



# Police and Fire Reform (Scotland) Act 2012

2012 asp 8

## PART 1

### POLICE REFORM

#### CHAPTER 11

##### HER MAJESTY'S INSPECTORS OF CONSTABULARY IN SCOTLAND

#### **71 Her Majesty's inspectors of constabulary in Scotland**

- (1) There are to continue to be inspectors of constabulary in Scotland.
- (2) Her Majesty may by Order in Council appoint such number of inspectors of constabulary as the Scottish Ministers may determine.
- (3) The Scottish Ministers may designate one of those inspectors as the chief inspector of constabulary.
- (4) An inspector of constabulary is to hold and vacate office at Her Majesty's pleasure.
- (5) An inspector of constabulary is otherwise—
  - (a) to be paid such remuneration or allowances as the Scottish Ministers may determine, and
  - (b) to hold office in accordance with such other terms and conditions as may be so determined.

#### **Commencement Information**

**II** S. 71 in force at 1.4.2013 by S.S.I. 2013/51, art. 2

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## 72 Assistant inspectors of constabulary

- (1) The Scottish Ministers may—
  - (a) appoint assistant inspectors of constabulary on such terms and conditions as they may determine, or
  - (b) make arrangements for constables to serve as assistant inspectors of constabulary.
- (2) A constable engaged on service as an assistant inspector of constabulary is under the direction and control of the inspectors of constabulary.
- (3) The Scottish Ministers are liable in respect of any unlawful conduct on the part of any constable engaged on service as an assistant inspector of constabulary in the carrying out (or purported carrying out) of that constable's functions in the same manner as an employer is liable in respect of any unlawful conduct on the part of an employee in the course of employment.

### Commencement Information

**I2** S. 72 in force at 1.4.2013 by S.S.I. 2013/51, art. 2

## 73 Staff officers

- (1) The inspectors of constabulary may—
  - (a) appoint staff officers, on such terms and conditions as they may determine, for the purpose of assisting them in the carrying out of their functions, or
  - (b) make arrangements for constables to serve as staff officers for that purpose.
- (2) A constable engaged on service as a staff officer is under the direction and control of the inspectors of constabulary.
- (3) The inspectors of constabulary are liable in respect of any unlawful conduct on the part of any constable engaged on service as a staff officer in the carrying out (or purported carrying out) of that constable's functions in the same manner as an employer is liable in respect of any unlawful conduct on the part of an employee in the course of employment.

### Commencement Information

**I3** S. 73 in force at 1.4.2013 by S.S.I. 2013/51, art. 2

## 74 Functions of inspectors

- (1) The Scottish Ministers may direct the inspectors of constabulary to make inquiries about any matter relating to the Authority or the Police Service as they consider appropriate.
- (2) The inspectors of constabulary may make such other inquiries as they think fit about—
  - (a) the state, efficiency and effectiveness of the Authority and the Police Service, and
  - (b) the arrangements made by the Authority and the chief constable under section 37(1) and (2).

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#### Commencement Information

- I4** S. 74(1)(2)(a) in force at 1.4.2013 by S.S.I. 2013/51, **art. 2**  
**I5** S. 74(2)(b) in force at 1.1.2013 by S.S.I. 2012/333, **art. 2, Sch.** (with Sch. 2 para. 2(3)3)

### 75 HMICS plan

- (1) The inspectors of constabulary must prepare a plan setting out—
  - (a) priorities for inquiries to be carried out by them, and
  - (b) information on how inquiries will be carried out in a way which is proportionate, accountable and transparent.
- (2) The inspectors of constabulary—
  - (a) must keep the plan under review, and
  - (b) may from time to time revise the plan.
- (3) The inspectors of constabulary must, in preparing a plan (and any revised plan), consult such persons as they consider appropriate.
- (4) The inspectors of constabulary must publish the plan (and any revised plan) in such manner as they consider appropriate (having regard to the desirability of it being accessible to those whom the inspectors of constabulary consider likely to have an interest in it).

#### Commencement Information

- I6** S. 75(1)(3)(4) in force at 1.1.2013 by S.S.I. 2012/333, **art. 2, Sch.** (with Sch. 2 para. 2(4)3)  
**I7** S. 75(2) in force at 1.4.2013 by S.S.I. 2013/51, **art. 2**

### 76 HMICS powers

- (1) The inspectors of constabulary have power to do anything which they consider necessary or expedient for the purposes of, or in connection with, the carrying out of their functions.
- (2) The inspectors of constabulary may authorise any assistant inspector of constabulary, or any of their staff officers, to carry out on behalf of the inspectors of constabulary such of their functions as they may determine to the extent so authorised.
- (3) Subsection (2) does not affect the inspectors of constabulary's—
  - (a) responsibility for carrying out delegated functions, or
  - (b) ability to carry out delegated functions.

#### Commencement Information

- I8** S. 76 in force at 1.1.2013 by S.S.I. 2012/333, **art. 2, Sch.** (with Sch. 2 para. 2(5)3)

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## 77 **Duty to assist and co-operate with HMICS**

The Authority and the chief constable must provide the inspectors of constabulary with such assistance and co-operation as they may require for the purposes of, or in connection with, the carrying out of their functions (and must, in particular, comply with any reasonable request made by the inspectors of constabulary in that regard).

### **Commencement Information**

**I9** S. 77 in force at 1.1.2013 by S.S.I. 2012/333, art. 2, Sch. (with Sch. 2 para. 2(6)3)

## 78 **HMICS reports: inquiries directed by Scottish Ministers**

- (1) The inspectors of constabulary must give the Scottish Ministers—
  - (a) a report of any inquiry carried out in pursuance of section 74(1) and any other information in relation to the report that the inspectors of constabulary think fit, and
  - (b) any other information relating to the inquiry that the Scottish Ministers may request.
- (2) As soon as is reasonably practicable after giving the report to the Scottish Ministers, the inspectors of constabulary must—
  - (a) give a copy of the report to the Authority and, where the report relates to the Police Service, to the chief constable, and
  - (b) publish the report in such manner as they consider appropriate (having regard to the desirability of it being accessible to those whom the inspectors of constabulary consider likely to have an interest in it).
- (3) The Scottish Ministers must lay before the Scottish Parliament a copy of a report given to them under this section.

### **Commencement Information**

**I10** S. 78 in force at 1.4.2013 by S.S.I. 2013/51, art. 2

## 79 **HMICS reports: other inquiries**

- (1) The inspectors of constabulary must, on completing an inquiry under section 74(2), give a report of the inquiry to the Authority and, where the report relates to the Police Service, to the chief constable.
- (2) The inspectors of constabulary must—
  - (a) as soon as is reasonably practicable after giving the report under subsection (1) —
    - (i) give to the Scottish Ministers a copy of the report and any other information in relation to the report that the inspectors of constabulary think fit, and
    - (ii) publish the report in such manner as they consider appropriate (having regard to the desirability of it being accessible to those whom the inspectors of constabulary consider likely to have an interest in it), and

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- (b) give the Scottish Ministers any other information relating to the inquiry that the Scottish Ministers may request.
- (3) The inspectors of constabulary must lay before the Scottish Parliament a copy of a report given by them under this section.

**Commencement Information**

**I11** S. 79 in force at 1.1.2013 by S.S.I. 2012/333, art. 2, Sch. (with Sch. 2 para. 2(7)3)

**80 Inquiry reports: consideration and action**

In carrying out their respective functions, the Authority and the chief constable must have regard to a report given by the inspectors of constabulary under section 78 or 79 and, having done so, must take such measures (if any) as they think fit in relation to the report.

**Commencement Information**

**I12** S. 80 in force at 1.1.2013 by S.S.I. 2012/333, art. 2, Sch. (with Sch. 2 para. 2(8)3)

**81 Power to give directions after adverse HMICS report**

- (1) This subsection applies where a report given by the inspectors of constabulary under section 78 or 79 states that the inspectors of constabulary are of the opinion—
  - (a) that the Authority or Police Service—
    - (i) is not efficient or effective, or
    - (ii) will, unless remedial measures are taken, cease to be efficient or effective, or
  - (b) that best value for the Authority or the Police Service—
    - (i) has not been secured in pursuance of subsection (1) or, as the case may be, (2) of section 37, or
    - (ii) will not, unless remedial measures are taken, be so secured.
- (2) Where subsection (1) applies, the Scottish Ministers may direct the Authority to take such measures as may be specified in the direction.
- (3) The Authority must comply with any direction given under this section.

**Commencement Information**

**I13** S. 81(1)(a) in force at 1.4.2013 by S.S.I. 2013/51, art. 2

**I14** S. 81(1)(b)(2)(3) in force at 1.1.2013 by S.S.I. 2012/333, art. 2, Sch. (with Sch. 2 para. 2(9)3)

**82 HMICS annual report**

- (1) As soon as is practicable after the end of each yearly period ending on 31 March, the inspectors of constabulary must prepare an annual report on the carrying out of their functions during that period.

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- (2) The inspectors of constabulary must—
- (a) give a copy of each of their annual reports to the Scottish Ministers, the Authority and the chief constable, and
  - (b) publish each of their annual reports in such manner as they consider appropriate (having regard to the desirability of it being accessible to those whom the inspectors of constabulary consider likely to have an interest in it).
- (3) The Scottish Ministers must lay before the Scottish Parliament a copy of each annual report given to them under this section.

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**Commencement Information**

**I15** S. 82 in force at 1.4.2013 by S.S.I. 2013/51, art. 2

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- Ch. 12A inserted by [2017 asp 4 s. 1\(1\)](#)
- s. 17(2)(h) inserted by [2017 asp 4 s. 2\(a\)\(ii\)](#)
- s. 17(4)(b)(iv) inserted by [2017 asp 4 s. 2\(b\)\(ii\)](#)
- s. 20A inserted by [2017 asp 4 s. 3](#)