

POLICE AND FIRE SERVICES (FINANCE) (SCOTLAND) ACT 2001

EXPLANATORY NOTES

EFFECT OF THE ACT ON THE POLICE (SCOTLAND) ACT 1967 AND FIRE SERVICES ACT 1947

Sections 19 and 32 of the Police (Scotland) Act 1967

“19 Schemes for amalgamation of police forces

- (1) If it appears to the police authorities for any two or more police areas that it is expedient that those areas should be combined for police purposes, they may for that purpose submit to the [Secretary of State] a scheme (in this Act referred to as an “amalgamation scheme”) and the [Secretary of State] may by order approve any scheme so submitted to him.
- (2) Subject to the provisions of this Act, an amalgamation scheme shall make provision with regard to the following matters—
 - (a) the dis-establishment of the police forces maintained for the several police areas, the establishment and maintenance of a police force for the combined area, the appointment of the first chief constable of that force, and the transfer to that force of constables of the forces previously maintained for the several police areas comprised in the combined area;
 - (b) the constitution for the purposes of paragraph (c) of this subsection in relation to that force of a [joint police board]¹ consisting of such number of persons, being members of the constituent authorities, as may be specified in the scheme;
 - (c) the delegation to the [joint police board]² of the whole functions relating to police of the constituent authorities (except their power to levy a rate, their functions under this section, and such other functions as may be specified in the scheme);
 - (d) the payment by the constituent authorities in such proportions as may be specified in the scheme of the expenditure incurred by the joint police board which the joint police board estimates will be incurred, in the performance of the functions delegated to them;
 - (e) arrangements for the carry-forward from one financial year (the “carry-forward year”) to the next by the joint police board of any money received by the board in respect of the carry-forward year from the constituent authorities under provision made under paragraph (d) above and remaining unspent at the end of the carry-forward year.
- (3) The reference in subsection (2)(d) of this section to the expenditure incurred by the joint police board which the joint police board estimates will be incurred is a reference to so

1 Words substituted by the [Local Government etc. \(Scotland\) Act 1994 \(c.39\)](#), Schedule 13, paragraph 71(5)(a).

2 Ditto.

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much of the net estimated expenditure of the [board]³ as is not [provided for by a grant made to the board under section 32 of this Act]⁴.

- (3A) Provision made under subsection (2)(e) above shall secure—
- (a) that the money carried forward by the joint police board shall not exceed three per cent. of the total of the money paid to the board by the constituent authorities in respect of the carry-forward year; and
 - (b) that, in the case mentioned in subsection (3B) below, money shall be carried forward only with the consent of the Scottish Ministers.
- (3B) The case is where—
- (a) any money carried forward from previous carry-forward years—
 - (i) by virtue of arrangements such as are mentioned in subsection (2)(e) above; and
 - (ii) under section 32(10A) of this Act, and remaining unspent at the end of the carry-forward year;
 - (b) the money carried forward by virtue of arrangements such as are mentioned in that subsection; and
 - (c) any money carried forward under that section,
- would, taken together, amount to more than the maximum sum.
- (3C) In subsection (3B) above, “maximum sum”, in relation to a carry-forward year, means the amount equal to five per cent. of the sum of—
- (a) the total amount of grant made under section 32 of this Act to the joint police board in respect of that year; and
 - (b) the total amount of money paid to the board by the constituent authorities in respect of that year.
- (3D) The Scottish Ministers may, by order, substitute for the percentage mentioned in—
- (a) subsection (3A)(a) above; or
 - (b) subsection (3C) above,
- such other percentage as they think fit.
- (3E) An order under subsection (3D) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (3F) Paragraphs (d) and (e) of subsection (2) above are not to be taken as preventing the carrying forward of any money, being money already carried forward to a financial year under arrangements made under subsection (2)(e) above and remaining unspent at the end of that year, from that year to the next year and, if it remains unspent at the end of that next year, to the following year, and so on.
- (4) Subject to the provisions of this Act, an amalgamation scheme may make provision with regard to all or any of the following matters—
- (a) the transfer of property, rights and liabilities;
 - (b) the adjustment of liabilities between the constituent authorities;
 - (c) the settlement of differences between the constituent authorities;
 - (d) the transfer to the [joint police board]⁵ of officers of any of the constituent authorities;
 - (e) the furnishing, on such terms and conditions as may be specified in the scheme, by one of the constituent authorities of any service connected with the administration of the police force maintained for the combined area;

³ Ditto.

⁴ Words substituted by the [Crime and Punishment \(Scotland\) Act 1997 \(c.48\)](#), Schedule 1, paragraph 2(4).

⁵ Words substituted by the [Local Government etc. \(Scotland\) Act 1994 \(c.39\)](#), Schedule 13, paragraph 71.

- (f) any other matters incidental to or consequential on the provisions contained in the scheme.
- (5) ... [6]
- (6) The expenses incurred by a constituent authority for the purpose of the payment to the [joint police board]⁷ of the expenditure referred to in subsection (2)(d) of this section shall be defrayed in like manner as expenses of that authority for the purposes of their functions relating to police would have required to be defrayed if the amalgamation scheme had not been made.
- (7) [For the purposes of the Local Government (Scotland) Regulations 1974]⁸ the appropriate superannuation fund in relation to the [pensionable employees]⁹ of a [joint police board]¹⁰ shall be the superannuation fund of such one of the constituent authorities as may be determined by or under the amalgamation scheme.
- (8) Where an amalgamation scheme is to come into operation on a date subsequent to that on which it is approved, any appointment to be made, direction to be given or other thing to be done for the purposes of the scheme may be made, given or done at any time after the approval of the scheme so far as may be necessary for the purpose of bringing the scheme into operation on the first-mentioned date.
- (9) In this Act, unless the context otherwise requires—
- (a) any reference to a police area shall be construed as including a reference to a combined area; and
 - (b) in relation to a police force maintained for a combined area, any reference to the police authority shall be construed as a reference to the police authorities for the several police areas comprised in the combined area, without prejudice however to any delegation of functions to the [joint police board]¹¹ by or under the amalgamation scheme.
- (10) An order under this section shall be made by statutory instrument subject to annulment in pursuance of a resolution of [either House of Parliament].¹²

32 Police grant¹³

- (1) Subject to the following provisions of this section, the [Secretary of State] shall for the financial year 1997-98 and for each subsequent financial year make grants out of money [provided by Parliament]¹⁴ for police purposes to police authorities and joint police boards.
- (2) Where a grant is made under subsection (1) above to a joint police board, no grant under that subsection shall be payable to a constituent authority.
- (3) For each financial year the [Scottish Ministers shall]¹⁵ by order determine—
- (a) the aggregate amount of grants to be made under subsection (1) above; and

6 Words repealed by the [Local Government etc. \(Scotland\) Act 1994 \(c.39\)](#), Schedule 13, paragraph 71(5)(c).

7 Words substituted by the [Local Government etc. \(Scotland\) Act 1994 \(c.39\)](#), Schedule 13, paragraph 71.

8 Words substituted by [SI 1974/812](#).

9 Words substituted by [SI 1974/812](#).

10 Words substituted by the [Local Government etc. \(Scotland\) Act 1994 \(c.39\)](#), Schedule 13, paragraph 71(5)(a).

11 Ditto.

12 Subsection (10) was inserted by the [Local Government etc. \(Scotland\) Act 1994 \(c.39\)](#), Schedule 13, paragraph 71(5)(d).

13 Section as substituted by section 45 of the [Crime and Punishment \(Scotland\) Act 1997 \(c.48\)](#) and subsequently amended.

14 Subject to section 119(5) of the [Scotland Act 1998 \(c.48\)](#), the reference to money provided by Parliament has ceased to have effect, in relation to functions of the Scottish Ministers which are exercisable within devolved competence, by virtue of section 119(2) of the [Scotland Act 1998 \(c.46\)](#). 119(5) makes the reference to money provided by Parliament have effect, in relation to functions of the Scottish Ministers which are exercisable within devolved competence, as if it authorised those sums to be applied as if they had been paid out of the Scottish Consolidated Fund in accordance with rules under section 65(1)(c).

15 Words substituted by the [Scotland Act 1998 \(Consequential Modifications\) \(No.2\) Order 1999 \(SI 1999/1820\)](#), Schedule 2, paragraph 41(2)(a).

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- (b) the amount of the grant to be made to each police authority or joint police board, and any determination under this subsection for any financial year may be varied or revoked by a subsequent such determination for that year.
- (4) In making a determination under subsection (3)(b) above, the [Secretary of State] may exclude certain categories of expenditure for police purposes from a grant made under subsection (1) above.
- (5) A grant made to a police authority or to a joint police board by virtue of an order made under subsection (3) above may be subject to such conditions and shall be paid at such times and in such manner as the [Scottish Ministers]¹⁶ may by order determine; and any such time may fall within or after the financial year concerned.
- (6) The [Secretary of State] shall prepare a report stating the considerations which he took into account in making the determinations mentioned in subsection (3) above.
- (7) The considerations which the [Secretary of State] takes into account in making a determination under subsection (3)(b) above may be different for different authorities or different joint police boards.
- (8) A statutory instrument containing an order made under subsection (3) above shall be subject to annulment in pursuance of a resolution of [either House of Parliament].
- (9) A copy of a report prepared under subsection (6) above shall be laid before [each House of Parliament] at the time at which the statutory instrument containing the order made under subsection (3) above to which it relates is so laid.
- (10) Where in consequence of the variation or revocation of an order made under subsection (3) above the amount of a police authority's or a joint police board's grant is less than the amount already paid to it for the year concerned, a sum equal to the difference shall, subject to subsection (10K) below, be paid by the authority or, as the case may be, board to the [Secretary of State] on such day as he may specify.
- (10A) Where, at the end of the financial year, any part of police grant made to the police authority or joint police board under this section for that financial year has not been spent, the authority or board may, subject to subsections (10B) and (10C) below, carry forward from one financial year (the "carry-forward year") to the next the sum unspent.
- (10B) In respect of any financial year, the police authority or joint police board shall carry forward no more than three per cent. of the police grant made to that authority or board in respect of that financial year.
- (10C) In the cases mentioned in subsections (10D) and (10E) below, grant may be carried forward as mentioned in subsection (10A) above only with the consent of the Scottish Ministers.
- (10D) The case is where, in relation to a police authority—
- (a) any sums previously carried forward under subsection (10A) above and remaining unspent at the end of the carry-forward year; and
 - (b) the sum carried forward,
- would, taken together, amount to more than the maximum sum.
- (10E) The case is where, in relation to a joint police board—
- (a) any sums previously carried forward—
 - (i) under subsection (10A) above; and
 - (ii) by virtue of arrangements such as are mentioned in section 19(2)(e) of this Act,and remaining unspent at the end of the carry-forward year;

16 Ditto.

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- (b) the sum carried forward under that subsection; and
- (c) any money carried forward by virtue of arrangements such as are mentioned in that section,

would, taken together, amount to more than the maximum sum.

- (10F) The “maximum sum”, in relation to a carry-forward year, means—
 - (a) in subsection (10D) above, the amount equal to five per cent of the total amount of grant made under this section to the police authority in respect of that year; and
 - (b) in subsection (10E) above, the amount equal to five per cent. of the sum of—
 - (i) the total amount of grant made under this section to the joint police board in respect of that year; and
 - (ii) the total amount of money paid to the board by virtue of section 19(2)(d) of this Act by the constituent authorities in respect of that year.
- (10G) The Scottish Ministers may, by order, substitute for the percentage mentioned in—
 - (a) subsection (10B) above; or
 - (b) paragraph (a) or (b) of subsection (10F) above,such other percentage as they think fit.
- (10H) An order under subsection (10G) above shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (10J) Subsection (10A) above is not to be taken as preventing the carrying forward of any sum, being a sum already carried forward to a financial year under that subsection and remaining unspent at the end of that year, from that year to the next year and, if it remains unspent at the end of that next year, to the following year, and so on.
- (10K) In a financial year in respect of which subsection (10) above applies, the sum to be paid to the Scottish Ministers by the police authority or joint police board under subsection (10) above shall be the balance, if any, of the sum payable under subsection (10) less the sum carried forward in respect of that financial year under subsection (10A).
- (11) In this section “financial year” has the meaning assigned to it by section 116 of the Local Government Finance Act 1992.