

SCHEDULES

SCHEDULE 15

Section 98

POLICE REFORM: TRANSITIONAL PROVISION

PART 1

CHIEF OFFICERS OF POLICE

Current chief officers to remain in post

- 1 (1) At the relevant commencement time a person who, immediately before that time, is in post as the existing chief officer of the police force for a police area becomes the new chief officer of that police force.
- (2) Where a person has, prior to the relevant commencement time, accepted an appointment as the existing chief officer of the police force for a police area which is to come into effect at a time (the “effective time”) which falls at or after the relevant commencement time, that appointment is to take effect at the effective time as an appointment as the new chief officer of that police force.
- (3) Sub-paragraph (2) is without prejudice to any right of the person appointed not to take up the appointment.

Transfer of rights and liabilities

- 2 At the relevant commencement time, all rights and liabilities which immediately before that time were rights and liabilities of the existing chief officer of the police force for a police area are to transfer to the new chief officer of that police force.

Relevant legislative provisions

- 3 (1) Any relevant legislative provision which, immediately before the relevant commencement time, applied to chief constables of police forces maintained under section 2 of the Police Act 1996 is to apply after that time in the same way to chief constables established under section 2 of this Act (except where the context otherwise requires).
- (2) Any relevant legislative provision which, immediately before the relevant commencement time, applied to the Commissioner of Police of the Metropolis is to apply after that time in the same way to the Commissioner of Police of the Metropolis established under section 4 of this Act (except where the context otherwise requires).
- (3) Sub-paragraphs (1) and (2) are subject to any provision to the contrary made—
 - (a) by or under this Act, or
 - (b) by any other Act passed, or subordinate legislation made, on or after the passing of this Act.

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(4) In this paragraph—

“relevant legislative provision” means—

- (a) provision of an Act made before the relevant commencement day, or
- (b) provision of an instrument made before the relevant commencement day under a public general Act which is of a legislative character;

but provision which applies only to specified chief constables of police forces maintained under section 2 of the Police Act 1996 is not relevant legislative provision.

Interpretation

4 In this Part “relevant commencement time” means—

- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the time when section 2 comes into force in relation to that area;
- (b) in relation to the metropolitan police district, the time when section 4 comes into force.

PART 2

INITIAL TRANSFER FROM POLICE AUTHORITIES

Transfer of property, rights and liabilities

5 (1) At the relevant commencement time, all property, rights and liabilities which immediately before that time were property, rights and liabilities of the existing police authority for a police area are to transfer to, and by virtue of this paragraph vest in, the new policing body for that police area.

(2) This paragraph does not apply to any rights or liabilities under a contract of employment (which are dealt with in paragraph 6).

Transfer of staff

6 (1) Subject to sub-paragraphs (5) and (6), this paragraph applies to any person who immediately before the relevant commencement time is a member of the staff of the existing police authority for a police area (the “existing employer”).

(2) A contract of employment between a person to whom this paragraph applies and the existing employer is to have effect from the relevant commencement time as if originally made between that person and the new policing body for the police area in relation to which the existing employer was established (the “new employer”).

(3) Sub-paragraph (2) does not break the continuity of a person’s employment and accordingly such a person’s period of employment with the existing employer counts as a period of employment with the new employer for the purposes of the Employment Rights Act 1996.

(4) Without prejudice to sub-paragraph (2)—

- (a) all the existing employer’s rights, powers, duties and liabilities under or in connection with a contract to which that sub-paragraph applies are by

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- virtue of this paragraph transferred to the new employer at the relevant commencement time; and
- (b) anything done before that date by or in relation to the existing employer in respect of that contract or the employee shall be deemed from that date to have been done by or in relation to the new employer.
- (5) Sub-paragraphs (2) to (4) are without prejudice to any right of a member of staff to terminate the contract of employment if a substantial change is made to the person's detriment in the person's working conditions; but no such right arises by reason only of the change in employer effected by this paragraph.
- (6) Where a person—
- (a) has, prior to the relevant commencement time, entered into a contract of employment with an existing police authority which is to come into effect at or after that time; and
- (b) would, if the contract had come into effect before that date, have been a person to whom this paragraph applies,
- that person is to be treated as a person to whom this paragraph applies.
- (7) A person who would (but for this sub-paragraph) be treated as being dismissed by the operation of this paragraph (whether by an enactment or otherwise) is to be treated as not being so dismissed.
- (8) Sub-paragraph (7) does not apply to a person who, by virtue of sub-paragraph (5), does not become an employee of a new policing body.
- (9) This paragraph is subject to paragraph 7.

Police civilians

- 7 (1) The new policing body for a police area—
- (a) is to have, for the purpose mentioned in sub-paragraph (2), relevant powers to arrange for the new chief officer of the police force for that area to discharge functions of that body; and
- (b) must exercise those powers for the purpose mentioned in sub-paragraph (2).
- (2) That purpose is securing that the police civilian members of staff of that new policing body are under the direction and control of that chief officer.
- (3) Any arrangements made in compliance with section 15(2) of the Police Act 1996 between the existing police authority for a police area and the existing chief officer of the police force for that area which are in force immediately before the relevant commencement time are to have effect at and after that time as if made under this paragraph between the new policing body for that area and the new chief officer of that police force.
- (4) Sub-paragraph (5) applies to a person who—
- (a) immediately before the relevant commencement time, is a police civilian member of the staff of an existing police authority, and
- (b) at that time becomes a member of the staff of the new policing body for a police area by virtue of paragraph 6.
- (5) For as long as the person continues to be a member of the staff of that body, the person is to be—

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- (a) employed as a police civilian member of that staff, and
 - (b) under the direction and control of the new chief officer of the police for that area.
- (6) Sub-paragraph (5) does not prevent the new policing body from making arrangements with the person for the person to cease to be a police civilian member of staff of that body (whether or not the person remains a member of the staff of that body).
- (7) After the relevant commencement time, a new policing body may, for either of the purposes set out in sub-paragraph (8), make arrangements—
- (a) with any member of the staff of the body who is not a police civilian member of staff to become a police civilian member of that staff, or
 - (b) with a person who is not a member of that body’s staff to become a police civilian member of that staff.
- (8) In relation to the new policing body for a police area those purposes are—
- (a) replacing police civilian members of staff of the existing police authority for that area who did not become members of the staff of the new policing body in accordance with paragraph 6;
 - (b) replacing police civilian members of staff of the new policing body who have ceased to be police civilian members of staff of that body otherwise than by virtue of a transfer scheme under Part 2 of this Schedule; or
 - (c) to supplement the police civilian members of staff of the new policing body.
- (9) Sub-paragraphs (1) to (5) are subject to—
- (a) any provision included in a collaboration agreement under section 22A of the Police Act 1996, and
 - (b) section 24(3A) of that Act (aid of one police force by another).
- (10) In this paragraph—
- (a) “relevant powers” means powers corresponding to those conferred by sections 101 and 107 of the Local Government Act 1972 on police authorities established under section 3 of the Police Act 1996;
 - (b) references to a police civilian member of staff of an existing police authority or a new policing body are references to a member of the staff of that authority or body who is employed solely to assist the police force maintained by that authority or body;
 - (c) the chief officers’ powers of direction and control referred to include powers of engagement and dismissal.

Seconded staff

- 8 In the case of a person who, immediately before the relevant commencement time, is seconded to the existing police authority for a police area, the secondment is to have effect, after that time, as a secondment to the new policing body for that police area.

Interpretation

- 9 In this Part “relevant commencement time” means—
- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the time when section 1 comes into force in relation to that area;

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- (b) in relation to the metropolitan police district, the time when section 3 comes into force.

PART 3

SUBSEQUENT TRANSFER BY NEW POLICING BODY

Power to direct new policing body to make transfer scheme

- 10 (1) The Secretary of State may direct a new policing body—
- (a) to make one or more transfer schemes, and
 - (b) to submit such a scheme to the Secretary of State for approval.
- (2) If the Secretary of State gives a direction under sub-paragraph (1)(b), the Secretary of State may—
- (a) approve the scheme as submitted,
 - (b) approve the scheme with modifications, or
 - (c) reject the scheme.
- (3) Before making a decision under sub-paragraph (2), the Secretary of State must—
- (a) consult the new policing body, and
 - (b) if the scheme includes provision about the transfer of staff, consult persons who, in the Secretary of State’s opinion, represent the views of the staff concerned.
- (4) If the Secretary of State gives a direction under sub-paragraph (1)(b), the new policing body—
- (a) must not make the scheme unless the Secretary of State approves it, and
 - (b) if the Secretary of State approves the scheme with modifications, must make it with those modifications.
- (5) A direction under this paragraph—
- (a) must be in writing; and
 - (b) may be varied or revoked by a further direction.
- 11 (1) The Secretary of State may make one or more transfer schemes in relation to a new policing body if—
- (a) the body does not comply with a direction given to it under paragraph 10, or
 - (b) the Secretary of State decides not to approve one or more schemes submitted by that body under paragraph 10.
- (2) A scheme made by the Secretary of State under this paragraph is to be treated as if made by the new policing body.
- 12 (1) The Secretary of State may direct a new policing body—
- (a) to modify a transfer scheme made by that body, and
 - (b) to submit such a scheme to the Secretary of State for approval.
- (2) Sub-paragraphs (2) to (5) of paragraph 10 apply to a direction under sub-paragraph (1) of this paragraph as they apply to a direction under sub-paragraph (1) of paragraph 10.

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- (3) In the application of paragraph 10(2) to (5) by virtue of sub-paragraph (2)—
 - (a) references to paragraph 10(1)(b) have effect as references to sub-paragraph (1)(b) of this paragraph;
 - (b) references to the making of a scheme have effect as references to the modification of a scheme;
 - (c) references to a scheme have effect as references to a scheme as modified.
- (4) The Secretary of State may modify a transfer scheme made by a new policing body if—
 - (a) the authority does not comply with a direction given to it under sub-paragraph (1), or
 - (b) the Secretary of State decides not to approve the modified scheme submitted by the body.
- (5) A scheme modified by the Secretary of State under sub-paragraph (4) is to be treated as if modified (and made) by the new policing body.
- (6) A scheme modified in accordance with this paragraph is to be deemed for all purposes to have come into force with those modifications.

Staff

- 13 (1) A transfer scheme may provide for a person employed by the new policing body to become—
 - (a) a member of the civilian staff of the police force, or
 - (b) a member of staff of a local authority.
- (2) The scheme may provide that a contract of employment which the person had before becoming a member of the civilian staff of a police force is to have effect (subject to any modifications) as if originally made between that person and the chief officer.
- (3) The scheme may provide that a contract of employment which the person had before becoming a member of the staff of a local authority is to have effect (subject to any modifications) as if originally made between that person and that local authority.
- 14 (1) A transfer scheme may provide, in the case of a person who is seconded to the new policing body, that the secondment is to have effect as a secondment to—
 - (a) the civilian staff of the police force, or
 - (b) a local authority.
- (2) The scheme may make provision as to the terms and conditions which are to have effect as the terms and conditions of the person's secondment.
- 15 (1) A transfer scheme may provide for the transfer to the chief officer of the rights, powers, duties and liabilities of the employer under or in connection with the contract of employment of a person who becomes a member of the civilian staff of the police force.
- (2) A transfer scheme may provide for the transfer to a local authority of the rights, powers, duties and liabilities of the employer under or in connection with the contract of employment of a person who becomes a member of the staff of that local authority.
- (3) A transfer scheme may make provision—

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- (a) for periods before a person became a member of the civilian staff of the police force to count as periods of employment with the chief officer, and
 - (b) for periods before a person became a member of the civilian staff of the police force, and the periods after the person became a member of the civilian staff of the police force, to count as a period of continuous employment.
- (4) A transfer scheme may make provision—
 - (a) for periods before a person became a member of the staff of a local authority to count as periods of employment with that local authority, and
 - (b) for periods before a person became a member of the staff of a local authority, and the period after the person became a member of the staff of the local authority, to count as a period of continuous employment.
- 16 (1) A transfer scheme may provide for a person who—
 - (a) is employed by the new policing body, and
 - (b) would otherwise, by the operation of the scheme, become—
 - (i) a member of the civilian staff of the police force, or
 - (ii) a member of staff of a local authority,not to become such a member of staff if the person gives notice objecting to the operation of the scheme in relation to the person.
- (2) A person who would (but for this sub-paragraph) be treated as being dismissed by the operation of a transfer scheme (whether by an enactment or otherwise) is to be treated as not being so dismissed.
- (3) Sub-paragraph (2) does not apply to a person who, by virtue of sub-paragraph (1), does not become a member of staff.

Property, rights and liabilities etc

- 17 (1) A transfer scheme may provide for the transfer of property, rights and liabilities of the new policing body to the chief officer.
- (2) The scheme may—
 - (a) create rights or interests, or impose liabilities, in relation to property, rights and liabilities transferred by virtue of the scheme or retained by the transferor under the scheme or create rights or liabilities as between the transferor and transferee under the scheme, and
 - (b) apportion property, rights and liabilities between the new policing body and the chief officer.

Supplementary

- 18 (1) A transfer scheme may contain further provision in connection with any of the matters to which paragraphs 13 to 17 relate.
- (2) A transfer scheme may contain incidental, consequential, supplemental, transitional and saving provision.
- (3) A transfer scheme may confer functions on any person (including the Secretary of State).
- 19 (1) A transfer scheme may contain provision—

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- (a) for the Secretary of State, 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, and
- (b) as to the payment of fees charged, or expenses incurred, by any person nominated to determine any matter by virtue of sub-paragraph (a).

PART 4

OTHER TRANSITIONAL PROVISION

Politically restricted posts

- 20 (1) This paragraph applies to a person if by virtue of a transfer scheme, the person—
- (a) ceases to be a member of the staff of an existing police authority, and
 - (b) becomes a member of the staff of a new policing body.
- (2) Section 1 of the Local Government and Housing Act 1989 (politically restricted posts) does not apply to the person for as long as the person—
- (a) continues to be a member of the staff of the new policing body, and
 - (b) carries out duties which are the same, or substantially the same, as the duties the person carried out as a member of the staff of the existing police authority.

Continuity

- 21 (1) The abolition of an existing police authority, the transfer or abolition of its functions, and the transfer of its property, rights and liabilities, do not affect the validity of anything done before the abolition or transfer.
- (2) The replacement of an existing chief officer, the transfer or abolition of the functions of an existing chief officer, and the transfer of the rights and liabilities of an existing chief officer, do not affect anything done before the replacement, transfer or abolition.
- (3) The transfer of the property, rights and liabilities of a new policing body does not affect anything done before the transfer.
- (4) Sub-paragraphs (5) to (7) apply where any functions, property, rights or liabilities are transferred by or under this Act from a person (the “transferor”) to another person (the “transferee”).
- (5) There may be continued by or in relation to the transferee anything (including legal proceedings) which—
- (a) relates to any of the functions, property, rights or liabilities transferred, and
 - (b) is in the process of being done by or in relation to the transferor immediately before the transfer takes effect.
- (6) Anything which—
- (a) was made or done by or in relation to the transferor for the purposes of, or otherwise in connection with, any of the functions, property, rights or liabilities transferred, and
 - (b) is in effect immediately before the transfer takes effect, has effect as if made or done by or in relation to the transferee.

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- (7) The transferee is to be substituted for the transferor in any instruments, contracts or legal proceedings which—
 - (a) relate to any of the functions, property, rights or liabilities transferred, and
 - (b) are made or commenced before the transfer takes effect.
- (8) The Secretary of State may, by direction, determine any question under this section as to—
 - (a) whether any particular functions, property, rights or liabilities are transferred by or under this Act, or
 - (b) the person to which any particular functions, property, rights or liabilities are transferred by or under this Act.
- (9) The preceding provisions of this paragraph—
 - (a) are without prejudice to Part 2 of this Schedule and any power to make a transfer scheme, and
 - (b) are subject to the provisions of Part 2 of this Schedule and any transfer scheme.
- (10) In this paragraph a reference to the transfer of a function includes a reference to the abolition of the function and the conferral of a corresponding function on another person.

Foreign property etc: perfection of vesting

- 22 (1) Subsections (2) to (8) of section 414 of the Greater London Authority Act 1999 (foreign property, rights and liabilities: perfection of vesting) apply in any case where a transfer by or under this Act provides for the transfer of foreign property, rights or liabilities.
- (2) In the application of those provisions by virtue of sub-paragraph (1)—
 - (a) references to a transfer or pension instrument have effect as references to the transfer by or under this Act; and
 - (b) references to the transferor and the transferee are to be construed accordingly.

Transfers: supplementary provision

- 23 (1) All property, rights and liabilities to which a statutory transfer applies are to be transferred by that transfer, notwithstanding that they may be or include—
 - (a) property, rights and liabilities that would not otherwise be capable of being transferred, or
 - (b) rights and liabilities under enactments.
- (2) The property, rights and liabilities which may be transferred by a transfer scheme include—
 - (a) property, rights and liabilities that would not otherwise be capable of being transferred, or
 - (b) rights and liabilities under enactments.
- (3) No right of reverter, right of pre-emption, right of forfeiture, right of re-entry, right to compensation, option or similar right affecting any land or other property shall operate or become exercisable as a result of any transfer of land or other property

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by virtue of a statutory transfer or a transfer scheme (whether or not any consent required to the transfer has been obtained).

- (4) No right to terminate or vary a contract or instrument shall operate or become exercisable, and no provision of a contract or relevant document, shall operate or become exercisable or be contravened, by reason of any transfer by virtue of a statutory transfer or a transfer scheme.
- (5) Sub-paragraphs (2) to (4) above have effect in relation to—
 - (a) the grant or creation of an estate or interest in, or right over, any land or other property, or
 - (b) the doing of any other thing in relation to land or other property,as they have effect in relation to a transfer of land or other property.
- (6) A transfer scheme may make provision for the apportionment or division of any property, rights or liabilities.
- (7) Where a transfer scheme makes provision for the apportionment or division between two or more persons of any rights or liabilities under a contract, the contract shall have effect, as from the coming into force of the provision, as if it constituted two or more separate contracts separately enforceable by and against each of those persons respectively as respects the part of the rights or liabilities which falls to that person as a result of the apportionment or division.
- (8) The provision that may be made by a transfer scheme includes provision for—
 - (a) any transfer of land or other property by virtue of the instrument,
 - (b) the grant or creation of any estate or interest in, or right over, any land or other property by virtue of the instrument, or
 - (c) the doing of any other thing in relation to land or other property by virtue of the instrument,to be on such terms, including financial terms, as the person making the scheme thinks fit.
- (9) The Secretary of State may by order confer on any body or person to whom property, rights or liabilities are transferred by a statutory transfer or transfer scheme any statutory functions which were previously exercisable in relation to that property, or those rights or liabilities, by the transferor.
- (10) It shall be the duty—
 - (a) of existing police authorities, new policing bodies, existing chief officers, new chief officers and local authorities, and
 - (b) of the trustees or managers, or administrators, of any pension scheme,to provide the Secretary of State with such information or assistance as the Secretary of State may reasonably require for the purposes of, or in connection with, the exercise of any powers exercisable by the Secretary of State in relation to a statutory transfer or a transfer scheme.
- (11) Where any person is entitled, in consequence of any transfer made by virtue of a statutory transfer or transfer scheme, to possession of a document relating in part to the title to, or to the management of, any land or other property in England and Wales—

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- (a) the instrument may contain provision for treating that person as having given another person an acknowledgment in writing of the right of that other person to the production of the document and to delivery of copies thereof; and
- (b) section 64 of the Law of Property Act 1925 (production and safe custody of documents) shall have effect accordingly, and on the basis that the acknowledgment did not contain any such expression of contrary intention as is mentioned in that section.

(12) In this paragraph—

“relevant document” means—

- (a) any enactment, other than an enactment contained in this Act;
- (b) any subordinate legislation made otherwise than under this Act; or
- (c) any deed or other instrument;

“statutory transfer” means a transfer under Part 1 or 2 of this Schedule;

“transfer scheme” means a transfer scheme under Part 3.

Power to make transitional provision etc

24 (1) The Secretary of State may, by order, make such transitional and transitory provision, and savings, as the Secretary of State considers appropriate in connection with Part 1 of this Act (including provision that supplements or varies the provision made by this Schedule).

(2) An order under this paragraph may, in particular—

- (a) amend, or otherwise modify, any enactment;
- (b) make any provision that may be made by a transfer scheme under Part 3 of this Schedule (whether the provision in the order relates to that Part or Part 2 of this Schedule);
- (c) provide for the new policing body for a police area to make any payment which—
 - (i) before a day specified in the order could have been made out of the police fund of the existing police authority for that area, but
 - (ii) is not a liability which is transferred to the new policing body by virtue of Part 2 of this Schedule;
- (d) provide for a new chief officer or a local authority to which property, rights or liabilities of a new policing body are, or are to be, transferred by virtue of a transfer scheme under Part 3 of this Schedule to make any payment which—
 - (i) before a day specified in the order could have been made out of the police fund of that new policing body, but
 - (ii) is not a liability which could be transferred by virtue of such a transfer scheme;
- (e) make provision in relation to the accounts and audit of—
 - (i) existing police authorities, and
 - (ii) new policing bodies.

(3) Provision of the kind referred to in sub-paragraph (2)(e) may, in particular—

- (a) amend, or otherwise modify, any enactment relating to the accounts and audit of public bodies in its application to—
 - (i) an existing police authority and the financial year in which that authority is abolished, or

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- (ii) a new policing body and the financial year in which that body is established;
- (b) provide for the Secretary of State to give directions as to action to be taken in relation to the accounts and audit of—
 - (i) an existing police authority in relation to the financial year in which that authority is abolished, or
 - (ii) a new policing body in relation to the financial year in which that body is established;
- (c) provide for a person who, in acting in accordance with such a direction, fails to comply with a code of practice or other document relating to proper accounting practice to be taken not to have so failed to comply.

PART 5

INTERPRETATION

25 In this Schedule—

“existing chief officer” means—

- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the chief constable of the police force for that area before the coming into force of section 2 of this Act in relation to that area;
- (b) in relation to the metropolitan police district, the Commissioner of Police of the Metropolis immediately before the coming into force of section 4;

“existing police authority” means—

- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the police authority established under section 3 of that Act for that area;
- (b) in relation to the metropolitan police district, the Metropolitan Police Authority;

“local authority” means—

- (a) in relation to England, a county council or a district council;
- (b) in relation to Wales, a county council or a county borough council;

“new chief officer” means—

- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the chief constable established for that police area under section 2 of this Act;
- (b) in relation to the metropolitan police district, the Commissioner of Police of the Metropolis established under section 4;

“new policing body” means—

- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the police and crime commissioner for that area;
- (b) in relation to the metropolitan police district, the Mayor’s Office for Policing and Crime;

“police force” means—

- (a) in relation to a police area listed in Schedule 1 to the Police Act 1996, the police force maintained for that area under section 2 of that Act;
- (b) in relation to the metropolitan police district, the metropolitan police force;

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“transfer scheme”, in relation to an existing police authority, means a scheme for transferring staff, property, rights or liabilities of that authority.