragraph (3)(a) (meaning of “relevant fixed penalty offence” in paragraph 1), for “(c)” there is substituted “(d)”.

SCHEDULE 4

Section 7

25

POLICE BAIL

PART 1

INTRODUCTORY

- 1 The Police and Criminal Evidence Act 1984 (c. 60) is amended as follows.

PART 2

30

POLICE BAIL GRANTED ELSEWHERE THAN AT POLICE STATION

Power to impose conditions on granting bail

- 2 In section 30A (bail elsewhere than at police station), for subsection (4) (no condition of bail may be imposed other than requirement to attend police station) there is substituted – 35
- “(3A) Where a constable releases a person on bail under subsection (1) –

- (a) no recognizance for the person’s surrender to custody shall be taken from the person,
 - (b) no security for the person’s surrender to custody shall be taken from the person or from anyone else on the person’s behalf, 5
 - (c) the person shall not be required to provide a surety or sureties for his surrender to custody, and
 - (d) no requirement to reside in a bail hostel may be imposed as a condition of bail.
- (3B) Subject to subsection (3A), where a constable releases a person on bail under subsection (1) the constable may impose, as conditions of the bail, such requirements as appear to the constable to be necessary – 10
- (a) to secure that the person surrenders to custody,
 - (b) to secure that the person does not commit an offence while on bail, 15
 - (c) to secure that the person does not interfere with witnesses or otherwise obstruct the course of justice, whether in relation to himself or any other person, or
 - (d) for the person’s own protection or, if the person is under the age of 17, for the person’s own welfare or in the person’s own interests. 20
- (4) Where a person is released on bail under subsection (1), a requirement may be imposed on the person as a condition of bail only under the preceding provisions of this section.” 25

Contents of notice given to person released on bail

- 3 In section 30B (bail under section 30A: notices), after subsection (4) there is inserted –
- “(4A) If the person is granted bail subject to conditions under section 30A(3B), the notice also – 30
- (a) must specify the requirements imposed by those conditions,
 - (b) must explain the opportunities under sections 30CA(1) and 30CB(1) for variation of those conditions, and
 - (c) if it does not specify the police station at which the person is required to attend, must specify a police station at which the person may make a request under section 30CA(1)(b).” 35

Variation of bail conditions

- 4 After section 30C there is inserted –
- “30CA Bail under section 30A: variation of conditions by police**
- (1) Where a person released on bail under section 30A(1) is on bail subject to conditions – 40
- (a) a relevant officer at the police station at which the person is required to attend, or
 - (b) where no notice under section 30B specifying that police station has been given to the person, a relevant officer at the police station specified under section 30B(4A)(c), 45

may, at the request of the person but subject to subsection (2), vary the conditions.

- (2) On any subsequent request made in respect of the same grant of bail, subsection (1) confers power to vary the conditions of the bail only if the request is based on information that, in the case of the previous request or each previous request, was not available to the relevant officer considering that previous request when he was considering it. 5
- (3) Where conditions of bail granted to a person under section 30A(1) are varied under subsection (1) – 10
- (a) paragraphs (a) to (d) of section 30A(3A) apply,
 - (b) requirements imposed by the conditions as so varied must be requirements that appear to the relevant officer varying the conditions to be necessary for any of the purposes mentioned in paragraphs (a) to (d) of section 30A(3B), and
 - (c) the relevant officer who varies the conditions must give the person notice in writing of the variation. 15
- (4) Power under subsection (1) to vary conditions is, subject to subsection (3)(a) and (b), power – 20
- (a) to vary or rescind any of the conditions, and
 - (b) to impose further conditions.
- (5) In this section “relevant officer”, in relation to a designated police station, means a custody officer but, in relation to any other police station – 25
- (a) means a constable, or a person designated as a staff custody officer under section 38 of the Police Reform Act 2002, who is not involved in the investigation of the offence for which the person making the request under subsection (1) was under arrest when granted bail under section 30A(1), if such a constable or officer is readily available, and
 - (b) if no such constable or officer is readily available – 30
 - (i) means a constable other than the one who granted bail to the person, if such a constable is readily available, and
 - (ii) if no such constable is readily available, means the constable who granted bail. 35

30CB Bail under section 30A: variation of conditions by court

- (1) Where a person released on bail under section 30A(1) is on bail subject to conditions, a magistrates’ court may, on an application by or on behalf of the person, vary the conditions if – 40
- (a) the conditions have been varied under section 30CA(1) since being imposed under section 30A(3B),
 - (b) a request for variation under section 30CA(1) of the conditions has been made and refused, or
 - (c) a request for variation under section 30CA(1) of the conditions has been made and the period of 48 hours beginning with the day when the request was made has expired without the request having been withdrawn or the conditions having been varied in response to the request. 45

-
- (2) In proceedings on an application for a variation under subsection (1), a ground may not be relied upon unless –
- (a) in a case falling within subsection (1)(a), the ground was relied upon in the request in response to which the conditions were varied under section 30CA(1), or 5
 - (b) in a case falling within paragraph (b) or (c) of subsection (1), the ground was relied upon in the request mentioned in that paragraph, 10
- but this does not prevent the court, when deciding the application, from considering different grounds arising out of a change in circumstances that has occurred since the making of the application.
- (3) Where conditions of bail granted to a person under section 30A(1) are varied under subsection (1) –
- (a) paragraphs (a) to (d) of section 30A(3A) apply, 15
 - (b) requirements imposed by the conditions as so varied must be requirements that appear to the court varying the conditions to be necessary for any of the purposes mentioned in paragraphs (a) to (d) of section 30A(3B), and
 - (c) that bail shall not lapse but shall continue subject to the conditions as so varied. 20
- (4) Power under subsection (1) to vary conditions is, subject to subsection (3)(a) and (b), power –
- (a) to vary or rescind any of the conditions, and
 - (b) to impose further conditions.”
- Power of arrest for breach of bail conditions* 25
- 5 (1) Section 30D (failure to answer to bail under section 30A) is amended as follows.
- (2) After subsection (2) there is inserted –
- “(2A) A person who has been released on bail under section 30A may be arrested without a warrant by a constable if the constable has reasonable grounds for suspecting that the person has broken any of the conditions of bail. 30
- (2B) A person arrested under subsection (2A) must be taken to a police station (which may be the specified police station mentioned in subsection (1) or any other police station) as soon as practicable after the arrest.” 35
- (3) In subsection (4)(a) (arrest under section 30D treated for purposes of section 30 as arrest for offence, subject to obligation in subsection (2)), for “obligation in subsection (2)” there is substituted “obligations in subsections (2) and (2B)”. 40

PART 3

POLICE BAIL GRANTED AT POLICE STATION BEFORE CHARGE

Power to impose conditions on bail granted under section 37(2) or (7)(b)

- 6 In section 47(1A) (where person released on bail under Part 4, normal powers to impose conditions of bail are available only where release is under section 37(7)(a) or 38(1)), for “37(7)(a)” there is substituted “37”. 5

Power of arrest for breach of conditions of bail granted under section 37(2) or (7)(b)

- 7 In section 46A(1A) (person released on bail under section 37(7)(a) or 37C(2)(b) may be arrested without warrant if suspected of breaking conditions of bail), for “37(7)(a) or 37C(2)(b)” there is substituted “37, 37C(2)(b) or 37CA(2)(b)”. 10

Dealing with person arrested for breach of conditions of bail granted under section 37(7)(b)

- 8 (1) After section 37C there is inserted –

“37CA Breach of bail following release under section 37(7)(b)

- (1) This section applies where a person released on bail under section 37(7)(b) above or subsection (2)(b) below – 15
- (a) is arrested under section 46A below in respect of that bail, and
- (b) is being detained following that arrest at the police station mentioned in section 46A(2) below. 20
- (2) The person arrested –
- (a) shall be charged, or
- (b) shall be released without charge, either on bail or without bail.
- (3) The decision as to how a person is to be dealt with under subsection (2) above shall be that of a custody officer. 25
- (4) A person released on bail under subsection (2)(b) above shall be released on bail subject to the same conditions (if any) which applied immediately before his arrest.”
- (2) In section 37A(1)(a) and (3) (guidance as to exercise of functions under sections 37(7) and 37C(2)), after “37C(2)” there is inserted “or 37CA(2)”. 30

Time for person to answer bail granted under section 37(2) or (7)(b) or 37CA(2)(b)

- 9 (1) In section 37D(1) (release on bail under section 37(7)(a) or 37C(2)(b): appointment of different or additional time to answer bail), for “37(7)(a) or section 37C(2)(b)” there is substituted “37, 37C(2)(b) or 37CA(2)(b)”. 35
- (2) In the heading to section 37D, for “under section 37(7)(a)” there is substituted “on bail under section 37”.

Dealing with person released on bail under section 37(7)(b) or 37CA(2)(b)

- 10 (1) Section 37D (release under section 37(7)(a): further provision) is amended as follows.
- (2) For subsection (5) (person not fit to be dealt with as mentioned in subsection (4) to be detained until fit) there is substituted – 5
- “(4A) Where a person released on bail under section 37(7)(b) or 37CA(2)(b) above returns to a police station to answer bail or is otherwise in police detention at a police station, he may be kept in police detention to enable him to be dealt with in accordance with section 37CA above or to enable the power under subsection (1) above to be exercised. 10
- (5) If the person mentioned in subsection (4) or (4A) above is not in a fit state to enable him to be dealt with as mentioned in that subsection or to enable the power under subsection (1) above to be exercised, he may be kept in police detention until he is.” 15
- (3) In subsection (6) (application of section 37 where person detained under section 37D) –
- (a) after “subsection (4)” there is inserted “, (4A)”, and
- (b) for “37(7)(a) or 37C(2)(b)” there is substituted “37(7), 37C(2)(b) or 37CA(2)(b)”. 20

Applications to court where person released on bail under section 37(2) or (7)(b) or 37CA(2)(b)

- 11 In section 47(1B) and (1C) (applications to court where person on bail under section 37(7)(a) or 37C(2)(b)), for “37(7)(a) or 37C(2)(b)” there is substituted “37, 37C(2)(b) or 37CA(2)(b)”.

SCHEDULE 5

Section 10

25

SCHEDULE TO BE INSERTED INTO THE POLICE REFORM ACT 2002

“SCHEDULE 5A

POWERS EXERCISABLE BY ACCREDITED INSPECTORS

Power to issue fixed penalty notices

- 1 (1) An accredited inspector whose accreditation specifies that this paragraph applies to him shall have the powers specified in subparagraph (2) in relation to any individual who he has reason to believe has committed a relevant fixed penalty offence at a place within the relevant police area. 30
- (2) The powers are the powers of a constable in uniform to give a penalty notice under Chapter 1 of Part 1 of the Criminal Justice and Police Act 2001 (fixed penalty notices in respect of offences of disorder) so far as exercisable in respect of a relevant fixed penalty offence. 35

Power to require giving of name and address

- 2 (1) Where an accredited inspector whose accreditation specifies that this paragraph applies to him has reason to believe that a person has committed a relevant fixed penalty offence in the relevant police area, he may require the person to give him his name and address. 5
- (2) A person who fails to comply with a requirement under subparagraph (1) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale. 10

Photographing of persons given fixed penalty notices

- 3 An accredited inspector whose accreditation specifies that this paragraph applies to him shall, within the relevant police area, have the power of a constable under section 64A(1A) of the 1984 Act (photographing of suspects etc) to take a photograph, elsewhere than at a police station, of a person to whom the accredited inspector has given a penalty notice in exercise of the powers mentioned in paragraph 1(2). 15

Interpretation

- 4 In this Schedule – 20
- “the relevant police area”, in relation to an accredited inspector, means the police area for which the police force whose chief officer granted his accreditation is maintained;
- “relevant fixed penalty offence”, in relation to an accredited inspector, means an offence which – 25
- (a) is an offence contained in a provision mentioned in the first column of the Table in section 1(1) of the Criminal Justice and Police Act 2001, and
- (b) is specified or described in his accreditation as an offence he has been accredited to enforce.” 30

SCHEDULE 6

Section 14

AMENDMENTS TO THE CRIME AND DISORDER ACT 1998

- 1 The Crime and Disorder Act 1998 (c. 37) is amended as follows.
- 2 (1) Section 5 (authorities responsible for strategies) is amended as follows.
- (2) In subsection (1), after “functions conferred by” there is inserted “or under”. 35
- (3) In subsection (1A)(a), for “sections 6 to 7” there is substituted “by or under section 6 or by section 7”.
- (4) In subsection (1B)(b), after “drugs” there is inserted “, alcohol and other substances”.

- (5) After subsection (5) there is inserted –
- “(6) The appropriate national authority may by order amend this section by –
- (a) adding an entry for any person or body to the list of authorities in subsection (1), 5
 - (b) altering or repealing an entry for the time being included in the list, or
 - (c) adding, altering or repealing provisions for the interpretation of entries in the list.
- (7) In this section the “appropriate national authority”, in relation to a person or body, means – 10
- (a) the National Assembly for Wales, if all the functions of the person or body are devolved Welsh functions;
 - (b) the Secretary of State and the Assembly acting jointly, if the functions of the person or body include devolved Welsh functions and other functions; and 15
 - (c) the Secretary of State, if none of the functions of the person or body are devolved Welsh functions.
- (8) In subsection (7), “devolved Welsh functions” means functions which are dischargeable only in relation to Wales and relate to matters in relation to which the Assembly has functions.” 20
- 3 For sections 6 and 6A there is substituted –
- “6 Formulation and implementation of strategies**
- (1) The responsible authorities for a local government area shall, in accordance with section 5 and with regulations made under subsection (2), formulate and implement – 25
- (a) a strategy for the reduction of crime and disorder in the area (including anti-social and other behaviour adversely affecting the local environment); and
 - (b) a strategy for combatting the misuse of drugs, alcohol and other substances in the area. 30
- (2) The appropriate national authority may by regulations make further provision as to the formulation and implementation of a strategy under this section.
- (3) Regulations under subsection (2) may in particular make provision for or in connection with – 35
- (a) the time by which a strategy must be prepared and the period to which it is to relate;
 - (b) the procedure to be followed by the responsible authorities in preparing and implementing a strategy (including requirements as to the holding of public meetings and other consultation); 40
 - (c) the conferring of functions on any one or more of the responsible authorities in relation to the formulation and implementation of a strategy; 45
 - (d) matters to which regard must be had in formulating and implementing a strategy;

-
- | | |
|--|----------|
| <ul style="list-style-type: none"> (e) objectives to be addressed in a strategy and performance targets in respect of those objectives; (f) the sharing of information between responsible authorities; (g) the publication and dissemination of a strategy; (h) the preparation of reports on the implementation of a strategy. | 5 |
| <p>(4) The provision which may be made under subsection (2) includes provision for or in connection with the conferring of functions on a committee of, or a particular member or officer of, any of the responsible authorities.</p> | 10 |
| <p>(5) The matters referred to in subsection (3)(d) may in particular include guidance given by the appropriate national authority in connection with the formulation or implementation of a strategy.</p> | |
| <p>(6) Provision under subsection (3)(e) may require a strategy to be formulated so as to address (in particular) –</p> <ul style="list-style-type: none"> (a) the reduction of crime or disorder of a particular description; or (b) the combatting of a particular description of misuse of drugs, alcohol or other substances. | 15 |
| <p>(7) Regulations under this section may make –</p> <ul style="list-style-type: none"> (a) different provision for different local government areas; (b) supplementary or incidental provision. | 20 |
| <p>(8) For the purposes of this section any reference to the implementation of a strategy includes –</p> <ul style="list-style-type: none"> (a) keeping it under review for the purposes of monitoring its effectiveness; and (b) making any changes to it that appear necessary or expedient. | 25 |
| <p>(9) In this section the “appropriate national authority” is –</p> <ul style="list-style-type: none"> (a) the Secretary of State, in relation to strategies for areas in England; (b) the National Assembly for Wales, in relation to strategies for combatting the misuse of drugs, alcohol or other substances in areas in Wales; (c) the Secretary of State and the Assembly acting jointly, in relation to strategies for combatting crime and disorder in areas in Wales.” | 30
35 |
| <p>4 (1) Section 17 (duty to consider crime and disorder implications) is amended as follows.</p> | |
| <p>(2) In subsection (1), for “crime and disorder in its area” there is substituted –</p> <ul style="list-style-type: none"> “(a) crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment); and (b) the misuse of drugs, alcohol and other substances in its area.” | 40 |
| <p>(3) For subsection (2) there is substituted –</p> | 45 |
| <p>“(2) This section applies to each of the following –</p> | |

- a local authority;
 - a joint authority;
 - the London Fire and Emergency Planning Authority;
 - a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies; 5
 - a metropolitan county fire authority;
 - a police authority;
 - a National Park authority;
 - the Broads Authority.” 10
- (4) After subsection (3) there is inserted –
- “(4) The appropriate national authority may by order amend this section by –
 - (a) adding an entry for any person or body to the list of authorities in subsection (2), 15
 - (b) altering or repealing any entry for the time being included in the list, or
 - (c) adding, altering or repealing provisions for the interpretation of entries in the list.
 - (5) In subsection (4) “the appropriate national authority” has the same meaning as in section 5.” 20
- 5 After section 17 there is inserted –
- “17A Sharing of information**
- (1) A relevant authority is under a duty to disclose to all other relevant authorities any information held by the authority which is of a prescribed description, at such intervals and in such form as may be prescribed. 25
 - (2) In subsection (1) “prescribed” means prescribed in regulations made by the Secretary of State.
 - (3) The Secretary of State may only prescribe descriptions of information which appears to him to be of potential relevance in relation to the reduction of crime and disorder in any area of England and Wales (including anti-social or other behaviour adversely affecting the local environment in that area). 30
 - (4) Nothing in this section requires a relevant authority to disclose any personal data (within the meaning of the Data Protection Act 1998). 35
 - (5) In this section “relevant authority” means an authority in England and Wales which is for the time being a relevant authority for the purposes of section 115.”
- 6 (1) Section 114 (orders and regulations) is amended as follows. 40
- (2) In subsection (2) –
 - (a) for “6A(1) or 10(6)” there is substituted “10(6) or 17A”;
 - (b) after “regulations under” there is inserted “section 6 or”.
 - (3) In subsection (3) –

- (a) after “1F,” there is inserted “5(6),”;
- (b) for “38(5) or 41(6)” there is substituted “17(4), 38(5), 41(6) or 115(3)”.
- (4) After that subsection there is inserted –
- “(4) The Secretary of State must consult the National Assembly for Wales before making an order under section 5(6), 17(4) or 115(3) that relates to a person or body any of whose functions are dischargeable in relation to Wales (not being functions of the kind referred to in section 5(8)).” 5
- 7 (1) Section 115 (disclosure of information) is amended as follows.
- (2) In subsection (2), for “subsection (1) above” there is substituted “this section”, and at the end there is inserted – 10
- “(h) the London Fire and Emergency Planning Authority;
- (i) a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies; 15
- (j) a metropolitan county fire and rescue authority.”
- (3) After that subsection there is inserted –
- “(3) The appropriate national authority may by order amend this section so far as it extends to England and Wales by –
- (a) adding an entry for any person or body to the list of authorities in subsection (2), 20
- (b) altering or repealing any entry for the time being included in the list, or
- (c) adding, altering or repealing provisions for the interpretation of entries in the list. 25
- (4) In subsection (3) “the appropriate national authority” has the same meaning as in section 5.”

SCHEDULE 7

Section 20

INJUNCTIONS IN LOCAL AUTHORITY PROCEEDINGS: POWERS TO REMAND

Introductory 30

- 1 (1) The provisions of this Schedule apply where the court has power to remand a person under section 20(6) (injunctions in local authority proceedings: power of arrest and remand).
- (2) In this Schedule “the court” has the same meaning as in section 20.

Remand in custody or on bail 35

- 2 (1) The court may –
- (a) remand the person in custody, that is, commit him to custody to be brought before the court at the end of the period of remand or at such earlier time as the court may require, or
- (b) remand him on bail, in accordance with the following provisions. 40

- (2) The court may remand the person on bail –
- (a) by taking from him a recognizance, with or without sureties, conditioned as provided in paragraph 3, or
 - (b) by fixing the amount of the recognizances with a view to their being taken subsequently, and in the meantime committing him to custody as mentioned in sub-paragraph (1)(a). 5
- (3) Where a person is brought before the court after remand, the court may further remand him.
- 3 (1) Where a person is remanded on bail, the court may direct that his recognizance be conditioned for his appearance – 10
- (a) before that court at the end of the period of remand, or
 - (b) at every time and place to which during the course of the proceedings the hearing may from time to time be adjourned.
- (2) Where a recognizance is conditioned for a person’s appearance as mentioned in sub-paragraph (1)(b), the fixing of any time for him next to appear shall be deemed to be a remand. 15
- (3) Nothing in this paragraph affects the power of the court at any subsequent hearing to remand him afresh.
- 4 (1) The court shall not remand a person for a period exceeding eight clear days except that – 20
- (a) if the court remands him on bail, it may remand him for a longer period if he and the other party consent, and
 - (b) if the court adjourns a case under section 20(9) (remand for medical examination and report) the court may remand him for the period of adjournment. 25
- (2) Where the court has the power to remand a person in custody it may, if the remand is for a period not exceeding three clear days, commit him to the custody of a constable.

Further remand

- 5 (1) If the court is satisfied that a person who has been remanded is unable by reason of illness or accident to appear or be brought before the court at the expiration of the period for which he was remanded, the court may, in his absence, remand him for a further time. 30
- (2) The power mentioned in sub-paragraph (1) may, in the case of a person who was remanded on bail, be exercised by enlarging his recognizance and those of any sureties for him to a later time. 35
- (3) Where a person remanded on bail is bound to appear before the court at any time and the court has no power to remand him under sub-paragraph (1), the court may in his absence enlarge his recognizance and those of any sureties for him to a later time. 40
- (4) The enlargement of his recognizance shall be deemed to be a further remand.
- (5) Paragraph 4(1) (limit of remand) does not apply to the exercise of the powers conferred by this paragraph.

Postponement of taking recognizance

- 6 Where under paragraph 2(2)(b) the court fixes the amount in which the principal and his sureties, if any, are to be bound, the recognizance may afterwards be taken by such person as may be prescribed by rules of court, with the same consequences as if it had been entered into before the court. 5

Requirements imposed on remand on bail

- 7 The court may when remanding a person on bail under this Schedule require him to comply, before release on bail or later, with such requirements as appear to the court to be necessary to secure that he does not interfere with witnesses or otherwise obstruct the course of justice. 10

SCHEDULE 8

Section 28

HER MAJESTY'S CHIEF INSPECTOR FOR JUSTICE, COMMUNITY SAFETY AND CUSTODY

Tenure of Chief Inspector

- 1 (1) Subject to the following provisions, the Chief Inspector holds office in accordance with the terms of his appointment (or re-appointment). 15
- (2) The Chief Inspector may not be appointed for more than five years at a time.
- (3) The Chief Inspector may resign by notice in writing given to the responsible ministers.
- (4) The responsible ministers may remove the Chief Inspector from office if satisfied that – 20
- (a) he has without reasonable excuse failed to exercise his functions for a continuous period of three months beginning not earlier than six months before the day of his removal from office,
- (b) he has been convicted of a criminal offence,
- (c) a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or 25
- (d) he is otherwise unable or unfit to exercise his functions.

Designation of person to discharge functions of Chief Inspector

- 2 (1) The responsible ministers may designate a person to discharge the functions of the office of Chief Inspector while that office is vacant. 30
- (2) A designation under this paragraph may have effect for a period of up to two years.
- 3 The Chief Inspector, or the responsible ministers if he is unable to do so, may designate a person to discharge the functions of the Chief Inspector during any period when he is absent or unable to act. 35

Salary etc of Chief Inspector

- 4 (1) The responsible ministers shall pay to or in respect of the Chief Inspector such –

- (a) salary,
 - (b) allowances, and
 - (c) sums for the provision of pensions,
- as the responsible ministers determine.

- (2) Sub-paragraph (3) applies where a person who by reference to any office or employment is a participant in a scheme under section 1 of the Superannuation Act 1972 (c. 11) becomes the Chief Inspector. 5
- (3) The Minister for the Civil Service may determine that (instead of payments being made to the person under sub-paragraph (1)(c)) his service as Chief Inspector is to be treated for the purposes of the scheme as service in the office or employment in question. 10

Staff

- 5 (1) The Chief Inspector may employ staff, but subject to the approval of the responsible ministers as to –
- (a) numbers; 15
 - (b) salary;
 - (c) other terms of employment.
- (2) The Chief Inspector may make arrangements for securing the provision to him of such assistance as he considers appropriate for or in connection with the exercise of his functions. 20
- (3) In exercising his functions under sub-paragraphs (1) and (2) the Chief Inspector shall secure that there is available to him sufficient expertise and experience relating to the systems and organisations falling within the scope of his duties under sections 22 and 23.
- (4) Employment as a member of staff of the Chief Inspector is among the kinds of employment to which a superannuation scheme under section 1 of the Superannuation Act 1972 can apply. 25
- Accordingly, in Schedule 1 to that Act (employments etc to which section 1 can apply), at the appropriate place in the list of “Other Bodies” there is inserted – 30
- “Employment by Her Majesty’s Chief Inspector for Justice, Community Safety and Custody.”
- (5) The Chief Inspector shall pay to the Minister for the Civil Service, at such times as the Minister may direct, such sums as the Minister may determine in respect of any increase attributable to sub-paragraph (4) in the sums payable out of money provided by Parliament under the Superannuation Act 1972. 35

Expenses of Chief Inspector

- 6 The responsible ministers may make to or in respect of the Chief Inspector payments in respect of expenditure incurred by him in the discharge of his functions, including expenditure on payments to or in respect of staff. 40

Ancillary powers of Chief Inspector

- 7 The Chief Inspector may do anything that he considers necessary or expedient for the purposes of, or in connection with, his functions.

Delegation of functions

- 8 (1) The Chief Inspector may delegate any of his functions (to such extent as he may determine) to –
- (a) any member of his staff;
 - (b) any person providing assistance by virtue of paragraph 5(2); 5
 - (c) another public authority.
- (2) If the carrying out of an inspection is delegated under sub-paragraph (1) it is nevertheless to be regarded for the purposes of this Part as carried out by the Chief Inspector.

Inspection programmes and inspection frameworks 10

- 9 (1) The Chief Inspector shall from time to time, or at such times as the responsible ministers may specify by order, prepare –
- (a) a document setting out what inspections he proposes to carry out (an “inspection programme”);
 - (b) a document setting out the manner in which he proposes to carry out his functions of inspecting and reporting (an “inspection framework”). 15
- (2) Before preparing an inspection programme or an inspection framework the Chief Inspector shall consult –
- (a) the responsible ministers, 20
 - (b) the Lord Chief Justice,
 - (c) the inspection authorities listed in section 24(6),
 - (d) the National Assembly for Wales,
 - (e) the Auditor General for Wales, and
 - (f) any other person or body specified by an order made by the responsible ministers, 25
- and he shall send to each of those persons or bodies a copy of each programme or framework once it is prepared.
- (3) The responsible ministers may by order specify the form that inspection programmes or inspection frameworks are to take. 30

Inspections by other inspectors of organisations within Chief Inspector’s remit

- 10 (1) If –
- (a) a person or body within sub-paragraph (2) is proposing to carry out an inspection that would involve inspecting a specified organisation, and 35
 - (b) the Chief Inspector considers that the proposed inspection would impose an unreasonable burden on that organisation, or would do so if carried out in a particular manner,
- the Chief Inspector shall, subject to sub-paragraph (7), give a notice to that person or body not to carry out the proposed inspection, or not to carry it out in that manner. 40
- (2) The persons or bodies within this sub-paragraph are –
- (a) Her Majesty’s Chief Inspector of Schools in England;
 - (b) the Adult Learning Inspectorate;

- (c) the Commission for Healthcare Audit and Inspection;
 - (d) the Commission for Social Care Inspection;
 - (e) the Audit Commission.
- (3) The responsible ministers may by order amend sub-paragraph (2).
- (4) In sub-paragraph (1)(a) “specified organisation” means a person or body specified by order made by the responsible ministers. 5
- (5) A person or body may be specified under sub-paragraph (4) only if it exercises functions within any of the systems mentioned in section 22(1).
- (6) A person or body may be specified under sub-paragraph (4) in relation to particular functions that it has. 10
In the case of a person or body so specified, sub-paragraph (1)(a) is to be read as referring to an inspection that would involve inspecting the discharge of any of its functions in relation to which it is specified.
- (7) The responsible ministers may by order specify cases or circumstances in which a notice need not, or may not, be given under this paragraph. 15
- (8) Where a notice is given under this paragraph, the proposed inspection is not to be carried out, or (as the case may be) is not to be carried out in the manner mentioned in the notice.
This is subject to sub-paragraph (9).
- (9) The responsible ministers, if satisfied that the proposed inspection— 20
(a) would not impose an unreasonable burden on the organisation in question, or
(b) would not do so if carried out in a particular manner,
may give consent to the inspection being carried out, or being carried out in that manner. 25
- (10) The responsible ministers may by order make provision supplementing that made by this paragraph, including in particular—
(a) provision about the form of notices;
(b) provision prescribing the period within which notices are to be given; 30
(c) provision prescribing circumstances in which notices are, or are not, to be made public;
(d) provision for revising or withdrawing notices;
(e) provision for setting aside notices not validly given.

Co-operation 35

- 11 (1) The Chief Inspector shall co-operate with—
(a) the inspection authorities listed in section 24(6), and
(b) any other public authority specified by order made by the responsible ministers,
where it is appropriate to do so for the efficient and effective discharge of his functions. 40
- (2) Sub-paragraph (1), so far as it applies to the discharge of functions of the Chief Inspector with regard to devolved Welsh matters, has effect as if paragraph (a) included a reference to the Auditor General for Wales.

- (3) The Chief Inspector shall –
- (a) enter into arrangements with the Independent Police Complaints Commission for the purposes of securing co-operation, in the carrying out of their respective functions, between him and the Commission; 5
 - (b) ensure that members of his staff and persons providing assistance to him by virtue of paragraph 5(2) provide the Commission with all such assistance and co-operation as may be required by those arrangements or as otherwise appears to the Chief Inspector to be appropriate for facilitating the carrying out by the Commission of its functions. 10

Joint action

- 12 (1) The Chief Inspector may act jointly with another public authority where it is appropriate to do so for the efficient and effective discharge of his functions.
- (2) The Chief Inspector shall act jointly with the Audit Commission when carrying out – 15
- (a) an inspection into the discharge by police authorities in England of their functions;
 - (b) an inspection into the discharge in England of functions conferred by or under section 6 of the Crime and Disorder Act 1998 (c. 37) (crime and disorder strategies). 20
- (3) The Chief Inspector shall act jointly with the Auditor General for Wales when carrying out –
- (a) an inspection into the discharge by police authorities in Wales of their functions; 25
 - (b) an inspection into the discharge in Wales of functions conferred by or under section 6 of the Crime and Disorder Act 1998.

Assistance for other public authorities

- 13 (1) The Chief Inspector may if he thinks it appropriate to do so provide assistance to any other public authority for the purpose of the exercise by that authority of its functions. 30
- (2) Assistance under this paragraph may be provided on such terms as the Chief Inspector thinks fit.

Inspections carried out under arrangements

- 14 (1) The Chief Inspector may make arrangements with the relevant authority for – 35
- (a) the carrying out by him of inspections in England and Wales of any institution or matter falling outside the scope of his duties under sections 22 and 23;
 - (b) the carrying out by him in Northern Ireland of inspections that fall outside the scope of those duties; 40
 - (c) the carrying out by him of inspections outside the United Kingdom of any institution or matter.
- (2) The “relevant authority” is –

- (a) for the purposes of sub-paragraph (1)(a) or (b), the public authority responsible for the institution or matter in question;
 - (b) for the purposes of sub-paragraph (1)(c), the authority in the jurisdiction concerned that is responsible for the institution or matter in question. 5
- (3) Inspections under this paragraph may be carried out on such terms as the Chief Inspector thinks fit.

Charges

- 15 The Chief Inspector may, with the consent of the responsible ministers, enter into arrangements for charges to be made— 10
- (a) for providing assistance under paragraph 13;
 - (b) for carrying out inspections under paragraph 14;
 - (c) for providing any other services that the Chief Inspector is not under a duty to provide.

Inspections relating to devolved Welsh matters 15

- 16 (1) The Chief Inspector may not carry out an inspection that relates (to any extent) to devolved Welsh matters without the agreement of the National Assembly for Wales.
- (2) Sub-paragraph (1) does not apply to an inspection that the Chief Inspector is directed to carry out under section 25(1). 20

SCHEDULE 9

Section 30

TRANSFER OF STAFF AND PROPERTY ETC TO THE CHIEF INSPECTOR

Staff transfer schemes

- 1 (1) The responsible ministers may make a scheme (a “staff transfer scheme”) containing provision about persons employed by or in the service of any of the following— 25
- (a) Her Majesty’s Chief Inspector of Prisons;
 - (b) Her Majesty’s Inspectors of Constabulary;
 - (c) Her Majesty’s Chief Inspector of the Crown Prosecution Service;
 - (d) Her Majesty’s Inspectorate of the National Probation Service for England and Wales; 30
 - (e) Her Majesty’s Inspectorate of Court Administration.
- (2) A staff transfer scheme may provide—
- (a) for a person employed as mentioned in sub-paragraph (1) to become an employee of the Chief Inspector; 35
 - (b) for the contract of employment that the person had before becoming an employee of the Chief Inspector to have effect (subject to any necessary modifications) as if originally made between him and the Chief Inspector;
 - (c) for the transfer to the Chief Inspector of the rights, powers, duties and liabilities of the employer under or in connection with the 40

- contract of employment of a person who becomes an employee of the Chief Inspector by virtue of the scheme;
- (d) for anything done before that transfer by or in relation to the employer in respect of such a contract or the employee to be treated as having been done by or in relation to the Chief Inspector. 5
- (3) A staff transfer scheme may make provision for periods before a person became an employee of the Chief Inspector to count as periods of employment with the Chief Inspector (and for the operation of the scheme not to be treated as having interrupted the continuity of that employment).
- (4) A staff transfer scheme may provide for a person who – 10
- (a) is employed as mentioned in sub-paragraph (1), and
- (b) would otherwise become an employee of the Chief Inspector by the operation of the scheme,
- not to become an employee of the Chief Inspector if the person gives notice objecting to the operation of the scheme in relation to him. 15
- (5) 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.
- (6) A staff transfer scheme may –
- (a) provide for the termination of the employment of a person employed as mentioned in sub-paragraph (1); 20
- (b) contain provision as to the consequences of such termination (including provision removing any entitlement to compensation that might otherwise arise in such circumstances).
- (7) The responsible ministers may make a payment of such amount (if any) as they may determine to a person whose employment is terminated under provision made by virtue of sub-paragraph (6). 25
- 2 (1) A staff transfer scheme may make provision –
- (a) for an existing secondment to have effect, from a time appointed by the scheme, as a secondment to the Chief Inspector, and 30
- (b) for the seconded person to serve from that time as a member of the Chief Inspector’s staff.
- (2) If the seconded person informs the Chief Inspector, or the person or body to which or by which he is seconded, that he objects to the existing secondment becoming a secondment to the Chief Inspector – 35
- (a) the scheme does not cause the existing secondment to become a secondment to the Chief Inspector;
- (b) the existing secondment is terminated immediately before the time mentioned in sub-paragraph (1)(a) (so that the person returns at that time to the body by which he was seconded). 40
- (3) In this paragraph “existing secondment” means a secondment by virtue of which a person is a member of the staff of a person or body mentioned in paragraph 1(1).
- 3 Before making a staff transfer scheme, the responsible ministers shall consult such persons appearing to represent the interests of the employees concerned as the responsible ministers consider appropriate. 45

Property transfer schemes

- 4 (1) The responsible ministers may make a scheme (a “property transfer scheme”) providing for the transfer to the Chief Inspector of property, rights and liabilities of any of the following –
- (a) Her Majesty’s Chief Inspector of Prisons; 5
 - (b) Her Majesty’s Inspectors of Constabulary;
 - (c) Her Majesty’s Chief Inspector of the Crown Prosecution Service;
 - (d) Her Majesty’s Inspectorate of the National Probation Service for England and Wales;
 - (e) Her Majesty’s Inspectorate of Court Administration. 10
- (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 things done by or in relation to persons or bodies mentioned in paragraphs (a) to (e) of sub-paragraph (1) to be treated as done, or to be continued, by or in relation to the Chief Inspector or members of his staff; 15
 - (c) 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; 20
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme.
- 5 Any property, right or liability that is the subject of a property transfer scheme is, by virtue of this paragraph, transferred at the time appointed by or under the scheme for its transfer. 25

Supplementary

- 6 A staff transfer scheme or a property transfer scheme may contain –
- (a) provision for the responsible ministers, or any other person nominated by or in accordance with the scheme, to determine any matter requiring determination under or in consequence of the scheme; 30
 - (b) provision as to the payment of fees charged, or expenses incurred, by a person nominated to determine any matter by virtue of paragraph (a); 35
 - (c) supplementary, incidental, transitional and consequential provision.

SCHEDULE 10

Section 31

THE CHIEF INSPECTOR: CONSEQUENTIAL AMENDMENTS

Pensions (Increase) Act 1971 (c. 56)

- 1 In paragraph 15 of Schedule 2 to the Pensions (Increase) Act 1971 (official 40

pensions for police), after sub-paragraph (c) there is inserted –

“(ca) was serving as a member of staff of Her Majesty’s Chief Inspector for Justice, Community Safety and Custody and who immediately before becoming a member of staff of the Chief Inspector was serving as an inspector or assistant inspector of constabulary under the Police Act 1996; or”.

5

House of Commons Disqualification Act 1975 (c. 24)

2 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (disqualifying offices), at the appropriate place there is inserted –

“Her Majesty’s Chief Inspector for Justice, Community Safety and Custody.”

10

Police Pensions Act 1976 (c. 35)

3 In section 7(2) of the Police Pensions Act 1976 (persons eligible for police pensions), for paragraph (c) there is substituted –

“(c) a person appointed as Her Majesty’s Chief Inspector for Justice, Community Safety and Custody (“the Chief Inspector”) who immediately before his appointment took effect was serving as a member of a police force or as an inspector or assistant inspector of constabulary;

15

(cza) a member of staff of the Chief Inspector who immediately before he became a member of the Chief Inspector’s staff was serving as a member of a police force or as an inspector or assistant inspector of constabulary;”.

20

4 (1) Section 11 of that Act (interpretation) is amended as follows.

(2) In subsection (1), for paragraph (b) there is substituted –

25

“(b) service as Her Majesty’s Chief Inspector for Justice, Community Safety and Custody (“the Chief Inspector”) by a person who immediately before his appointment took effect was serving as a member of a police force or as an inspector or assistant inspector of constabulary;

30

(bza) service as a member of staff of the Chief Inspector by a person who immediately before he became a member of the Chief Inspector’s staff was serving as a member of a police force or as an inspector or assistant inspector of constabulary;”.

(3) In subsection (2), after paragraph (ba) there is inserted –

35

“(bb) in relation to any such service as is mentioned in paragraph (b) or (bza) of subsection (1) or any service of the kind described in section 97(1)(b) of the Police Act 1996, it means the Secretary of State, the Lord Chancellor and the Attorney General;”.

40

(4) In subsection (3)(b), after “(b)” there is inserted “, (bza)”.

5 Paragraphs 3 and 4 do not affect the operation of the Police Pensions Act 1976 in relation to any person’s service as an inspector or assistant inspector of constabulary.

Race Relations Act 1976 (c. 74)

- 6 In Schedule 1A to the Race Relations Act 1976 (bodies and other persons subject to general statutory duty), in Part 2 under the heading “Regulatory, audit and inspection” –
- (a) at the appropriate place there is inserted – 5
“Her Majesty’s Chief Inspector for Justice, Community Safety and Custody.”;
- (b) “Her Majesty’s Inspectorate of Court Administration.” is omitted.

Ministry of Defence Police Act 1987 (c. 4)

- 7 (1) Section 4B of the Ministry of Defence Police Act 1987 (inspection of Ministry of Defence Police) is amended as follows. 10
- (2) In subsection (1), for “The inspectors of constabulary” there is substituted “Her Majesty’s Chief Inspector for Justice, Community Safety and Custody (“the Chief Inspector”)”.
- (3) In subsections (2) and (5), for “the inspectors of constabulary” there is substituted “the Chief Inspector”. 15
- (4) In subsection (4), for “The inspectors of constabulary” there is substituted “The Chief Inspector”.
- (5) In subsection (6), the definition of “the inspectors of constabulary” is omitted. 20

Police Act 1996 (c. 16)

- 8 (1) Section 53A of the Police Act 1996 (regulation of procedures and practices) is amended as follows.
- (2) In subsection (2) (persons from whom Secretary of State must seek advice before making regulations), paragraph (a) is omitted. 25
- (3) In subsection (6) (requirements to be satisfied before making regulations), at the end of paragraph (a) there is inserted “and” and for paragraphs (b) and (c) there is substituted –
“(b) he is satisfied as to the matters mentioned in subsection (7).”
- 9 In section 97 of that Act (police officers engaged on service outside their force), in subsection (1)(b), for “temporary service under section 56” there is substituted “temporary service as a member of staff of Her Majesty’s Chief Inspector for Justice, Community Safety and Custody”. 30
- 10 Paragraph 9 does not affect the operation of the Pensions (Increase) Act 1971 (c. 56) or the Police Pensions Act 1976 (c. 35) in relation to any person’s temporary service under the Police Act 1996 as an assistant inspector of constabulary or a staff officer to the inspectors of constabulary. 35
- 11 (1) Schedule 6 to that Act (appeals to police appeals tribunals) is amended as follows.
- (2) In paragraph 1(1) (membership of police appeals tribunals), in paragraph 40

(c), for sub-paragraph (i) there is substituted –

“(i) is (or has within the previous five years been) Her Majesty’s Chief Inspector for Justice, Community Safety and Custody or a member of his staff,

(ia) has within the previous five years been an Inspector of Constabulary, or”.

(3) After paragraph 1(1) there is inserted –

“(1A) The reference in sub-paragraph (1)(c)(i) to the staff of the Chief Inspector includes a reference to persons providing him with assistance by virtue of arrangements made under paragraph 5(2) of Schedule 8 to the Police and Justice Act 2006.”

Audit Commission Act 1998 (c. 18)

12 (1) Section 37 of the Audit Commission Act 1998 is amended as follows.

(2) In the heading, for “**CHAI and CSCI**” there is substituted “**other bodies and persons**”.

(3) After subsection (1) there is inserted –

“(1A) The Audit Commission may provide assistance to Her Majesty’s Chief Inspector for Justice, Community Safety and Custody in the discharge of any of his functions.”

(4) For subsection (2) there is substituted –

“(2) Assistance under subsection (1) or (1A) may be provided on such terms, including terms as to payment, as the Audit Commission and the body or person in question may agree.”

Police (Northern Ireland) Act 1998 (c. 32)

13 In subsection (1) of section 27 of the Police (Northern Ireland) Act 1998 (members of the Police Service of Northern Ireland engaged on other police service), in paragraph (e), for “temporary service as an inspector of constabulary under section 56 of the Police Act 1996” there is substituted “temporary service as a member of staff of Her Majesty’s Chief Inspector for Justice, Community Safety and Custody”.

14 (1) Section 41 of that Act (appointment of inspectors of constabulary) is amended as follows.

(2) In subsection (1), for “Her Majesty’s Inspectors of Constabulary appointed under section 54 of the Police Act 1996” there is substituted “Her Majesty’s Chief Inspector for Justice, Community Safety and Custody and his staff”.

(3) After subsection (1) there is inserted –

“(1A) The reference in subsection (1) to the staff of the Chief Inspector includes a reference to persons providing him with assistance by virtue of arrangements made under paragraph 5(2) of Schedule 8 to the Police and Justice Act 2006.”

Local Government Act 1999 (c. 27)

- 15 In section 25 of the Local Government Act 1999 (co-ordination of inspections etc), in subsection (2), for paragraph (i) there is substituted –
“(i) Her Majesty’s Chief Inspector for Justice, Community Safety and Custody.” 5

Freedom of Information Act 2000 (c. 36)

- 16 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (public authorities), at the appropriate place there is inserted –
“Her Majesty’s Chief Inspector for Justice, Community Safety and Custody.” 10

Criminal Justice and Police Act 2001 (c. 16)

- 17 In section 90(3) of the Criminal Justice and Police Act 2001 (persons to be consulted by Central Police Training and Development Authority before it determines its objectives), paragraph (a) is omitted.
- 18 In section 97(4) of that Act (persons to be consulted by Secretary of State before making regulations about training etc), paragraph (b) is omitted. 15
- 19 In section 98(1) of that Act (directions after inspection identifies training needs), for the words from “a report” to “contains” there is substituted “a report made on an inspection under Part 4 of the Police and Justice Act 2006 (inspections by Her Majesty’s Chief Inspector for Justice, Community Safety and Custody) contains”. 20

Justice (Northern Ireland) Act 2002 (c. 26)

- 20 (1) In Schedule 8 to the Justice (Northern Ireland) Act 2002 (Chief Inspector of Criminal Justice), paragraph 7 (delegation of functions) is amended as follows. 25
- (2) For paragraph (c) of sub-paragraph (1) there is substituted –
“(c) the holder of the office of Her Majesty’s Chief Inspector for Justice, Community Safety and Custody, or
(d) those persons who have been appointed under section 41(1) of the Police (Northern Ireland) Act 1998 as inspectors of constabulary for Northern Ireland.” 30
- (3) Sub-paragraph (2) is omitted.
- (4) For sub-paragraph (3) there is substituted –
“(3) The Secretary of State may by order amend this paragraph so as –
(a) to add the holder of any particular office to the persons to whom the Chief Inspector may delegate functions, 35
(b) to omit a reference to the holder of an office, or
(c) to alter the description of an office.”
- 21 In paragraph 8 of that Schedule (inspections of Police Service of Northern Ireland etc), in sub-paragraph (1), for “those of Her Majesty’s Inspectors of Constabulary” there is substituted “those persons”. 40

Police Reform Act 2002 (c. 30)

- 22 (1) In section 10 of the Police Reform Act 2002 (functions of Independent Police Complaints Commission), for subsection (5) there is substituted –
- “(5) It shall also be the duty of the Commission –
- (a) to enter into arrangements with the Chief Inspector for the purpose of securing co-operation, in the carrying out of their respective functions, between the Commission and the Chief Inspector; and
- (b) to provide the Chief Inspector with all such assistance and co-operation as may be required by those arrangements, or as otherwise appears to the Commission to be appropriate, for facilitating the carrying out by the Chief Inspector of his functions.”
- 23 In section 15 of that Act (general duties of inspectors etc), in subsection (1)(c), for “every inspector of constabulary” there is substituted “the Chief Inspector”. 15
- 24 In section 29 of that Act (interpretation of Part 2), in subsection (1), at the appropriate place there is inserted –
- ““Chief Inspector” means Her Majesty’s Chief Inspector for Justice, Community Safety and Custody;”.
- 20

Railways and Transport Safety Act 2003 (c. 20)

- 25 (1) Section 63 of the Railways and Transport Safety Act 2003 (inspection of British Transport Police Force) is amended as follows.
- (2) In subsection (1), for “Her Majesty’s Inspectors of Constabulary” there is substituted “Her Majesty’s Chief Inspector for Justice, Community Safety and Custody (“the Chief Inspector”)”. 25
- (3) In subsection (2), for “Her Majesty’s Inspectors of Constabulary” there is substituted “The Chief Inspector”.
- (4) In subsection (3), for “the inspectors” there is substituted “the Chief Inspector”. 30
- (5) After subsection (5) (publication of inspection report) there is inserted –
- “(5A) The Secretary of State may exclude from publication under subsection (5) any part of a report if, in his opinion, the publication of that part –
- (a) would be against the interests of national security, or
- (b) might jeopardise the safety of any person. 35
- (5B) The Secretary of State shall send a copy of the published report –
- (a) to the Authority, and
- (b) to the Chief Constable.
- (5C) The Authority shall invite the Chief Constable to submit comments on the published report to the Authority before such date as it may specify. 40
- (5D) The Authority shall prepare comments on the published report and shall arrange for –

	(a) its comments,	
	(b) any comments submitted by the Chief Constable in accordance with subsection (5C), and	
	(c) any response which the Authority has to the comments submitted by the Chief Constable,	5
	to be published in such manner as appears to the Authority to be appropriate.	
	(5E) The Authority shall send a copy of any document published under subsection (5D) to the Secretary of State.”	
	(6) Subsection (6) (application of section 55 of the Police Act 1996 to inspection reports) is omitted.	10
	(7) In subsection (8)(a), for “Her Majesty’s Inspectors of Constabulary” there is substituted “the Chief Inspector”.	
26	In section 64 of that Act (action after adverse inspection report), in subsections (1), (2) and (3), for “Her Majesty’s Inspectors of Constabulary” there is substituted “the Chief Inspector”.	15
27	In section 67 of that Act (delegation of certain functions to chief inspector of constabulary), for the words from “the chief inspector” to “Police (Scotland) Act 1967” there is substituted “Her Majesty’s Chief Inspector for Justice, Community Safety and Custody or to the chief inspector of constabulary appointed under section 33 of the Police (Scotland) Act 1967”.	20
<i>Courts Act 2003 (c. 39)</i>		
28	In section 77 of the Courts Act 2003 (Family Procedure Rule Committee), in subsection (2)(n), for “CAFCASS” there is substituted “the Children and Family Court Advisory and Support Service”.	25
<i>Energy Act 2004 (c. 20)</i>		
29	(1) Section 62 of the Energy Act 2004 (inspection of Civil Nuclear Constabulary) is amended as follows.	
	(2) In subsection (1), for “Her Majesty’s Inspectors of Constabulary” there is substituted “Her Majesty’s Chief Inspector for Justice, Community Safety and Custody (“the Chief Inspector”)”.	30
	(3) In subsection (2), for “Her Majesty’s Inspectors of Constabulary” there is substituted “The Chief Inspector”.	
	(4) In subsections (3) and (4), for “Her Majesty’s Inspectors of Constabulary” there is substituted “the Chief Inspector”.	35
<i>Children Act 2004 (c. 31)</i>		
30	In section 20 of the Children Act 2004 (joint area reviews), at the end of subsection (4) there is inserted –	
	“(j) Her Majesty’s Chief Inspector for Justice, Community Safety and Custody.”	40

Commissioners for Revenue and Customs Act 2005 (c. 11)

- 31 In section 18(2) of the Commissioners for Revenue and Customs Act 2005 (disclosure permitted for purposes of inspection), in paragraph (f), for “Her Majesty’s Inspectors of Constabulary” there is substituted “Her Majesty’s Chief Inspector for Justice, Community Safety and Custody”. 5
- 32 (1) Section 27 of that Act (inspection) is amended as follows.
- (2) In subsection (1), for “Her Majesty’s Inspectors of Constabulary” there is substituted “the Chief Inspector”.
- (3) In subsection (2)(a)(i) –
- (a) for “Her Majesty’s Inspectors of Constabulary” there is substituted “the Chief Inspector”; 10
- (b) for “sections 54 to 56 of the Police Act 1996 (c. 16) (inspection)” there is substituted “Part 4 of the Police and Justice Act 2006”.
- (4) In subsections (2)(d) and (e) and (4), for “Her Majesty’s Inspectors of Constabulary” there is substituted “the Chief Inspector”. 15
- (5) In subsection (6), before paragraph (a) there is inserted –
- “(za) “the Chief Inspector” means Her Majesty’s Chief Inspector for Justice, Community Safety and Custody;”.
- 33 (1) Section 29 of that Act (confidentiality etc) is amended as follows.
- (2) In subsection (1), for “Her Majesty’s Inspectors of Constabulary” there is substituted “the Chief Inspector”. 20
- (3) In subsection (10), after “a reference to” there is inserted “the Chief Inspector”.
- 34 Section 42 of that Act (inspection of Revenue and Customs Prosecutions Office by Crown Prosecution Service Inspectorate) is repealed. 25

Serious Organised Crime and Police Act 2005 (c. 15)

- 35 (1) Section 16 of the Serious Organised Crime and Police Act 2005 (inspection of Serious Organised Crime Agency) is amended as follows.
- (2) In subsection (1), for “Her Majesty’s Inspectors of Constabulary (“HMIC”)” there is substituted “Her Majesty’s Chief Inspector for Justice, Community Safety and Custody (“the Chief Inspector”)”. 30
- (3) In subsection (2), for “HMIC” there is substituted “The Chief Inspector”.
- (4) In subsections (4) and (5), for “HMIC” there is substituted “the Chief Inspector”.
- (5) In subsection (12), for “The inspectors” there is substituted “The Chief Inspector”. 35

SCHEDULE 11

Section 37

SCHEDULE TO BE INSERTED INTO THE PROTECTION OF CHILDREN ACT 1978

“SCHEDULE

FORFEITURE OF INDECENT PHOTOGRAPHS OF CHILDREN

<i>Application of Schedule</i>	5
1 (1) This Schedule applies where –	
(a) property which has been lawfully seized in England and Wales is in the custody of a constable,	
(b) ignoring this Schedule, there is no legitimate reason for the constable to retain custody of the property,	10
(c) the constable is satisfied that there are reasonable grounds for believing that the property is or is likely to be forfeitable property, and	
(d) ignoring this Schedule, the constable is not aware of any person who has a legitimate reason for possessing the property or any readily separable part of it.	15
(2) The following property is “forfeitable property” –	
(a) any indecent photograph or pseudo-photograph of a child;	
(b) any property which it is not reasonably practicable to separate from any property within paragraph (a).	20
(3) For the purposes of this paragraph –	
(a) a part of any property is a “readily separable part” of the property if, in all the circumstances, it is reasonably practicable for it to be separated from the remainder of that property, and	25
(b) it is reasonably practicable for a part of any property to be separated from the remainder if it is reasonably practicable to separate it without prejudicing the remainder of the property or another part of it.	
(4) The circumstances mentioned in sub-paragraph (3)(a) include the time and costs involved in separating the property.	30
<i>Possession pending forfeiture</i>	
2 (1) The property must be retained in the custody of a constable until it is returned or otherwise disposed of in accordance with this Schedule.	35
(2) Nothing in the Police (Property) Act 1897 (property seized in the investigation of an offence) applies to property held under this Schedule.	
<i>The relevant officer</i>	
3 “The relevant officer”, in relation to any property, is the constable who for the time being has custody of the property.	40

Notice of intended forfeiture

- 4 (1) The relevant officer must give notice of the intended forfeiture of the property (“notice of intended forfeiture”) to –
- (a) every person whom he believes to have been the owner of the property, or one of its owners, at the time of the seizure of the property, 5
 - (b) where the property was seized from premises, every person whom the relevant officer believes to have been an occupier of the premises at that time, and
 - (c) where the property was seized as a result of a search of any person, that person. 10
- (2) The notice of intended forfeiture must set out –
- (a) a description of the property, and
 - (b) how a person may give a notice of claim under this Schedule and the period within which such a notice must be given. 15
- (3) The notice of intended forfeiture may be given to a person only by –
- (a) delivering it to him personally,
 - (b) addressing it to him and leaving it for him at the appropriate address, or 20
 - (c) addressing it to him and sending it to him at that address by post.
- (4) But a notice given in accordance with sub-paragraph (1)(b) may, where it is not practicable to give the notice in accordance with sub-paragraph (3), be given by –
- (a) addressing it to “the occupier” of those premises, without naming him, and
 - (b) leaving it for him at those premises or sending it to him at those premises by post. 25 30
- (5) Property may be treated or condemned as forfeited under this Schedule only if –
- (a) the requirements of this paragraph have been complied with in the case of the property, or
 - (b) it was not reasonably practicable for them to be complied with. 35
- (6) In this paragraph “the appropriate address”, in relation to a person, means –
- (a) in the case of a body corporate, its registered or principal office in the United Kingdom; 40
 - (b) in the case of a firm, the principal office of the partnership;
 - (c) in the case of an unincorporated body or association, the principal office of the body or association;
 - (d) in any other case, his usual or last known place of residence in the United Kingdom or his last known place of business in the United Kingdom. 45
- (7) In the case of –

- (a) a company registered outside the United Kingdom,
 - (b) a firm carrying on business outside the United Kingdom, or
 - (c) an unincorporated body or association with offices outside the United Kingdom, 5
- the references in this paragraph to its principal office include references to its principal office within the United Kingdom (if any).

Notice of claim

- 5 (1) A person claiming that he has a legitimate reason for possessing the property or a part of it may give notice of his claim to a constable at any police station in the police area in which the property was seized. 10
- (2) Oral notice is not sufficient for these purposes.
- 6 (1) A notice of claim may not be given more than one month after – 15
- (a) the date of the giving of the notice of intended forfeiture, or
 - (b) if no such notice has been given, the date on which the property began to be retained under this Schedule (see paragraph 2).
- (2) A notice of claim must specify – 20
- (a) the name and address of the claimant;
 - (b) a description of the property, or part of it, in respect of which the claim is made;
 - (c) in the case of a claimant who is outside the United Kingdom, the name and address of a solicitor in the United Kingdom who is authorised to accept service, and to act, on behalf of the claimant. 25
- (3) Service upon a solicitor so specified is to be taken to be service on the claimant for the purposes of any proceedings by virtue of this Schedule. 30
- (4) In a case in which notice of intended forfeiture was given to different persons on different days, the reference in this paragraph to the day on which that notice was given is a reference – 35
- (a) in relation to a person to whom notice of intended forfeiture was given, to the day on which that notice was given to that person, and
 - (b) in relation to any other person, to the day on which notice of intended forfeiture was given to the last person to be given such a notice.

Automatic forfeiture in a case where no claim is made 40

- 7 (1) If the property is unclaimed it is treated as forfeited.
- (2) The property is “unclaimed” if, by the end of the period for the giving of a notice of claim – 45
- (a) no such notice has been given in relation to it or any part of it, or

- (b) the requirements of paragraphs 5 and 6 have not been complied with in relation to the only notice or notices of claim that have been given.
- (3) Sub-paragraph (1) applies in relation to a readily separable part of the property as it applies in relation to the property, and for this purpose sub-paragraph (2) applies as if references to the property were to the part. 5
- (4) In this paragraph “readily separable part” has the meaning given by paragraph 1.
- Decision whether to take court proceedings to condemn property as forfeited* 10
- 8 (1) Where a notice of claim in respect of the property, or a part of it, is duly given in accordance with paragraphs 5 and 6, the relevant officer must decide whether to take proceedings to ask the court to condemn the property or a part of it as forfeited.
- (2) The decision whether to take such proceedings must be made as soon as reasonably practicable after the giving of the notice of claim. 15
- Return of property if no forfeiture proceedings*
- 9 (1) This paragraph applies if, in a case in which a notice of claim has been given, the relevant officer decides – 20
- (a) not to take proceedings for condemnation of the property, or
- (b) not to take proceedings for condemnation of a part of the property.
- (2) The relevant officer must return the property or part to the person who appears to him to have a legitimate reason for possessing the property or, if there is more than one such person, to one of those persons. 25
- (3) Any property required to be returned in accordance with sub-paragraph (2) must be returned as soon as reasonably practicable after the decision not to take proceedings for condemnation. 30
- Forfeiture proceedings*
- 10 (1) This paragraph applies if, in a case in which a notice of claim has been given, the relevant officer decides to take proceedings for condemnation of the property or a part of it (“the relevant property”). 35
- (2) The court must condemn the relevant property if it is satisfied –
- (a) that the relevant property is forfeitable property, and
- (b) that no-one who has given a notice of claim has a legitimate reason for possessing the relevant property. 40
- This is subject to sub-paragraphs (5) and (7).
- (3) If the court is not satisfied that the relevant property is forfeitable property, the court must order its return to the person who

appears to the court to have a legitimate reason for possessing it or, if there is more than one such person, to one of those persons.

- (4) If the court is satisfied –
- (a) that the relevant property is forfeitable property, and
 - (b) that a person who has given a notice of claim has a legitimate reason for possessing the relevant property, or that more than one such person has such a reason,
- the court must order the return of the relevant property to that person or, as the case may be, to one of those persons. 5
- (5) Where the court is satisfied that any part of the relevant property is a separable part, sub-paragraphs (2) to (4) apply separately in relation to each separable part of the relevant property as if references to the relevant property were references to the separable part. 10
- (6) For this purpose a part of any property is a “separable part” of the property if – 15
- (a) it can be separated from the remainder of that property, and
 - (b) where a person has a legitimate reason for possessing the remainder of that property or any part of it, the separation will not prejudice the remainder or part. 20
- (7) Where the court is satisfied –
- (a) that a person who has given a notice of claim has a legitimate reason for possessing part of the relevant property, and 25
 - (b) that, although the part is not a separable part within the meaning given by sub-paragraph (6), it can be separated from the remainder of the relevant property,
- the court may order the return of that part to that person.
- (8) Sub-paragraph (7) does not apply to any property required to be returned to a person under sub-paragraph (4). 30

Supplementary orders

- 11 (1) Where the court condemns property under paragraph 10(2) –
- (a) it may order the relevant officer to take such steps in relation to the property or any part of it as it thinks appropriate, and 35
 - (b) where it orders a step to be taken, it may make that order conditional on specified costs relating to the taking of that step being paid by a specified person within a specified period. 40
- (2) A court order under paragraph 10(3), (4), (5) or (7) requiring the return of a part of the relevant property to a person may be made conditional on specified costs relating to the separation of the part from the remainder of the relevant property being paid by that person within a specified period. 45
- (3) Where the court makes an order under paragraph 10(7) for the return of a part of the relevant property –

- (a) it may order the relevant officer to take such steps as it thinks appropriate in relation to any property which will be prejudiced by the separation of that part, and
- (b) where it orders a step to be taken, it may make that order conditional on specified costs relating to the taking of that step being paid by a specified person within a specified period. 5
- (4) For the purposes of this paragraph “specified” means specified in, or determined in accordance with, the court order.
- Supplementary provision about forfeiture proceedings* 10
- 12 Proceedings by virtue of this Schedule are civil proceedings and may be instituted in a magistrates’ court which has jurisdiction in relation to the place where the property to which the proceedings relate was seized.
- 13 (1) Either party may appeal against the decision of the magistrates’ court to the Crown Court. 15
- (2) This paragraph does not affect any right to require the statement of a case for the opinion of the High Court.
- 14 Where an appeal has been made (whether by case stated or otherwise) against the decision of the magistrates’ court in proceedings by virtue of this Schedule in relation to property, the property is to be left in the custody of a constable pending the final determination of the matter. 20
- Effect of forfeiture*
- 15 Where property is treated or condemned as forfeited under this Schedule the forfeiture is to be treated as having taken effect as from the time of the seizure. 25
- Disposal of property which is not returned*
- 16 (1) This paragraph applies where any property is required to be returned to a person under this Schedule. 30
- (2) If—
- (a) the property is (without having been returned) still in the custody of the relevant officer after the end of the period of 12 months beginning with the day on which the requirement to return it arose, and 35
- (b) it is not practicable to dispose of it by returning it immediately to the person to whom it is required to be returned,
- the relevant officer may dispose of it in any manner he thinks fit.
- 17 (1) This paragraph applies where any property would be required to be returned to a person under this Schedule but for a failure to satisfy a condition imposed by virtue of paragraph 11(2) (return of property conditional on payment of costs within specified period). 40

- (2) The relevant officer may dispose of the property in any manner he thinks fit.

Provisions as to proof

- 18 In proceedings under this Schedule, the fact, form and manner of the seizure are to be taken, without further evidence and unless the contrary is shown, to have been as set forth in the process. 5
- 19 In proceedings, the condemnation by a court of property as forfeited under this Schedule may be proved by the production of either – 10
- (a) the order of condemnation, or
 - (b) a certified copy of the order purporting to be signed by an officer of the court by which the order was made or granted.

Saving for owner's rights

- 20 Neither the imposition of a requirement by virtue of this Schedule to return property to a person nor the return of it to a person in accordance with such a requirement affects – 15
- (a) the rights in relation to that property, or any part of it, of any other person, or
 - (b) the right of any other person to enforce his rights against the person to whom it is returned. 20

Interpretation

- 21 (1) In this Schedule – 25
- “the court” is to be construed in accordance with paragraph 12;
 - “forfeitable property” is to be construed in accordance with paragraph 1(2);
 - “premises” has the same meaning as in the Police and Criminal Evidence Act 1984 (see section 23 of that Act); and 30
 - “the relevant officer” is to be construed in accordance with paragraph 3.
- (2) For the purposes of this Schedule the circumstances in which a person (“P”) has a legitimate reason for possessing an indecent photograph of a child (“C”) include where – 35
- (a) the photograph was of C aged 16 or over,
 - (b) one or both of the following sub-paragraphs apply – 40
 - (i) P and C are married, are civil partners of each other or are living together as partners in an enduring family relationship,
 - (ii) P and C were married, were civil partners of each other or were so living together at the time P obtained the photograph,
 - (c) the photograph shows C alone or with P, but does not show any other person, 45

(2) After section 68 there is inserted –

“68A Unlawfully at large

(1) A person is alleged to be unlawfully at large after conviction of an offence if –

- (a) he is alleged to have been convicted of it, and 5
- (b) his extradition is sought for the purpose of his being sentenced for the offence or of his serving a sentence of imprisonment or another form of detention imposed in respect of the offence.

(2) This section applies for the purposes of this Part, other than sections 14 and 63.” 10

(3) In section 82 (passage of time), for the words from “since” to the end there is substituted “since he is alleged to have –

- (a) committed the extradition offence (where he is accused of its commission), or 15
- (b) become unlawfully at large (where he is alleged to have been convicted of it”).

(4) After section 140 there is inserted –

“140A Unlawfully at large

(1) A person is alleged to be unlawfully at large after conviction of an offence if – 20

- (a) he is alleged to have been convicted of it, and
- (b) his extradition is sought for the purpose of his being sentenced for the offence or of his serving a sentence of imprisonment or another form of detention imposed in respect of the offence. 25

(2) This section applies for the purposes of this Part, other than sections 82 and 136.”

(5) In section 143 (undertaking in relation to person serving sentence), in subsection (4), for “alleged to be unlawfully at large after conviction” there is substituted “who has been convicted”. 30

(6) In section 148 (extradition offences), in subsection (3)(a), for “is alleged to be unlawfully at large after conviction” there is substituted “has been convicted”.

(7) In section 179 (competing claims to extradition), after subsection (4) there is inserted – 35

“(5) For the purposes of this section a person is alleged to be unlawfully at large after conviction of an offence if –

- (a) he is alleged to have been convicted of it, and
- (b) his extradition is sought for the purpose of his being sentenced for the offence or of his serving a sentence of imprisonment or another form of detention imposed in respect of the offence.” 40

- (8) In section 188 (re-extradition to category 1 territories), in subsection (1)(b)(i), for “was alleged to be unlawfully at large after conviction” there is substituted “had been convicted”.
- (9) In section 189 (re-extradition to category 2 territories), in subsection (1)(b), for “was alleged to be unlawfully at large after conviction” there is substituted “had been convicted”. 5

Restriction on extradition following transfer from International Criminal Court

- 3 (1) In section 11 (bars to extradition) –
- (a) after paragraph (h) of subsection (1) there is inserted –
- “(i) the person’s earlier transfer to the United Kingdom by the International Criminal Court.”; 10
- (b) in subsection (2), for “Sections 12 to 19” there is substituted “Sections 12 to 19A”.
- (2) After section 19 there is inserted –
- “19A Earlier transfer to United Kingdom by International Criminal Court 15**
- (1) A person’s extradition to a category 1 territory is barred by reason of his earlier transfer by the International Criminal Court if (and only if) –
- (a) the person was transferred to the United Kingdom to serve a sentence imposed by the Court; 20
- (b) under arrangements between the United Kingdom and the Court, the consent of the Presidency of the Court is required to the person’s extradition from the United Kingdom to the category 1 territory in respect of the extradition offence under consideration; 25
- (c) that consent has not been given.
- (2) Subsection (1) does not apply if the person has served the sentence imposed by the Court and has subsequently –
- (a) remained voluntarily in the United Kingdom for more than 30 days, or 30
- (b) left the United Kingdom and returned to it.”
- (3) In section 93 (Secretary of State’s consideration of case), after paragraph (c) of subsection (2) there is inserted –
- “(d) section 96A (earlier transfer to United Kingdom by International Criminal Court).” 35
- (4) After section 96 there is inserted –
- “96A Earlier transfer to United Kingdom by International Criminal Court**
- (1) The Secretary of State must not order a person’s extradition to a category 2 territory if –
- (a) the person was transferred to the United Kingdom to serve a sentence imposed by the International Criminal Court; 40
- (b) under arrangements between the United Kingdom and the Court, the consent of the Presidency of the Court is required to the person’s extradition from the United Kingdom to the

- category 2 territory in respect of the extradition offence under consideration;
- (c) that consent has not been given.
- (2) Subsection (1) does not apply if the person has served the sentence imposed by the Court and has subsequently –
 - (a) remained voluntarily in the United Kingdom for more than 30 days, or
 - (b) left the United Kingdom and returned to it.”

Remand of person serving sentence in United Kingdom

- 4 In sections 23 and 89 (person serving sentence in United Kingdom), after subsection (2) there is inserted – 10
- “(3) In a case where an extradition hearing is adjourned under subsection (2) –
- (a) section 131 of the Magistrates’ Courts Act 1980 (remand of accused already in custody) has effect as if a reference to 28 clear days in subsection (1) or (2) of that section were a reference to six months; 15
 - (b) Article 47(2) of the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) (period of remand in custody) has effect as if a reference to 28 days in – 20
 - (i) paragraph (a)(iii), or
 - (ii) the words after paragraph (b), were a reference to six months.”

Remands in connection with appeal proceedings

- 5 (1) In section 29 (court’s powers on appeal under section 28), after subsection (6) there is inserted – 25
- “(7) If the court allows the appeal it must remand the person in custody or on bail.
- (8) If the court remands the person in custody it may later grant bail.”
- (2) In section 30 (detention pending conclusion of appeal under section 28) – 30
- (a) for paragraph (b) of subsection (4) there is substituted –
 - “(b) when the High Court –
 - (i) allows the appeal, or
 - (ii) dismisses the appeal, unless, where the appeal is dismissed, the authority immediately informs the court that it intends to apply for leave to appeal to the House of Lords;”;
 - (b) in paragraph (c) of that subsection, at the end there is inserted “, if no appeal to the House of Lords is brought before the end of that period”; 40
 - (c) in subsection (5)(a), for “if” there is substituted “unless”.
- (3) In section 32 (appeal to House of Lords), for subsection (10) there is

- substituted –
- “(10) The High Court may grant bail to a person appealing under this section, or applying for leave to appeal under this section, against the dismissal of his appeal under section 26.”
- (4) In section 33 (powers of House of Lords on appeal under section 32), at the end there is inserted – 5
- “(10) In a case where –
- (a) subsection (5) applies, or
- (b) subsections (7) and (8) apply,
- the House of Lords must remand, in custody or on bail, the person in respect of whom the warrant was issued. 10
- (11) If the House of Lords remands the person in custody the High Court may later grant bail.”
- (5) After section 33 there is inserted –
- “33A Detention pending conclusion of certain appeals under section 32 15**
- (1) This section applies if immediately after the High Court orders the person’s discharge the court is informed by the authority which issued the Part 1 warrant that it intends to appeal under section 32.
- (2) The court must remand the person in custody or on bail while the appeal under section 32 is pending. 20
- (3) If the court remands the person in custody it may later grant bail.
- (4) An appeal under section 32 ceases to be pending at the earliest of these times –
- (a) when the proceedings on the appeal are discontinued;
- (b) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the House of Lords against the decision of the High Court on the appeal under section 26 is granted, if no appeal to the House of Lords is brought before the end of that period; 25
- (c) when there is no further step that can be taken by the authority which issued the Part 1 warrant in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time). 30
- (5) The preceding provisions of this section do not apply to Scotland.”
- (6) In section 104 (court’s powers on appeal under section 103), after subsection (7) there is inserted – 35
- “(8) If the court makes a direction under subsection (1)(b) it must remand the person in custody or on bail.
- (9) If the court remands the person in custody it may later grant bail.”
- (7) In section 106 (court’s powers on appeal under section 105), after subsection (8) there is inserted – 40
- “(9) If the court –
- (a) allows the appeal, or

- (b) makes a direction under subsection (1)(b),
it must remand the person in custody or on bail.
- (10) If the court remands the person in custody it may later grant bail.”
- (8) In section 107 (detention pending conclusion of appeal under section 105) –
- (a) for paragraph (b) of subsection (4) there is substituted – 5
- “(b) when the High Court –
- (i) allows the appeal,
- (ii) makes a direction under section 106(1)(b), or
- (iii) dismisses the appeal,
- unless, where the appeal is dismissed, the court is 10
immediately informed on behalf of the category 2
territory of an intention to apply for leave to appeal to
the House of Lords;”;
- (b) in paragraph (c) of that subsection, at the end there is inserted “, if no 15
appeal to the House of Lords is brought before the end of that
period”;
- (c) in subsection (5)(a), for “if” there is substituted “unless”.
- (9) In section 111 (court’s powers on appeal under section 110), after subsection
(5) there is inserted –
- “(6) If the court allows the appeal it must remand the person in custody 20
or on bail.
- (7) If the court remands the person in custody it may later grant bail.”
- (10) For section 112 there is substituted –
- “112 Detention pending conclusion of appeal under section 110**
- (1) This section applies in a case where the Secretary of State orders the 25
person’s discharge under this Part.
- (2) Subject to subsection (3) –
- (a) the order made by the appropriate judge under section 92(4)
 (“the remand order”) remains in force until the end of the 30
period of three days beginning with the day on which the
person’s discharge is ordered;
- (b) if within that period the Secretary of State is informed in
writing on behalf of the category 2 territory of an intention to
appeal under section 110, the remand order remains in force 35
while the appeal is pending.
- (3) If the person is remanded in custody under section 92(4), the
appropriate judge may grant bail.
- (4) An appeal under section 110 ceases to be pending at the earliest of
these times –
- (a) when the proceedings on the appeal are discontinued; 40
- (b) when the High Court –
- (i) allows the appeal, or
- (ii) dismisses the appeal,
- unless, where the appeal is dismissed, the court is 45
immediately informed on behalf of the category 2 territory of

- an intention to apply for leave to appeal to the House of Lords;
- (c) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the House of Lords against the decision of the High Court on the appeal is granted, if no appeal to the House of Lords is brought before the end of that period; 5
- (d) when there is no further step that can be taken on behalf of the category 2 territory in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time). 10
- (5) The preceding provisions of this section apply to Scotland with these modifications –
- (a) in subsection (4)(b) omit the words from “unless” to the end;
- (b) omit subsection (4)(c).”
- (11) In section 114 (appeal to House of Lords), for subsection (10) there is substituted – 15
- “(10) The High Court may grant bail to a person appealing under this section, or applying for leave to appeal under this section, against the dismissal of his appeal under section 103 or 108.”
- (12) In section 115 (powers of House of Lords on appeal under section 114), after subsection (8) there is inserted – 20
- “(9) In a case where subsection (5) or (7) applies, the House of Lords must remand, in custody or on bail, the person whose extradition is requested.
- (10) If the House of Lords remands the person in custody the High Court may later grant bail.” 25
- (13) After section 115 there is inserted –
- “115A Detention pending conclusion of certain appeals under section 114**
- (1) This section applies if –
- (a) on an appeal under section 103 or 108 the High Court orders the person’s discharge; 30
- (b) immediately after it does so, the court is informed on behalf of the category 2 territory of an intention to appeal under section 114.
- (2) The court must remand the person in custody or on bail while the appeal is pending. 35
- (3) If the court remands the person in custody it may later grant bail.
- (4) An appeal under section 114 ceases to be pending at the earliest of these times –
- (a) when the proceedings on the appeal are discontinued; 40
- (b) at the end of the permitted period, which is 28 days starting with the day on which leave to appeal to the House of Lords against the decision of the High Court on the appeal under section 103 or 108 is granted, if no appeal to the House of Lords is brought before the end of that period; 45

- (c) when there is no further step that can be taken on behalf of the category 2 territory in relation to the appeal (ignoring any power of a court to grant leave to take a step out of time).

(5) The preceding provisions of this section do not apply to Scotland.”

Time for extradition

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- 6 (1) In section 35 (extradition where no appeal), in paragraph (a) of subsection (4) (period within which person must be extradited), for “the day on which the judge makes the order” there is substituted “the first day after the period permitted under section 26 for giving notice of appeal against the judge’s order”. 10
- (2) In section 37 (undertaking in relation to person serving sentence in United Kingdom), after paragraph (b) of subsection (8) there is inserted –
“Paragraph (a) applies only if the day mentioned in that paragraph is later than the day mentioned in section 35(4)(a).”
- (3) In section 38 (extradition following deferral for competing claim), at the end of subsection (3) there is inserted – 15
“This subsection applies only if the day on which the order is made is later than the day mentioned in section 35(4)(a).”

Extradition of person serving sentence in United Kingdom

- 7 (1) Section 37 (undertaking in relation to person serving sentence in United Kingdom) is amended as follows. 20
- (2) In subsection (1), at the end of paragraph (b) there is inserted “, either –
 - (i) in custody, or
 - (ii) on licence”.
- (3) In subsection (4), after “in relation to a person” there is inserted “within subsection (1)(b)(i) who is”. 25
- (4) After that subsection there is inserted –
“(4A) The terms which may be specified by the judge in relation to a person within subsection (1)(b)(ii) who is accused in a category 1 territory of the commission of an offence include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 1 territory for –
 - (a) the offence, and
 - (b) any other offence in respect of which he is permitted to be dealt with in the category 1 territory.” 30 35
- 8 (1) Section 52 (undertaking in relation to person serving sentence in consent cases) is amended as follows.
- (2) In subsection (1), at the end of paragraph (b) there is inserted “, either –
 - (i) in custody, or
 - (ii) on licence”. 40
- (3) In subsection (3), after “in relation to a person” there is inserted “within subsection (1)(b)(i) who is”.

- (4) After that subsection there is inserted –
- “(3A) The terms which may be specified by the judge in relation to a person within subsection (1)(b)(ii) who is accused in a category 1 territory of the commission of an offence include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 1 territory for –
- (a) the offence, and
- (b) any other offence in respect of which he is permitted to be dealt with in the category 1 territory.”
- 9 In section 59 (return of person to serve remainder of sentence), after paragraph (b) of subsection (1) there is inserted –
- “(c) the person is not yet entitled to be released from detention pursuant to his sentence (whether on licence or otherwise).”
- 10 (1) Section 119 (undertaking in relation to person serving sentence in United Kingdom) is amended as follows. 15
- (2) In subsection (1), at the end of paragraph (b) there is inserted “, either –
- (i) in custody, or
- (ii) on licence”.
- (3) In subsection (3), after “in relation to a person” there is inserted “within subsection (1)(b)(i) who is”. 20
- (4) After that subsection there is inserted –
- “(3A) The terms which may be specified by the Secretary of State in relation to a person within subsection (1)(b)(ii) who is accused in a category 2 territory of the commission of an offence include terms that the person be returned to the United Kingdom to serve the remainder of his sentence after serving any sentence imposed on him in the category 2 territory for –
- (a) the offence, and
- (b) any other offence in respect of which he is permitted to be dealt with in the category 2 territory.” 25
- 11 In section 132 (return of person to serve remainder of sentence), after paragraph (b) of subsection (1) there is inserted –
- “(c) the person is not yet entitled to be released from detention pursuant to his sentence (whether on licence or otherwise).” 35
- “*The appropriate judge*”
- 12 (1) In sections 67 and 139 (the appropriate judge), after subsection (3) there is inserted –
- “(3A) The use of the expression “the judge” in a section containing a previous reference to “the appropriate judge” or “the judge” does not in itself require both references to be read as referring to the same individual.” 40
- (2) In section 187 (re-extradition hearing), for subsection (10) there is

substituted –

“(10) Section 139 applies for the purposes of this section as it applies for the purposes of Part 2.”

13 (1) In the provisions listed in sub-paragraph (2), for “If the judge remands the person in custody he may” there is substituted “If the person is remanded in custody, the appropriate judge may”. 5

(2) The provisions are –

section 7(10);
section 8(2);
section 9(5); 10

section 21(5);
section 24(3);
section 30(3);
section 44(6);
section 46(3); 15

section 50(3);
section 51(5);
section 72(9);
section 74(9);
section 77(5); 20

section 90(5);
section 92(5);
section 107(3);
section 112(3);

paragraph 15 of Schedule 1 (in the inserted subsection (5)); 25

paragraph 33 of Schedule 1 (in the inserted subsection (1B));

paragraph 36 of Schedule 1 (in subsection (6) of the inserted section 128B).

Extradition to category 2 territories: requests and certificates

14 (1) Section 70 (extradition request and certificate) is amended as follows. 30

(2) In subsection (1) –

(a) after “must” there is inserted “(subject to subsection (2))”;

(b) for the words after “extradition” there is substituted “of a person to a category 2 territory”.

(3) For subsection (2) there is substituted – 35

“(2) The Secretary of State may refuse to issue a certificate under this section if –

(a) he has power under section 126 to order that proceedings on the request be deferred,

(b) the person whose extradition is requested has been recorded by the Secretary of State as a refugee within the meaning of the Refugee Convention, or 40

(c) the person whose extradition is requested has been granted leave to enter or remain in the United Kingdom on the ground that it would be a breach of Article 2 or 3 of the 45

Human Rights Convention to remove him to the territory to which extradition is requested.

- (2A) In subsection (2) –
 “Refugee Convention” has the meaning given by section 167(1) of the Immigration and Asylum Act 1999; 5
 “Human Rights Convention” has the meaning given to “the Convention” by section 21(1) of the Human Rights Act 1998.”
- (4) In subsection (8) –
 (a) the words after “must” become paragraph (a) of that subsection;
 (b) at the end of that paragraph there is inserted “, and 10
 (b) identify the order by which the territory in question is designated as a category 2 territory.”
- (5) In subsection (9), for the words after “send” there is substituted “the request and the certificate to the appropriate judge”.
- 15 In section 141 (Scotland: references to Secretary of State), in subsection (2), after “Secretary of State” there is inserted “in paragraph (b) of section 70(2) and”. 15

Time for representations and consideration of case under Part 2

- 16 (1) Section 93 (Secretary of State’s consideration of case) is amended as follows.
- (2) In subsection (6) (length of permitted period for representations), for “6 weeks” there is substituted “4 weeks”. 20
- (3) After that subsection there is inserted –
 “(7) In the case of a person who has consented under section 127 to his extradition, the Secretary of State is not required –
 (a) to wait until the end of the permitted period before ordering the person’s extradition, or 25
 (b) to consider any representations received after the order is made.”

Applications for discharge or for extension of time limit

- 17 (1) Section 99 (time limit for order for extradition or discharge) is amended as follows. 30
- (2) In subsection (2) –
 (a) for “the High Court” there is substituted “the appropriate judge”;
 (b) for “the court” there is substituted “the judge”.
- (3) In subsection (4) – 35
 (a) for “applies to the High Court” there is substituted “applies to the appropriate judge”;
 (b) for “the High Court may” there is substituted “the judge may”.

Issue of Part 3 warrant: persons unlawfully at large who may be arrested without domestic warrant

- 18 (1) In section 142 (issue of Part 3 warrant), in subsection (1)(b), after “subsection (2)” there is inserted “, or the condition in subsection (2A),”.
- (2) For subsection (2) of that section there is substituted – 5
- “(2) The condition is that –
- (a) there are reasonable grounds for believing that the person has committed an extradition offence, and
- (b) a domestic warrant has been issued in respect of the person.
- (2A) The condition is that – 10
- (a) there are reasonable grounds for believing that the person is unlawfully at large after conviction of an extradition offence by a court in the United Kingdom, and
- (b) either a domestic warrant has been issued in respect of the person or the person may (if unlawfully at large as mentioned in paragraph (a)) be arrested without a warrant.” 15

Issue of Part 3 warrant: domestic warrant issued at common law by judge in Northern Ireland

- 19 For subsection (8) of section 142 there is substituted –
- “(8) A domestic warrant is a warrant for the arrest or apprehension of a person which is issued under any of the provisions referred to in subsection (8A), or at common law by a Crown Court judge in Northern Ireland. 20
- (8A) The provisions are –
- (a) section 72 of the Criminal Justice Act 1967;
- (b) section 7 of the Bail Act 1976; 25
- (c) section 51 of the Judicature (Northern Ireland) Act 1978;
- (d) section 1 of the Magistrates’ Courts Act 1980;
- (e) Article 20 or 25 of the Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26));
- (f) the Criminal Procedure (Scotland) Act 1995.” 30

Dealing with person for pre-extradition offences following extradition to UK

- 20 In section 146(3)(c) (consent of category 1 territory to person being dealt with for other offence), after “given on behalf of the territory” there is inserted “in response to a request made by the appropriate judge”.

Deduction of time spent in custody awaiting extradition to UK 35

- 21 Before section 152 (but after the heading “General”) there is inserted –
- “151A Deduction of time spent in custody awaiting extradition**
- (1) This section applies in the following cases.
- (2) The first case is where –
- (a) a person is tried for an offence in the United Kingdom – 40

-
- (i) after having been extradited to the United Kingdom,
and
- (ii) without having first been restored or had an
opportunity of leaving the United Kingdom;
- (b) he is sentenced for the offence in the United Kingdom to imprisonment or another form of detention; 5
- (c) he was for any period kept in custody while awaiting his extradition to the United Kingdom as mentioned in paragraph (a).
- (3) The second case is where – 10
- (a) a person is extradited to the United Kingdom in respect of an offence (whether before or after being sentenced for it) of which he was previously convicted in the United Kingdom;
- (b) he is (or was) sentenced for the offence in the United Kingdom to imprisonment or another form of detention; 15
- (c) he was for any period kept in custody while awaiting his extradition in respect of the offence.
- (4) Where this section applies, the number of days for which the person was kept in custody as mentioned in subsection (2)(c) or (3)(c) is to count as time served by him as part of the sentence for the offence (and of any sentence that is ordered to run concurrently with it). 20
- (5) A reference in this section to a person being sentenced to imprisonment includes a reference to the case where he is given a suspended sentence and the sentence takes effect.”
- Extradition requests to territories not applying European framework decision to old cases* 25
- 22 After section 155 there is inserted –
- “155A Category 1 territories not applying framework decision to old cases**
- (1) This section applies to a category 1 territory that deals with European extradition requests otherwise than in accordance with the system provided for in the European framework decision if they relate to acts committed before a particular date (“the relevant date”). 30
- (2) In the case of a territory to which this section applies, the Secretary of State has the same powers to request a person’s extradition in relation to acts committed before the relevant date as he would have in the case of a category 2 territory. 35
- (3) The Secretary of State may by order provide that, in the case of an extradition request which –
- (a) is made to a specified category 1 territory to which this section applies, and
- (b) relates to acts committed before the relevant date, 40
- this Part is to have effect as if that territory were a category 2 territory, and with such modifications as may be specified.
- (4) In this section –
- “European extradition request” means a request for extradition made by the United Kingdom or a category 1 territory; 45

“European framework decision” means the framework decision of the Council of the European Union made on 13 June 2002 on the European arrest warrant and the surrender procedures between member states (2002/584/JHA);

“specified”, in relation to an order under this section, means specified in the order.” 5

Extradition of serving prisoner

23 After section 197 there is inserted –

“197A Extradition of serving prisoner

If an order is made under Part 1 or 2 for the extradition of a person who is serving a sentence of imprisonment or another form of detention in the United Kingdom, the order is sufficient authority for the person to be removed from the prison or other institution where he is detained.” 10

Authentication of receivable documents 15

24 In section 202 (receivable documents), in subsection (4) (persons who may authenticate documents) –

(a) in paragraph (a), for “other judicial authority” there is substituted “officer”;

(b) after that paragraph there is inserted – 20

“(aa) it purports to be certified, whether by seal or otherwise, by the Ministry or Department of the territory responsible for justice or for foreign affairs;”.

PART 2

AMENDMENTS TO OTHER ACTS 25

Powers of High Court in relation to bail decisions by magistrates’ court

25 (1) Section 22 of the Criminal Justice Act 1967 (c. 80) (power of High Court to grant, or vary conditions of, bail) is amended as follows.

(2) After subsection (1) (application to grant bail etc where case stated to High Court) there is inserted – 30

“(1A) Where a magistrates’ court withholds bail in extradition proceedings or imposes conditions in granting bail in extradition proceedings, the High Court may grant bail or vary the conditions.”

(3) In subsection (4) (which defines certain terms used in section 22), after ““bail in criminal proceedings”” there is inserted “; “extradition proceedings””. 35

26 In section 1(1A) of the Bail (Amendment) Act 1993 (c. 26) (right of prosecution to appeal to Crown Court against granting of bail in extradition proceedings), for “a judge of the Crown Court” there is substituted “the High Court”.

27 (1) Section 10 of the Justice (Northern Ireland) Act 2004 (c. 4) (prosecution right of appeal against grant of bail by magistrates’ court) is amended as follows. 40

- (2) After subsection (1) there is inserted –
- “(1A) Where a magistrates’ court grants bail to a person in connection with extradition proceedings, the prosecution may appeal to the High Court against the granting of bail.”
- (3) In subsection (3), after “subsection (1)” there is inserted “or (1A)”. 5
- (4) In subsection (4) –
- (a) after “subsection (1)” there is inserted “or (1A)”;
 (b) for “the magistrates’ court” there is substituted “the court which has granted bail”.
- (5) In subsections (5) and (6), for “the magistrates’ court” there is substituted “the court which has granted bail”. 10
- (6) In subsection (8) –
- (a) after “subsection (1)” there is inserted “or (1A)”;
 (b) “magistrates” is omitted.
- (7) After subsection (11) there is inserted – 15
- “(12) In this section –
- “extradition proceedings” means proceedings under the Extradition Act 2003;
- “magistrates’ court” and “court”, in relation to extradition proceedings, mean a resident magistrate designated in accordance with section 67 or section 139 of the Extradition Act 2003; 20
- “prosecution”, in relation to extradition proceedings, means the person acting on behalf of the territory to which extradition is sought.” 25

Amendments consequential on amendments in Part 1

- 28 In section 49 of the Prison Act 1952 (c. 52) (persons unlawfully at large), at the end of the proviso to subsection (2) there is inserted –
- “(d) this subsection shall not apply to any period which under section 151A of the Extradition Act 2003 counts as time served as part of a sentence”. 30
- 29 In section 4(2B) of the Bail Act 1976 (c. 63) (no right to bail in certain extradition proceedings), for “to be unlawfully at large after conviction” there is substituted “to have been convicted”.
- 30 In section 40 of the Prisons (Scotland) Act 1989 (c. 45) (persons unlawfully at large), in subsection (2), for the words from “Provided” to the end there is substituted “Provided that this subsection shall not apply – 35
- (a) to any period during which any such person as aforesaid is detained in pursuance of an order of any court in the United Kingdom in a prison, young offenders institution or remand centre, or 40
- (b) to any period which under section 151A of the Extradition Act 2003 counts as time served as part of a sentence”.
- 31 (1) Section 210 of the Criminal Procedure (Scotland) Act 1995 (c. 46) (consideration of time spent in custody) is amended as follows. 45

- (2) In subsection (1) –
- (a) in paragraph (a), the words “or spent in custody awaiting extradition to the United Kingdom” are omitted;
 - (b) in paragraph (c), sub-paragraph (ii) is omitted.
- (3) Subsections (2) and (3) are omitted. 5
- 32 Section 243 of the Criminal Justice Act 2003 (c. 44) (persons extradited to the United Kingdom) is repealed.
- 33 In paragraph 81(4) of Schedule 9 to the Constitutional Reform Act 2005 (c. 4) (amendments substituting “Supreme Court” for “House of Lords” in provisions of the Extradition Act 2003) – 10
- (a) after paragraph (b) there is inserted –
 - “(ba) section 33A (detention pending conclusion of certain appeals under section 32);”;
 - (b) after paragraph (i) there is inserted –
 - “(ia) section 115A (detention pending conclusion of certain appeals under section 114);”. 15

SCHEDULE 13

Section 43

MINOR AND CONSEQUENTIAL AMENDMENTS

Criminal Damage Act 1971 (c. 48)

- 1 In section 10 of the Criminal Damage Act 1971 (interpretation), after subsection (4) there is inserted – 20
- “(5) For the purposes of this Act a modification of the contents of a computer shall not be regarded as damaging any computer or computer storage medium unless its effect on that computer or computer storage medium impairs its physical condition.” 25

Bail Act 1976 (c. 63)

- 2 In subsection (1) of –
- (a) section 3A of the Bail Act 1976 (conditions of bail in case of police bail), and
 - (b) section 5A of that Act (supplementary provisions in cases of police bail), 30
- after “Part IV of the Police and Criminal Evidence Act 1984” there is inserted “or Part 3 of the Criminal Justice Act 2003”.

Criminal Damage (Northern Ireland) Order 1977 (S.I. 1977/426 (N.I. 4))

- 3 In Article 12 of the Criminal Damage (Northern Ireland) Order 1977 (meaning of property, etc), after paragraph (4) there is inserted – 35
- “(5) For the purposes of this Order a modification of the contents of a computer shall not be regarded as damaging any computer or computer storage medium unless its effect on that computer or computer storage medium impairs its physical condition.” 40

Local Government (Miscellaneous Provisions) Act 1982 (c. 30)

- 4 In Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 (control of sex establishments), in paragraph 1(b)(ii), for “section 5 of” there is substituted “the Schedule to”.

Aviation Security Act 1982 (c. 36)

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- 5 (1) Part 3 of the Aviation Security Act 1982 (policing of airports) is amended as follows.
- (2) In the heading to that Part, for “AIRPORTS” there is substituted “AERODROMES”.
- (3) Between section 24B (inserted by section 8 above) and section 25 of that Act there is inserted –

“Policing of designated airports”.

- (4) Subsections (1), (4) and (5) of section 27 of that Act (prevention of theft at designated airports) are omitted.

10

Police and Criminal Evidence Act 1984 (c. 60)

15

- 6 In section 64A of the Police and Criminal Evidence Act 1984 (photographing of suspects etc), in subsection (1B), after paragraph (f) there is inserted “; or
(g) given a notice in relation to a relevant fixed penalty offence (within the meaning of Schedule 5A to the 2002 Act) by an accredited inspector by virtue of accreditation specifying that paragraph 1 of Schedule 5A to the 2002 Act applies to him.”

20

Housing Act 1985 (c. 68)

- 7 (1) Section 82A of the Housing Act 1985 (demotion because of anti-social behaviour) is amended as follows.
- (2) In subsection (4)(a), for the words from “engage in” to the end there is substituted “engage in –
- (i) housing-related anti-social conduct, or
(ii) conduct to which section 153B of the Housing Act 1996 (use of premises for unlawful purposes) applies, and”.

25

30

- (3) After subsection (7) there is inserted –

“(7A) In subsection (4)(a) “housing-related anti-social conduct” has the same meaning as in section 153A of the Housing Act 1996.”

- 8 (1) Section 121A of that Act (order suspending right to buy because of anti-social behaviour) is amended as follows.

35

- (2) In subsections (3)(a) and (7)(a), for the words from “engage in” to the end there is substituted “engage in –

(i) housing-related anti-social conduct, or

- (ii) conduct to which section 153B of the Housing Act 1996 (use of premises for unlawful purposes) applies, and”.
- (3) After subsection (9) there is inserted –
- “(10) In this section “housing-related anti-social conduct” has the same meaning as in section 153A of the Housing Act 1996.”

5

Computer Misuse Act 1990 (c. 18)

- 9 In section 2 of the Computer Misuse Act 1990 (unauthorised access with intent to commit or facilitate commission of further offences), for subsection (5) there is substituted –

10

- “(5) A person guilty of an offence under this section shall be liable –
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
 - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both;
 - (c) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine or to both.”

15

- 10 In the heading to section 4 of that Act (territorial scope of offences under that Act), for “**offences under this Act**” there is substituted “**offences under sections 1 to 3**”.

20

- 11 In section 5 of that Act (significant links with domestic jurisdiction), in subsection (3) –

- (a) in paragraph (a), for “he did the act which caused the unauthorised modification” there is substituted “he did the unauthorised act (or caused it to be done)”;
- (b) for paragraph (b) there is substituted –

25

- “(b) that the unauthorised act was done in relation to a computer in the home country concerned.”

30

- 12 In section 6 of that Act (territorial scope of inchoate offences) –

- (a) in the heading, for “**offences under this Act**” there is substituted “**offences under sections 1 to 3**”;
- (b) in subsections (1) and (3), for “offence under this Act” there is substituted “offence under section 1, 2 or 3 above”.

35

- 13 In section 7 of that Act (territorial scope of inchoate offences related to offences under external law) –

- (a) in the heading, for “**offences under this Act**” there is substituted “**offences under sections 1 to 3**”;
- (b) in subsection (4), for “offence under this Act” there is substituted, in each place, “offence under section 1, 2 or 3 above”.

40

- 14 In section 9 of that Act (British citizenship immaterial), in paragraphs (a) and (d) of subsection (2), for “offence under this Act” there is substituted “offence under section 1, 2 or 3 above”.

- 15 Section 11 of that Act (proceedings for offences under section 1) is repealed.

45

- 16 Section 12 of that Act (conviction of an offence under section 1 in proceedings for an offence under section 2 or 3) is repealed.
- 17 (1) Section 13 of that Act (proceedings in Scotland) is amended as follows.
- (2) In subsection (2) –
- (a) in paragraph (a), for “he did the act which caused the unauthorised modification” there is substituted “he did the unauthorised act (or caused it to be done)”;
- (b) for paragraph (b) there is substituted –
- “(b) the unauthorised act was done in relation to a computer in the sheriffdom.”
- (3) Subsections (3) to (7) are omitted.
- (4) In subsection (8), the words from “commenced” to the end are omitted.
- 18 Section 14 of that Act (search warrants for offences under section 1) is repealed.
- 19 (1) Section 16 of that Act (application to Northern Ireland) is amended as follows.
- (2) After subsection (1) there is inserted –
- “(1A) In section 1(3)(a) –
- (a) the reference to England and Wales shall be read as a reference to Northern Ireland; and
- (b) the reference to 12 months shall be read as a reference to six months.”
- (3) After subsection (2) there is inserted –
- “(2A) In section 2(5)(a) –
- (a) the reference to England and Wales shall be read as a reference to Northern Ireland; and
- (b) the reference to 12 months shall be read as a reference to six months.”
- (4) Subsection (3) is omitted.
- (5) Before subsection (4) there is inserted –
- “(3A) In section 3(6)(a) –
- (a) the reference to England and Wales shall be read as a reference to Northern Ireland; and
- (b) the reference to 12 months shall be read as a reference to six months.”
- (6) After the subsection inserted by sub-paragraph (5) there is inserted –
- “(3B) In section 3A(4)(a) –
- (a) the reference to England and Wales shall be read as a reference to Northern Ireland; and
- (b) the reference to 12 months shall be read as a reference to six months.”
- (7) Subsections (10), (11) and (12) are omitted.

20 After that section there is inserted –

“16A Northern Ireland: search warrants for offences under section 1

- (1) Where a county court judge is satisfied by information on oath given by a constable that there are reasonable grounds for believing –
- (a) that an offence under section 1 above has been or is about to be committed in any premises, and 5
 - (b) that evidence that such an offence has been or is about to be committed is in those premises,
- he may issue a warrant authorising a constable to enter and search the premises, using such reasonable force as is necessary. 10
- (2) The power conferred by subsection (1) above does not extend to authorising a search for material of the kinds mentioned in Article 11(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (privileged, excluded and special procedure material).
- (3) A warrant under this section – 15
- (a) may authorise persons to accompany any constable executing the warrant; and
 - (b) remains in force for twenty-eight days from the date of its issue.
- (4) In exercising a warrant issued under this section a constable may seize an article if he reasonably believes that it is evidence that an offence under section 1 above has been or is about to be committed. 20
- (5) In this section “premises” includes land, buildings, movable structures, vehicles, vessels, aircraft and hovercraft.
- (6) This section extends only to Northern Ireland.” 25

21 (1) Section 17 of that Act (interpretation) is amended as follows.

(2) Subsection (7) is omitted.

(3) For subsection (8) there is substituted –

- “(8) An act done in relation to a computer is unauthorised if the person doing the act (or causing it to be done) – 30
- (a) is not himself a person who has responsibility for the computer and is entitled to determine whether the act may be done; and
 - (b) does not have consent to the act from any such person.”

Housing Act 1988 (c. 50) 35

22 (1) Section 6A of the Housing Act 1988 (demotion because of anti-social behaviour) is amended as follows.

(2) In subsection (4)(a), for the words from “engage in” to the end there is substituted “engage in –

- (i) housing-related anti-social conduct, or 40
- (ii) conduct to which section 153B of the Housing Act 1996 (use of premises for unlawful purposes) applies, and”.

(3) After subsection (10) there is inserted –

“(10A) In subsection (4)(a) “housing-related anti-social conduct” has the same meaning as in section 153A of the Housing Act 1996.”

Employment Rights Act 1996 (c. 18)

- 23 In section 50 of the Employment Rights Act 1996 (right to time off for public duties), for paragraph (c) of subsection (2) there is substituted – 5
- “(c) a police authority established under section 3 of the Police Act 1996 or the Metropolitan Police Authority,”.

Housing Act 1996 (c. 52)

- 24 In subsection (1)(b) of – 10
- (a) section 153C of the Housing Act 1996 (injunctions: exclusion order and power of arrest), and
- (b) section 154 of that Act (powers of arrest: *ex parte* applications for injunctions),
- for “section 153A(4)” there is substituted “any of paragraphs (a) to (d) of section 153A(3)”. 15
- 25 In section 218A of that Act (anti-social behaviour: landlords’ policies and procedures), for subsection (8) there is substituted –
- “(8) Anti-social behaviour is –
- (a) any housing-related anti-social conduct, or 20
- (b) any conduct to which section 153B applies.
- (8A) Housing-related anti-social conduct has the same meaning as in section 153A.”

Crime and Disorder Act 1998 (c. 37)

- 26 In section 38(4) of the Crime and Disorder Act 1998 (meaning of “youth justice services”), in paragraph (ee), for “sections 25 to 27” there is substituted “sections 25, 26 and 27”. 25

Local Government Act 2000 (c. 22)

- 27 (1) Section 21 of the Local Government Act 2000 (overview and scrutiny committees) is amended as follows. 30
- (2) At the end of subsection (4) there is inserted “or section 21A”.
- (3) In subsection (10), after “subject to” there is inserted “section 21B(6) and to”.

Police Reform Act 2002 (c. 30)

- 28 In section 41 of the Police Reform Act 2002 (accreditation under community safety accreditation schemes), after subsection (4) there is inserted – 35
- “(4A) A chief officer of police may not grant accreditation under this section to a weights and measures inspector.”
- 29 (1) Section 42 of that Act (supplementary provisions relating to designations and accreditations) is amended as follows.

- (2) In subsection (1), after “section 41” there is inserted “or 41A”.
- (3) In subsection (3) –
- (a) after “or 41” there is inserted “or an accreditation to any weights and measures inspector under section 41A”;
 - (b) after “accredited person” there is inserted “or the accredited inspector”. 5
- (4) After subsection (6) there is inserted –
- “(6A) Where the accreditation of a weights and measures inspector under section 41A is modified or withdrawn, the chief officer giving notice of the modification or withdrawal shall send a copy of the notice to the local weights and measures authority by which the inspector was appointed.” 10
- (5) After subsection (10) there is inserted –
- “(11) For the purposes of determining liability for the unlawful conduct of weights and measures inspectors, conduct by such an inspector in reliance or purported reliance on an accreditation under section 41A shall be taken to be conduct in the course of his duties as a weights and measures inspector; and, in the case of a tort, the local weights and measures authority by which he was appointed shall fall to be treated as a joint tortfeasor accordingly.” 15
20
- 30 (1) Section 46 of that Act (offences against designated and accredited persons etc) is amended as follows.
- (2) In subsections (1) and (2) –
- (a) before the “or” following paragraph (b) there is inserted –
“(ba) an accredited inspector in the execution of his duty,”; 25
 - (b) in paragraph (c), after “accredited person” there is inserted “or an accredited inspector”.
- (3) In subsection (3) –
- (a) in paragraph (a), for “or an accredited person” there is substituted “, an accredited person or an accredited inspector”; 30
 - (b) in paragraph (b), for “or that he is an accredited person” there is substituted “, that he is an accredited person or that he is an accredited inspector”;
 - (c) in paragraph (c), after “accredited person” there is inserted “or as an accredited inspector”. 35
- (4) In subsection (4), for “or accredited person” there is substituted “, accredited person or accredited inspector”.
- 31 In section 47 of that Act (interpretation of Chapter 1), in subsection (1) the following definitions are inserted at the appropriate places –
- ““accredited inspector” means a weights and measures inspector in relation to whom an accreditation under section 41A is for the time being in force;”;
 - ““weights and measures inspector” means an inspector of weights and measures appointed under section 72(1) of the Weights and Measures Act 1985.” 40
45

- 32 In section 105 of that Act (powers of Secretary of State to make orders and regulations), in subsection (3)(b), before “or 99(6)” there is inserted “or 41B”.

Railways and Transport Safety Act 2003 (c. 20)

- 33 In section 19 of the Railways and Transport Safety Act 2003 (exercise of functions by British Transport Police Authority) – 5
 (a) at the end of paragraph (d) there is inserted “and”;
 (b) paragraph (f) is omitted.
- 34 In section 28(1) of that Act (police powers for British Transport Police Authority employees), after paragraph (a) there is inserted – 10
 “(aa) section 38A (standard powers and duties of community support officers).”
- 35 In section 50 of that Act (policing objectives set by British Transport Police Authority), for paragraphs (c) and (d) of subsection (3) there is substituted “and 15
 (c) have regard to any strategic priorities determined for that year by the Secretary of State under section 37A of the Police Act 1996 (strategic priorities for police authorities).”
- 36 In section 52 of that Act (railways policing plan), for subsection (7) there is substituted –
 “(7) In preparing a plan the Chief Constable and the Authority shall have regard to any guidance given by the Secretary of State about railways policing plans. 20
 (7A) Before issuing or revising any guidance under subsection (7) the Secretary of State shall consult –
 (a) the Authority, 25
 (b) the Chief Constable, and
 (c) such other persons as the Secretary of State thinks fit.”
- 37 (1) Section 55 of that Act (three-year strategy plan) is amended as follows.
 (2) In subsection (1), after “a plan” there is inserted “(“a three-year strategy plan”)”. 30
 (3) For subsections (2) and (3) there is substituted –
 “(2) Before a three-year strategy plan for any period is issued by the Authority, a draft of a plan setting out medium-term and long-term strategies for policing the railways during that period must have been prepared by the Chief Constable and submitted by him to the Authority for its consideration. 35
 (3) In preparing the draft plan, the Chief Constable shall have regard to opinions expressed in accordance with section 62.
 (4) The Authority may modify a three-year strategy plan which it has issued for a particular period at any time during that period. 40
 (5) The Secretary of State may –
 (a) issue guidance to the Authority and to the Chief Constable as to –

- (i) the matters to be contained in any three-year strategy plan, and
 - (ii) the form to be taken by any such plan, and
 - (b) revise and modify that guidance from time to time. 5
- (6) Before issuing or revising any guidance under subsection (5) the Secretary of State shall consult –
 - (a) the Authority,
 - (b) the Chief Constable, and
 - (c) such other persons as the Secretary of State thinks fit. 10
- (7) When issuing, preparing or modifying a three-year strategy plan or a draft of such a plan, the Authority or (as the case may be) the Chief Constable shall have regard to –
 - (a) any guidance issued by the Secretary of State under subsection (5), 15
 - (b) any objectives set by the Secretary of State under section 51 for a financial year falling within the period to which the plan relates,
 - (c) any performance targets set by the Authority under section 53 relating to such objectives, and 20
 - (d) any strategic priorities determined by the Secretary of State under section 37A of the Police Act 1996 (strategic priorities for police authorities) and applicable during all or part of the period to which the plan relates.
- (8) Where the Authority is proposing to issue or modify any plan under this section, it shall submit that plan, or the modifications, to the Secretary of State. 25
- (9) Where the Authority issues a three-year strategy plan or modifies such a plan, it shall –
 - (a) send a copy of the plan or the modified plan to the Secretary of State, and 30
 - (b) cause the plan or modified plan to be published.

The copy of any modified plan sent to the Secretary of State and the publication of any modified plan must show the modifications, or be accompanied by or published with a document which sets them out or describes them. 35
- (10) If the Secretary of State considers that there are grounds for thinking that –
 - (a) a three-year strategy plan, or
 - (b) any proposals by the Authority for such a plan, or for the modification of such a plan, 40

may not be consistent with any of the objectives, targets or priorities mentioned in subsection (7), he shall, before informing the Authority of his conclusions on whether or not the plan or the proposals are in fact so inconsistent, consult the Authority and the Chief Constable. 45
- (11) The Authority shall consult the Chief Constable before –

- (a) it issues a three-year strategy plan that differs in any material respect from the draft submitted to it by the Chief Constable, or
- (b) it modifies its three-year strategy plan.
- (12) The Secretary of State may by regulations make provision for the procedure to be followed on the submission to him of any plan or modifications for the purposes of this section.” 5
- Anti-social Behaviour Act 2003 (c. 38)*
- 38 In the heading to section 25 of the Anti-social Behaviour Act 2003 (parenting contracts in respect of criminal conduct and anti-social behaviour), at the end there is inserted “: **youth offending teams**”. 10
- 39 In the heading to section 26 of that Act (parenting orders in respect of criminal conduct and anti-social behaviour), at the end there is inserted “: **youth offending teams**”.
- 40 (1) Section 27 of that Act (parenting orders: supplemental) is amended as follows. 15
- (2) In subsections (1) and (2), for “section 26” there is substituted “section 26, 26A or 26B”.
- (3) In subsection (1)(a), for “section 25” there is substituted “section 25, 25A or 25B”. 20
- (4) In subsection (3), for “in relation to a parenting order under section 26 as they apply” there is substituted “in relation to –
- (a) a parenting order under section 26,
- (b) a parenting order under section 26A, or
- (c) a parenting order under section 26B, 25
- as they apply”.
- (5) After subsection (3) there is inserted –
- “(3A) Proceedings for an offence under section 9(7) of the 1998 Act (parenting orders: breach of requirement etc) as applied by subsection (3)(b) above may be brought by – 30
- (a) the local authority for the area where the child or young person resides or appears to reside, or
- (b) (if different) the local authority for the area where the person alleged to be in breach resides or appears to reside.”
- (6) For subsection (4) there is substituted – 35
- “(4) In carrying out their functions in relation to parenting orders –
- (a) members of youth offending teams,
- (b) local authorities in England,
- (c) registered social landlords on the register maintained by the Housing Corporation, and 40
- (d) responsible officers who are officers or representatives of local authorities in England or of registered social landlords on that register,

- must have regard to any guidance which is issued by the Secretary of State from time to time for that purpose.
- (4A) In carrying out their functions in relation to parenting orders –
- (a) local authorities in Wales,
 - (b) registered social landlords on the register maintained by the National Assembly for Wales, and
 - (c) responsible officers who are officers or representatives of local authorities in Wales or of registered social landlords on that register,
- must have regard to any guidance which is issued by the National Assembly for Wales from time to time for that purpose.”
- 41 (1) Section 28 of that Act (parenting orders: appeals) is amended as follows.
- (2) In subsection (1), for “under section 26” there is substituted “by a magistrates’ court under section 26, 26A or 26B”.
- (3) After that subsection there is inserted –
- “(1A) An appeal lies to the High Court against the making of a parenting order by a county court under section 26A or 26B.”
- (4) In subsection (2), for “subsection (1)(b)” there is substituted “subsection (1)”.
- 42 In section 29(1) of that Act (interpretation of sections 25 to 29), for the definition of “responsible officer” there is substituted –
- ““responsible officer” –
- (a) in relation to a parenting order under section 26, means a member of a youth offending team who is specified in the order;
 - (b) in relation to a parenting order under section 26A, means an officer or other representative of a local authority who is specified in the order;
 - (c) in relation to a parenting order under section 26B, means an officer or other representative of a registered social landlord who is specified in the order;”.

Criminal Justice Act 2003 (c. 44)

- 43 In section 25 of the Criminal Justice Act 2003 (code of practice in relation to conditional cautions), at the end of subsection (2) there is inserted –
- “(i) the exercise of the power of arrest conferred by section 24A(1), and
 - (j) who is to decide how a person should be dealt with under section 24A(2).”

Energy Act 2004 (c. 20)

- 44 In paragraph 1 of Schedule 12 to the Energy Act 2004 (determination of annual objectives for Civil Nuclear Constabulary), for sub-paragraph (3) there is substituted –
- “(3) In determining the objectives, the Police Authority must have regard to any strategic priorities determined for that year by the

Secretary of State under section 37A of the Police Act 1996 (strategic priorities for police authorities).”

SCHEDULE 14

Section 43

REPEALS

PART 1

5

POLICE REFORM

(A) NATIONAL POLICING IMPROVEMENT AGENCY

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2, the entry relating to the Central Police Training and Development Authority and the entry relating to the Police Information Technology Organisation.	10
Police (Scotland) Act 1967 (c. 77)	Section 28(2) and (3). Section 36(7) and (8). In section 38(3A), “(bb) or”. In section 38A, subsection (1)(bb) and, in subsection (6)(a), “(bb)”.	15
Superannuation Act 1972 (c. 11)	In Schedule 1, the entry relating to the Central Police Training and Development Authority and the entry relating to the Police Information Technology Organisation.	20
Health and Safety at Work etc. Act 1974 (c. 37)	Section 51A(2E)(c) and (d).	
House of Commons Disqualification Act 1975 (c. 24)	In Schedule 1 – (a) in Part 2, the entry relating to the Central Police Training and Development Authority; (b) in Part 3, the entry relating to the Police Information Technology Organisation.	25
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Schedule 1 – (a) in Part 2, the entry relating to the Central Police Training and Development Authority; (b) in Part 3, the entry relating to the Police Information Technology Organisation.	30
Police Pensions Act 1976 (c. 35)	Section 7(2)(ce).	35

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Police Pensions Act 1976 (c. 35) – <i>cont.</i>	In section 11 – (a) subsection (1)(be); (b) subsection (2)(da) and (e); (c) in subsection (3)(b), “(be)”; (d) in paragraph (a) of the definition in subsection (5) of “central service”, “(cc),”; (e) in paragraph (b) of that definition, “(bb) or”.	5
Race Relations Act 1976 (c. 74)	In Schedule 1A – (a) in Part 2, the entry relating to the Police Information Technology Organisation; (b) in Part 3, the entry relating to the Central Police Training and Development Authority.	10
Police Act 1996 (c. 16)	In section 97 – (a) subsection (1)(cc) and (cd); (b) in subsections (6)(a) and (8), “(cc), (cd),”.	15
Police Act 1997 (c. 50)	Sections 109 to 111. Schedule 8. In Schedule 9 – (a) paragraph 7; (b) in paragraph 10, the words from “there shall be added” to the end; (c) paragraphs 12, 14(a), 24, 29(1) and (3), 30(1) and (3) and 33(2)(c) and (3)(a).	20
Police (Northern Ireland) Act 1998 (c. 32)	In section 27 – (a) subsection (1)(c); (b) in subsection (5)(b), “(c),”. Section 40(3) and (4).	30
Freedom of Information Act 2000 (c. 36)	In Part 6 of Schedule 1, the entry relating to the Central Police Training and Development Authority and the entry relating to the Police Information Technology Organisation.	
Criminal Justice and Police Act 2001 (c. 16)	Sections 87 to 96. In section 97(1)(a), the words “(within the meaning of section 88 above)”. Section 101(1). Schedule 3. In Schedule 4, paragraphs 2 to 8.	35
Police Reform Act 2002 (c. 30)	In section 29(3)(d), “, (cc)”. Section 99. Section 102(2)(h) and (3). In section 105(3)(b), “or 99(6)”. Section 108(7)(c). In Schedule 7, paragraph 24.	40
Scottish Public Services Ombudsman Act 2002 (asp 11)	In Schedule 2, paragraph 81.	45

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Energy Act 2004 (c. 20)	In Schedule 14, paragraph 9.
Serious Organised Crime and Police Act 2005 (c. 15)	In Schedule 4, paragraphs 103, 104 and 163.

(B) OTHER REPEALS RELATING TO PART 1

5

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Police Act 1996 (c. 16)	Section 5. Section 6(4). Sections 6A, 7, 8 and 9. Section 15(3). Section 30(3) and (4). Sections 36A and 37. Sections 41A and 41B. Section 96B(3) and (4). Schedules 2, 2A, 3 and 3A.	10 15
Employment Rights Act 1996 (c. 18)	Section 50(6).	
Local Government Act 1999 (c. 27)	Section 24(1) and (2).	
Greater London Authority Act 1999 (c. 29)	Section 310(2). Schedule 26. In Schedule 27, paragraphs 70, 71, 72, 86, 103, 105 and 106.	20
Insolvency Act 2000 (c. 39)	In Schedule 4, paragraph 20.	
Criminal Justice and Police Act 2001 (c. 16)	In section 104 – (a) subsections (1) and (2), (b) subsection (4), (c) subsection (5) so far as relating to the Police Act 1996 (c. 16), and (d) subsections (6) and (7).	25 30
Police Reform Act 2002 (c. 30)	Sections 105, 106 and 107. Section 1. Section 5. Section 92. Section 94. In Schedule 4, in paragraph 2(8), the words “under this paragraph”. In Schedule 7, paragraph 14.	35
Railways and Transport Safety Act 2003 (c. 20)	In section 19, paragraph (f) and the word “and” preceding it. Section 75(7). In section 76, the entry relating to the National Policing Plan.	40
Courts Act 2003 (c. 39)	In Schedule 8, paragraphs 371 to 376.	

PART 2

POWERS OF POLICE ETC

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Aviation Security Act 1982 (c. 36)	Section 27(1), (4) and (5).	5
Police and Criminal Evidence Act 1984 (c. 60)	In section 64A(1B), the word “or” preceding paragraph (f).	
Criminal Justice Act 2003 (c. 44)	In section 25(2), the word “and” preceding paragraph (h).	
Immigration, Asylum and Nationality Act 2006	In sections 32(5) and 33(5), the word “and” preceding paragraph (c). In section 36(9), the word “and” preceding the definition of “Revenue and Customs purposes”.	10

PART 3

15

CRIME AND ANTI-SOCIAL BEHAVIOUR

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In Schedule 9, paragraph 199.	
Police Reform Act 2002 (c. 30)	Section 97(7) to (12). Section 98.	20
Anti-social Behaviour Act 2003 (c. 38)	Section 13(4)(b). Section 91.	
Clean Neighbourhoods and Environment Act 2005 (c. 16)	Section 1.	25

PART 4

HM CHIEF INSPECTOR FOR JUSTICE, COMMUNITY SAFETY AND CUSTODY

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Prison Act 1952 (c. 52)	Section 5A. In section 43(4) and (5A), “5A,”. Section 55(4A).	5
Race Relations Act 1976 (c. 24)	In Part 2 of Schedule 1A, under the heading “Regulatory, audit and inspection” the entry relating to Her Majesty’s Inspectorate of Court Administration.	10
Criminal Justice Act 1982 (c. 48)	Section 57(1).	
Ministry of Defence Police Act 1987 (c. 4)	In section 4B(6), the definition of “the inspectors of constabulary”.	
Police Act 1996 (c. 16)	Section 53A(2)(a). Sections 54 to 56.	15
Local Government Act 1999 (c. 27)	Section 24(2).	
Immigration and Asylum Act 1999 (c. 33)	Section 152(5). In Schedule 14, paragraph 33.	
Crown Prosecution Service Inspectorate Act 2000 (c. 10)	The whole Act.	20
Criminal Justice and Court Services Act 2000 (c. 43)	Sections 6 and 7.	
Criminal Justice and Police Act 2001 (c. 16)	Section 90(3)(a). Section 97(4)(b). In Schedule 4, paragraph 7(1) and (2).	25
Justice (Northern Ireland) Act 2002 (c. 26)	In Schedule 8 – (a) in paragraph 7(1), the word “or” preceding paragraph (c); (b) paragraph 7(2).	30
Police Reform Act 2002 (c. 30)	Section 3(1). Section 84. In Schedule 7, paragraph 15.	
Nationality, Immigration and Asylum Act 2002 (c. 41)	Section 66(3)(o).	35
Railways and Transport Safety Act 2003 (c. 20)	Section 63(6).	
Courts Act 2003 (c. 39)	Sections 58 to 61. In section 111(2), “59(3),”. In Schedule 8, paragraph 187(3)(a).	40
Children Act 2004 (c. 31)	In section 20(4), paragraphs (f) to (i).	
Commissioners for Revenue and Customs Act 2005 (c. 11)	Section 42. In Schedule 4, paragraph 77.	
Serious Organised Crime and Police Act 2005 (c. 15)	In Schedule 4, paragraphs 71 and 72.	45

<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Immigration, Asylum and Nationality Act 2006	Section 45.	
PART 5		
MISCELLANEOUS		
		5
<i>Short title and chapter</i>	<i>Extent of repeal</i>	
Protection of Children Act 1978 (c. 37)	Section 4(3).	
Computer Misuse Act 1990 (c. 18)	Section 11. Section 12. In section 13 – (a) subsections (3) to (7); (b) in subsection (8), the words from “commenced” to the end.	10
	Section 14. Section 16(3), (10), (11) and (12). Section 17(7).	15
Criminal Justice Act 1988 (c. 33)	In Schedule 15, paragraph 62.	
Criminal Justice and Public Order Act 1994 (c. 33)	In Schedule 10, paragraph 37(4).	20
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)	In Schedule 4, paragraph 77.	
Criminal Procedure (Scotland) Act 1995 (c. 46)	In section 210 – (a) in subsection (1)(a), the words “or spent in custody awaiting extradition to the United Kingdom”; (b) in subsection (1)(c), sub-paragraph (ii); (c) subsections (2) and (3).	25
Criminal Justice and Police Act 2001 (c. 16)	In Schedule 2, paragraph 10(2)(b).	30
Courts Act 2003 (c. 39)	In Schedule 4, paragraph 7. In Schedule 8, paragraphs 199(3), 200 and 347.	
Criminal Justice Act 2003 (c. 44)	Section 243.	
Justice (Northern Ireland) Act 2004 (c. 4)	In section 10(8), the word “magistrates”.	35
Serious Organised Crime and Police Act 2005 (c. 15)	In Schedule 16, paragraph 7.	

Police and Justice Bill

A

B I L L

To establish a National Policing Improvement Agency; to make provision about police forces and police authorities; to make provision about police powers and about the powers and duties of community support officers, weights and measures inspectors and others; to make further provision for combatting crime and disorder; to establish the office of Her Majesty's Chief Inspector for Justice, Community Safety and Custody; to amend the Computer Misuse Act 1990; to make provision about the forfeiture of indecent images of children; to provide for the conferring of functions on the Independent Police Complaints Commission in relation to the exercise of enforcement functions by officials involved with immigration and asylum; to amend the Extradition Act 2003; and for connected purposes.

*Presented by Mr Secretary Clarke
supported by
The Prime Minister, Mr Secretary Prescott,
Mr Chancellor of the Exchequer, Secretary Ruth Kelly,
Hazel Blears and Mr David Miliband*

*Ordered, by The House of Commons,
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