

POLICE, PUBLIC ORDER AND CRIMINAL JUSTICE (SCOTLAND) ACT 2006 (ASP 10)

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 6: Modifications of Enactments

268. Part 1 of the schedule makes consequential amendments to various Acts. It amends the relevant service provisions in sections 38 and 38A of the Police (Scotland) Act 1967 that relate to the status of the seconded officers to the Authority and the Agency. It changes two out-of-date references to the Royal Ulster Constabulary, which become references to the Police Service of Northern Ireland. It makes a number of minor typographical corrections to existing provisions of the 1967 Act and also a minor typographical correction to the Criminal Justice Act 1988. It also provides for a tidying up repeal of those sections of the 1967 Act and the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 which refer to two-tier penalties for assaulting a police officer. Two-tier penalties were abolished in 1982 but provisions were not removed from these Acts, despite having no residual effect.
269. [Paragraph 4](#) corrects an error in section 18 of the Criminal Procedure (Scotland) Act 1995 following its amendment by section 56 of the Criminal Justice (Scotland) 2003. At the time section 18(6) was amended in 2003, consequential amendments should also have been made to subsections (3) and (4). The amendment addresses this and provides that saliva samples taken under section 18(6A) of the 1995 Act must be destroyed if a person is not subsequently convicted of an offence nor receives an order under section 246(3) of the 1995 Act. (As noted in the notes to section 83 above, the police will be able to retain saliva samples and other DNA samples for a certain period of time, provided the circumstances set out in new section 18A of the 1995 Act apply.)
270. [Paragraph 5](#) makes consequential amendments to sections 59 – 63 of the Police Act 1996 in respect of the Scottish Police Federation, the Police Negotiating Board for the United Kingdom and the Police Advisory Board for Scotland to take account of the establishment of the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency. The main purpose of these amendments is to extend the jurisdiction of the various bodies to include the Authority and the Agency; and to ensure that constables seconded to the Authority and police members of the Agency are treated in the same way as constables serving in police forces.
271. [Paragraphs 6, 8 and 9](#) make consequential amendments to Part III of the Police Act 1997, the Regulation of Investigatory Powers Act 2000 and the Regulation of Investigatory Powers (Scotland) Act 2000 to take account of the creation of the Scottish Crime and Drug Enforcement Agency (SCDEA) to replace the SDEA, and also to provide the Director General of the SCDEA with the powers to authorise the use of intrusive surveillance and property interference in relation to SCDEA operations. They also amend the rules for granting authorisations in both pieces of legislation to reflect the re-introduction of the rank of Deputy Chief Constable (DCC) by the Criminal Justice (Scotland) Act 2003.

*These notes relate to the Police, Public Order and Criminal Justice (Scotland)
Act 2006 (asp 10) (asp 10) which received Royal Assent on 4 July 2006*

272. [Paragraph 7](#) adds the Authority to the list of devolved public bodies to which the Ethical Standards in Public Life (Scotland) Act 2000 applies.
273. [Paragraph 10](#) adds the Police Complaints Commissioner for Scotland (PCCS) to the list of bodies over which the Scottish Public Services Ombudsman has jurisdiction. This means that the Ombudsman will be able to review any complaints of maladministration or service failure made against the Police Complaints Commissioner. This paragraph also amends the Scottish Public Services Ombudsman Act 2002 to ensure that the PCCS is the only body with responsibility for non-criminal complaints made against police organisations.
274. [Paragraph 11](#) adds the Police Complaints Commissioner for Scotland and the Scottish Police Services Authority (the latter only in respect of information relating to the services they provide under section 3(2)) to the list of Scottish public authorities to which the Freedom of Information (Scotland) Act 2002 applies.
275. [Paragraph 12](#) adds the Authority to the list of specified authorities to which the Public Appointments and Public Bodies (Scotland) Act 2003 applies.
276. [Paragraph 13](#) substitutes references to the SDEA within the Serious Organised Crime and Police Act 2005 with references to SCDEA and in addition ensures that those previously covered by the protection of witness provisions in the Serious Organised Crime and Police Act 2005 i.e. the Director of SDEA and those under his or her direction and control, continue to be covered as well as adding the Director General of the SCDEA and those under his or her direction and control.
277. [Part 2](#) of schedule 6 makes an amendment to subordinate legislation under the Regulation of Investigatory Powers (Scotland) Act 2000, consequential on the changes to that Act that are made by paragraph 9 of part 1 of schedule 6.