

## SCHEDULES

### SCHEDULE 5

Section 16

#### COMPLAINTS, CONDUCT MATTERS AND DSI MATTERS: PROCEDURE

##### PART 1

###### RECORDING AND REFERENCE OF COMPLAINTS

- 1 Part 1 of Schedule 3 to the Police Reform Act 2002 (handling of complaints) is amended as follows.
- 2 (1) Paragraph 2 (initial handling and recording of complaints) is amended as follows.
  - (2) In sub-paragraph (6), in the words following paragraph (c), for “record the complaint” substitute “contact the complainant and seek the complainant’s views on how the complaint should be handled”.
  - (3) After sub-paragraph (6) insert—
    - “(6A) A local policing body or chief officer that is subject to the duty in sub-paragraph (6) in relation to a complaint must record the complaint if—
      - (a) at any time the complainant indicates a wish for the complaint to be recorded, or
      - (b) the local policing body or chief officer determines that the complaint is to be handled in accordance with this Schedule.
    - (6B) The local policing body or chief officer must determine that a complaint is to be handled in accordance with this Schedule if—
      - (a) the complaint is one alleging that the conduct or other matter complained of has resulted in death or serious injury,
      - (b) the complaint is one alleging that there has been conduct by a person serving with the police which (if proved) might constitute the commission of a criminal offence or justify the bringing of disciplinary proceedings,
      - (c) the conduct or other matter complained of (if proved) might have involved the infringement of a person’s rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998), or
      - (d) the complaint is of a description specified for the purposes of paragraph 4(1)(b) in regulations made by the Secretary of State.
    - (6C) Where a local policing body or chief officer determines (for the purposes of sub-paragraph (6A)) that a complaint is to be handled otherwise than in accordance with this Schedule, the local policing body or chief officer must handle the complaint in such other manner as the local policing

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body or chief officer considers appropriate with a view to resolving the complaint to the complainant's satisfaction.

(The duty in this sub-paragraph ceases to apply if the complaint is recorded in accordance with sub-paragraph (6A)(a).)

(6D) Where a local policing body or chief officer records a complaint under sub-paragraph (6A), or determines that a complaint is to be handled otherwise than in accordance with this Schedule, the local policing body or chief officer must notify the complainant of the recording of the complaint or (as the case may be) of the determination."

(4) For sub-paragraph (7) substitute—

“(7) Nothing in this paragraph shall require the taking of any action in relation to a complaint if the complaint has been withdrawn.”

(5) Omit sub-paragraph (8).

(6) At the end insert—

“(9) If a local policing body or chief officer decides that it or (as the case may be) he is not required to comply with any of sub-paragraphs (2), (3) and (6) to (6C) on the basis of a determination that what purports to be a complaint is not a complaint, the local policing body or chief officer must notify the complainant of the determination and the grounds on which it was made.

(10) If a local policing body or chief officer determines that part of what has been received (whether directly or by virtue of a notification under this paragraph) is a complaint and part is not, the local policing body or chief officer must proceed under this paragraph as if those two parts had been separately received.”

3 Omit paragraph 3 (failures to notify or record a complaint) and the italic heading before that paragraph.

4 (1) Paragraph 4 (reference of complaints to the Commission) is amended as follows.

(2) In sub-paragraph (6)(b), for “a possible future investigation of the complaint” substitute “an investigation of the complaint (whether an existing investigation or a possible future one)”.

(3) After sub-paragraph (6) insert—

“(6A) A local policing body which refers a complaint to the Commission under sub-paragraph (3) shall also give a notification of the making of the reference to the appropriate authority.”

(4) Omit sub-paragraph (8).

(5) At the end insert—

“(9) The appropriate authority must record any complaint that is referred to the Commission under this paragraph that has not already been recorded.”

## PART 2

### HANDLING OF COMPLAINTS

- 5 Part 1 of Schedule 3 to the Police Reform Act 2002 (handling of complaints) is further amended as follows.
- 6 (1) Paragraph 6 (handling of complaints by the appropriate authority) is amended as follows.
- (2) In sub-paragraph (2), omit the “or” at the end of paragraph (a) and omit paragraph (b).
- (3) After sub-paragraph (2) insert—
- “(2A) The appropriate authority must handle the complaint in such reasonable and proportionate manner as the authority determines.
- (2B) An appropriate authority may handle a complaint in accordance with sub-paragraph (2A) by (amongst other things)—
- (a) making arrangements for the complaint to be investigated by the authority on its own behalf;
- (b) notifying the complainant that no further action is to be taken in relation to the complaint.
- (2C) The appropriate authority must comply with its duty under sub-paragraph (2A) by making arrangements for the complaint to be investigated by the authority on its own behalf if at any time it appears to the authority from the complaint, or from the authority’s handling of the complaint to that point, that there is an indication that—
- (a) a person serving with the police may have committed a criminal offence or behaved in a manner that would justify the bringing of disciplinary proceedings, or
- (b) there may have been the infringement of a person’s rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998).
- (2D) The Secretary of State may by regulations provide for the duty in sub-paragraph (2C) to be subject to exceptions.
- (2E) A statement made by any person for the purposes of the handling of any complaint in accordance with sub-paragraph (2A) otherwise than by the appropriate authority making arrangements for the complaint to be investigated by the authority on its own behalf is not admissible in any subsequent criminal, civil or disciplinary proceedings except to the extent that it consists of an admission relating to a matter that has not been subjected to such handling.”
- (4) Omit sub-paragraphs (3) to (11).
- 7 Omit paragraph 7 (disapplication of requirements of Schedule) and the italic heading before that paragraph.
- 8 Omit paragraph 8 (local resolution of complaints) and the italic heading before that paragraph.

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### PART 3

#### INVESTIGATIONS AND SUBSEQUENT PROCEEDINGS

- 9           Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc) is further amended as follows.
- 10   (1) Paragraph 5 (duties of Commission on references under paragraph 4: complaints) is amended as follows.
- (2) After sub-paragraph (1) insert—
- “(1A) The Secretary of State may by regulations provide that the Commission must determine that it is necessary for complaints referred to it that relate to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis to be investigated.
- (1B) Regulations under sub-paragraph (1A) may provide that the duty on the Commission applies only in relation to complaints relating to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis that are of a description specified in the regulations.
- (1C) Regulations under sub-paragraph (1A) may also provide that, where the Commission is required by the regulations to determine that it is necessary for a complaint to be investigated, paragraph 15 is to apply in relation to the complaint as if sub-paragraphs (4)(a), (4A) and (5A)(b) were omitted.”
- (3) In sub-paragraph (2), for the words from “, it may” to the end of the sub-paragraph substitute “—
- (a) in a case where the complaint is already being investigated by the appropriate authority on its own behalf (and notwithstanding the Commission’s determination), the Commission must refer the complaint back to the appropriate authority for the investigation to be completed, and
- (b) in any other case, the Commission may, if it thinks fit, refer the complaint back to the appropriate authority to be dealt with by that authority in accordance with paragraph 6.”
- (4) In sub-paragraph (3)(b), for “a possible future investigation of the complaint” substitute “an investigation of the complaint (whether an existing investigation or a possible future one)”.
- 11    In paragraph 6 (handling of complaints by the appropriate authority), in sub-paragraph (2)(a), for “5” substitute “5(2)(b)”.
- 12    In paragraph 13 (reference of conduct matters to the Commission), in sub-paragraph (6)(b), for “a possible future investigation of that matter” substitute “an investigation of that matter (whether an existing investigation or a possible future one)”.
- 13   (1) Paragraph 14 (duties of Commission on references under paragraph 13: recordable conduct matters) is amended as follows.
- (2) After sub-paragraph (1) insert—
- “(1A) The Secretary of State may by regulations provide that the Commission must determine that it is necessary for recordable conduct matters referred to it that relate to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis to be investigated.

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- (1B) Regulations under sub-paragraph (1A) may provide that the duty on the Commission applies only in relation to recordable conduct matters relating to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis that are of a description specified in the regulations.
- (1C) Regulations under sub-paragraph (1A) may also provide that, where the Commission is required by the regulations to determine that it is necessary for a recordable conduct matter to be investigated, paragraph 15 is to apply in relation to the matter as if sub-paragraphs (4)(a), (4A) and (5A)(b) were omitted.”
- (3) In sub-paragraph (2), for the words from “, it may” to the end of the sub-paragraph substitute “—
- (a) in a case where the recordable conduct matter is already being investigated by the appropriate authority on its own behalf (and notwithstanding the Commission’s determination), the Commission must refer the matter back to the appropriate authority for the investigation to be completed, and
- (b) in any other case, the Commission may, if it thinks fit, refer the matter back to the appropriate authority to be dealt with by that authority in such manner (if any) as that authority may determine.”
- (4) In sub-paragraph (3)(b), for “a possible future investigation of that matter” substitute “an investigation of that matter (whether an existing investigation or a possible future one)”.
- 14 (1) Paragraph 14D (duties of Commission on references under paragraph 14C: DSI matters) is amended as follows.
- (2) After sub-paragraph (1) insert—
- “(1A) The Secretary of State may by regulations provide that the Commission must determine that it is necessary for DSI matters referred to it in relation to which the relevant officer is a chief officer or the Deputy Commissioner of Police of the Metropolis to be investigated.
- (1B) Regulations under sub-paragraph (1A) may provide that the duty on the Commission applies only in relation to DSI matters in relation to which the relevant officer is a chief officer or the Deputy Commissioner of Police of the Metropolis that are of a description specified in the regulations.
- (1C) Regulations under sub-paragraph (1A) may also provide that, where the Commission is required by the regulations to determine that it is necessary for a DSI matter to be investigated, paragraph 15 is to apply in relation to the matter as if sub-paragraphs (4)(a), (4A) and (5A)(b) were omitted.”
- (3) In sub-paragraph (2), for the words from “, it may” to the end of the sub-paragraph substitute “—
- (a) in a case where the DSI matter is already being investigated by the appropriate authority on its own behalf (and notwithstanding the Commission’s determination), the Commission must refer the matter back to the appropriate authority for the investigation to be completed, and

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- (b) in any other case, the Commission may, if it thinks fit, refer the matter back to the appropriate authority to be dealt with by that authority in such manner (if any) as that authority may determine.”
- 15 (1) Paragraph 15 (power of the Commission to determine the form of an investigation) is amended as follows.
- (2) In sub-paragraph (1)(b), after “determines” insert “under paragraph 5(1), 14(1) or 14D(1)”.
- (3) After sub-paragraph (1) insert—
- “(1A) This paragraph also applies where the Commission determines under paragraph 6A(5)(a) that it is necessary for a complaint to be investigated.”
- (4) Omit sub-paragraph (3).
- (5) In sub-paragraph (4)—
- (a) omit paragraph (b);
- (b) in paragraph (c), for “management” substitute “direction”.
- (6) After sub-paragraph (4) insert—
- “(4A) In making a determination under sub-paragraph (2) the Commission must first determine whether, having regard to the seriousness of the case and the public interest, it is appropriate for the investigation to take the form of an investigation by the appropriate authority on its own behalf and if it is the Commission must determine that the investigation is to take that form.
- (4B) Where, in accordance with sub-paragraph (4A), the Commission determines that it is not appropriate for the investigation to take the form of an investigation by the appropriate authority on its own behalf, the Commission must determine that the investigation is to take the form of an investigation by the Commission unless sub-paragraph (4C) applies.
- (4C) This sub-paragraph applies where the Commission determines that it would be more appropriate for the investigation to take the form of an investigation by the appropriate authority under the direction of the Commission, in which case the Commission must determine that the investigation is to take that form.”
- (7) For sub-paragraph (5) substitute—
- “(5) Where the Commission determines under sub-paragraph (4C) or (5B) that an investigation is to take the form of an investigation by the appropriate authority under the direction of the Commission, the Commission must keep under review whether that form of investigation continues to be the most appropriate form of investigation.
- (5A) If, on such a review, the Commission determines that—
- (a) it would be more appropriate for the investigation to take the form of an investigation by the Commission, the Commission must make a further determination under this paragraph (to replace the earlier one) that the investigation is instead to take that form;
- (b) having regard to the seriousness of the case and the public interest, it would be more appropriate for the investigation to take

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the form of an investigation by the appropriate authority on its own behalf, the Commission may make a further determination under this paragraph (to replace the earlier one) that the investigation is instead to take that form.

(5B) Subject to sub-paragraph (5A), if at any time the Commission determines that, were it to apply sub-paragraphs (4A) to (4C) again, the form of the investigation would be different, the Commission may make a further determination under this paragraph (to replace the earlier one) such that the investigation takes that different form.”

(8) In sub-paragraph (8), at the end insert “and of its reasons for making the determination”.

(9) After sub-paragraph (8) insert—

“(9) The Commission shall also notify the following of any determination that it makes under this paragraph in relation to a particular complaint, recordable conduct matter or DSI matter and of its reasons for making the determination—

- (a) every person entitled to be kept properly informed in relation to the complaint or matter under section 21;
- (b) where the determination is made in relation to a complaint, the complainant;
- (c) the person to whose conduct the investigation will relate.

(10) The duty imposed by sub-paragraph (9) on the Commission in relation to a complaint, recordable conduct matter or DSI matter shall have effect subject to such exceptions as may be provided for by regulations made by the Secretary of State.

(11) Subsections (6) to (8) of section 20 apply for the purposes of sub-paragraph (10) as they apply for the purposes of that section.”

16 (1) Paragraph 16 (investigations by the appropriate authority on its own behalf) is amended as follows.

(2) Before sub-paragraph (1) insert—

“(A1) This paragraph applies if the appropriate authority, acting in accordance with paragraph 6(2A) or in response to a recommendation under paragraph 6A(6)(b), is to make arrangements for a complaint to be investigated by the appropriate authority on its own behalf.”

(3) In sub-paragraph (1)—

- (a) in the words before paragraph (a), after “paragraph” insert “also”;
- (b) omit paragraph (a) and the “or” following it.

17 Omit paragraph 17 (investigations supervised by the Commission) and the italic heading before that paragraph.

18 In the italic heading before paragraph 18, for “managed” substitute “directed”.

19 (1) Paragraph 18 (investigations managed by the Commission) is amended as follows.

(2) In sub-paragraph (1), for “manage” substitute “direct”.

(3) For sub-paragraph (2) substitute—

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- “(2) On being given notice of that determination, the appropriate authority shall, if it has not already done so, appoint—
- (a) a person serving with the police (whether under the direction and control of the chief officer of police of the relevant force or of the chief officer of another force), or
  - (b) a National Crime Agency officer,
- to investigate the complaint or matter.
- (2A) The Commission may require that no appointment is made under sub-paragraph (2) unless it has given notice to the appropriate authority that it approves the person whom that authority proposes to appoint.
- (2B) Where at any time the Commission is not satisfied with the person investigating, the Commission may require the appropriate authority, as soon as reasonably practicable after being required to do so—
- (a) to select another person falling within sub-paragraph (2)(a) or (b) to investigate the complaint or matter, and
  - (b) to notify the Commission of the person selected.
- (2C) Sub-paragraph (2B) applies whether the person investigating was appointed—
- (a) before the appropriate authority was given notice of the Commission’s determination that it should direct the investigation by the appropriate authority,
  - (b) under sub-paragraph (2) (including where the appointment was approved by the Commission in accordance with sub-paragraph (2A)), or
  - (c) under sub-paragraph (2D)(a).
- (2D) Where a selection made in pursuance of a requirement under sub-paragraph (2B) has been notified to the Commission—
- (a) the appropriate authority shall appoint that person to investigate the complaint or matter if, but only if, the Commission notifies the authority that it approves the appointment of that person;
  - (b) if the Commission notifies the authority that it does not approve the appointment of that person, the appropriate authority must make another selection in accordance with sub-paragraph (2B).
- (2E) A person appointed under this paragraph to investigate any complaint or conduct matter—
- (a) in the case of an investigation relating to any conduct of a chief officer, must not be a person under that chief officer’s direction and control, and
  - (b) in the case of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis, must be a person nominated by the Secretary of State for appointment under this paragraph (and approved for appointment in accordance with sub-paragraph (2A) (if required) or (2D)(a)).
- (2F) A person appointed under this paragraph to investigate any DSI matter—

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- (a) in relation to which the relevant officer is a chief officer, must not be a person under that chief officer's direction and control, and
- (b) in relation to which the relevant officer is the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis, must be a person nominated by the Secretary of State for appointment under this paragraph (and approved for appointment in accordance with sub-paragraph (2A) (if required) or (2D)(a))."

(4) After sub-paragraph (3) insert—

“(4) The person appointed to investigate the complaint or matter shall keep the Commission informed of the progress of the investigation.”

20 In paragraph 19 (investigations by the Commission itself), in sub-paragraph (7), omit paragraph (aa) and the “or” following it.

21 For paragraphs 19A to 19E (special procedure where investigation relates to police officer or special constable) substitute—

“19A (1) This paragraph applies to an investigation where condition A, B or C is satisfied.

(2) Condition A is that—

- (a) the investigation is an investigation of a complaint, and
- (b) during the course of the investigation it appears to the person investigating that there is an indication that a member of a police force, or a special constable, to whose conduct the investigation relates may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings.

(3) Condition B is that—

- (a) the investigation is an investigation of a complaint being carried out by a person appointed under paragraph 18, and
- (b) during the course of the investigation the Commission determines that there is an indication that a member of a police force, or a special constable, to whose conduct the investigation relates may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings.

(4) Condition C is that—

- (a) the investigation is an investigation of a recordable conduct matter, and
- (b) the investigation relates to the conduct of a member of a police force or a special constable.

(5) Where this paragraph applies to an investigation the person investigating must proceed with the investigation in accordance with regulations made by the Secretary of State under this sub-paragraph.

(6) Regulations under sub-paragraph (5) may (amongst other things) make provision—

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- (a) as to the procedure to be followed in connection with any interview of the person concerned, including provision requiring the person concerned to attend an interview;
    - (b) requiring the person investigating to supply information to the appropriate authority.
  - (7) In this paragraph “the person concerned”—
    - (a) in relation to an investigation of a complaint, means the person in respect of whom it appears to the person investigating that there is the indication mentioned in sub-paragraph (2)(b) or (as the case may be) the person in respect of whom the Commission determines that there is the indication mentioned in sub-paragraph (3)(b);
    - (b) in relation to an investigation of a recordable conduct matter, means the person to whose conduct the investigation relates.”
- 22 (1) Paragraph 19F (interview of persons serving with the police etc during certain investigations) is amended as follows.
- (2) In sub-paragraph (2)—
    - (a) in paragraph (a), for “, and” substitute “other than, in the case of an investigation to which paragraph 19A applies, a serving officer who is the person concerned in relation to the investigation (within the meaning of paragraph 19A).”;
    - (b) omit paragraph (b).
  - (3) In sub-paragraph (7)—
    - (a) omit the “or” at the end of paragraph (a);
    - (b) after paragraph (a) insert—
      - “(aa) a body required by section 26BA to enter into an agreement with the Commission, or”.
- 23 For paragraphs 20A to 20I (accelerated procedure in special cases) substitute—
- “20A (1) This paragraph applies where—
- (a) at any time before the completion of an investigation of a complaint or recordable conduct matter, the person investigating believes that the appropriate authority would, on consideration of the matter, be likely to consider that the conditions in sub-paragraph (2) are satisfied, or
  - (b) at any time before the completion of an investigation of a complaint or recordable conduct matter being carried out by a person appointed under paragraph 18, the Commission determines that the appropriate authority would, on consideration of the matter, be likely to consider that the conditions in sub-paragraph (2) are satisfied.
- (2) The conditions in this sub-paragraph are that—
- (a) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that conduct to which the investigation relates constitutes gross misconduct, and

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- (b) it is in the public interest for the person whose conduct it is to cease to be a member of a police force, or to be a special constable, without delay.
  - (3) Where this paragraph applies the person investigating, the appropriate authority and the Commission must proceed in accordance with regulations made by the Secretary of State.
  - (4) Regulations under sub-paragraph (3) may (amongst other things) make provision—
    - (a) for the person investigating to continue the investigation (whether to its full extent or to such lesser extent as is provided) or to stop investigating;
    - (b) for the person investigating to submit a report on the investigation to a point before its completion (not being a report under paragraph 22);
    - (c) for the conduct to which the investigation relates to be certified for the purposes of paragraph 20(1)(a).”
- 24 Omit paragraph 21 (power to discontinue an investigation) and the italic heading before that paragraph.
- 25 (1) Paragraph 21A (procedure where conduct matter is revealed during investigation of DSI matter) is amended as follows.
  - (2) After sub-paragraph (2) insert—

“(2A) If during the course of an investigation of a DSI matter being carried out by a person appointed under paragraph 18 the Commission determines (without there having been a submission under sub-paragraph (1)) that there is an indication that a person serving with the police (“the person whose conduct is in question”) may have—

    - (a) committed a criminal offence, or
    - (b) behaved in a manner which would justify the bringing of disciplinary proceedings,

it shall notify the appropriate authority in relation to the DSI matter and (if different) the appropriate authority in relation to the person whose conduct is in question of its determination.”
  - (3) In sub-paragraph (5)(a), after “(2)” insert “or (2A)”.
- 26 (1) Paragraph 23 (action by the Commission in response to an investigation report under paragraph 22) is amended as follows.
  - (2) After sub-paragraph (5) insert—

“(5A) On receipt of the report, the Commission shall also—

    - (a) seek the views of the appropriate authority on—
      - (i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer,
      - (ii) whether or not any such person’s performance is unsatisfactory, and

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- (iii) the other matters (if any) dealt with in the report (but not on whether the conditions in sub-paragraphs (2A) and (2B) are satisfied in respect of the report),
  - (b) having considered the views (if any) of the appropriate authority, make a determination as to—
    - (i) the matters described in paragraph (a)(i) and (ii), and
    - (ii) whether or not disciplinary proceedings should be brought against any person to whose conduct the investigation related and, if so, what form the disciplinary proceedings should take,
  - (c) having considered the views (if any) of the appropriate authority and if the Commission considers it appropriate to do so, make a determination as to any matter dealt with in the report, being a determination other than one that it is required to make under sub-paragraph (2)(b) or paragraph (b) of this sub-paragraph,
  - (d) notify the appropriate authority of its determination under paragraph (b) and any determination under paragraph (c),
  - (e) where the Commission determines that disciplinary proceedings of a form specified in the determination should be brought against a person, direct the appropriate authority to bring those proceedings, and
  - (f) direct the appropriate authority to determine what action (if any) the appropriate authority will in its discretion take, not being action involving the bringing of disciplinary proceedings, in respect of the matters dealt with in the report and having regard to the Commission’s determination under paragraph (b) and any determination under paragraph (c).
- (5B) The appropriate authority must comply with a direction given under sub-paragraph (5A)(e) and must secure that the proceedings, once brought, are proceeded with to a proper conclusion.
- (5C) The Commission may at any time withdraw a direction given under sub-paragraph (5A)(e); and sub-paragraph (5B) shall not impose any obligation in relation to any time after the withdrawal of the direction.
- (5D) The appropriate authority must keep the Commission informed of the action it takes in response to a direction given under sub-paragraph (5A) (e).
- (5E) The appropriate authority must comply with the direction given under sub-paragraph (5A)(f) and must notify the Commission of the determination it makes.
- (5F) On receipt of the report, where it is a report of an investigation of a complaint, the Commission may also make a recommendation under paragraph 28ZA.”
- (3) Omit sub-paragraphs (6) to (8).
- 27 (1) Paragraph 24 (action by the appropriate authority in response to an investigation report under paragraph 22) is amended as follows.
- (2) In sub-paragraph (6)—

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- (a) after paragraph (a) insert—
  - “(aa) if it considers it appropriate to do so, make a determination as to any matter dealt with in the report, being a determination other than one that it is required to make by sub-paragraph (2)(a) or paragraph (a) of this sub-paragraph, and”;
- (b) for paragraph (b) substitute—
  - “(b) determine what action (if any), in addition to the action mentioned in paragraph (a)(ii), the authority will in its discretion take in respect of the matters dealt with in the report.”

(3) After sub-paragraph (6) insert—

“(6A) Where the report is a report of an investigation of a complaint and the appropriate authority is a local policing body, the appropriate authority may also, on receipt of the report, make a recommendation under paragraph 28ZA.”

28 In paragraph 24A (final reports on investigations: other DSI matters), at the end insert —

“(5) On receipt of the report, the Commission shall also, if it considers it appropriate to do so, make a determination as to any matter dealt with in the report, being a determination other than one that it is required to make under sub-paragraph (4) or that the appropriate authority may be required to make by virtue of paragraph 24C(3).”

## PART 4

### REVIEWS

29 Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc) is further amended as follows.

30 In paragraph 4 (reference of complaints to the Commission), after sub-paragraph (5) insert—

“(5A) The power of an appropriate authority to refer a complaint to the Commission under sub-paragraph (2) is also exercisable after a complaint has been handled in accordance with this Schedule if a recommendation is made under paragraph 6A(6)(a) or 25(4E)(b) (recommendation on a review).”

31 After paragraph 6 insert—

*“Reviews relating to complaints dealt with other than by investigation*

6A (1) This paragraph applies where a complaint is handled by the appropriate authority in accordance with paragraph 6(2A) otherwise than by the authority making arrangements for the complaint to be investigated by the authority on its own behalf.

(2) The complainant has the right to apply to the relevant review body for a review of the outcome of the complaint.

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- (3) The relevant review body must notify the following of an application for a review under sub-paragraph (2)—
  - (a) the appropriate authority,
  - (b) every person entitled to be kept properly informed in relation to the complaint under section 21, and
  - (c) the person complained against (if any).
- (4) On a review applied for under sub-paragraph (2), the relevant review body must determine whether the outcome is a reasonable and proportionate outcome.
- (5) Where the Commission is the relevant review body and the Commission finds that the outcome is not a reasonable and proportionate outcome, the Commission may—
  - (a) determine that it is necessary for the complaint to be investigated;
  - (b) make a recommendation under paragraph 28ZA.
- (6) Where a local policing body is the relevant review body and the local policing body finds that the outcome is not a reasonable and proportionate outcome, the local policing body may—
  - (a) where the complaint has not previously been referred to the Commission under paragraph 4, make a recommendation to the appropriate authority that it refer the complaint to the Commission under sub-paragraph (2) of that paragraph;
  - (b) make a recommendation to the appropriate authority that it make arrangements for the complaint to be investigated by the authority on its own behalf;
  - (c) make a recommendation under paragraph 28ZA.
- (7) The Secretary of State may by regulations make further provision about recommendations under sub-paragraph (6)(a) or (b).
- (8) The regulations may (amongst other things) authorise the local policing body making the recommendation to require a response to the recommendation.
- (9) The relevant review body must give notification of the outcome of a review under this paragraph and of its reasons for the determination made under sub-paragraph (4)—
  - (a) to the appropriate authority,
  - (b) to the complainant,
  - (c) to every person entitled to be kept properly informed in relation to the complaint under section 21, and
  - (d) except in a case where it appears to the relevant review body that to do so might prejudice any investigation of the complaint, to the person complained against (if any).
- (10) In this paragraph references to the outcome of a complaint do not include the outcome of any criminal or disciplinary proceedings brought in relation to any matter which was the subject of the complaint.”

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- 32 Omit paragraph 8A (appeals relating to complaints dealt with other than by  
investigation) and the italic heading before that paragraph.
- 33 In the italic heading before paragraph 25, for “Appeals” substitute “Reviews”.
- 34 (1) Paragraph 25 (appeals with respect to an investigation) is amended as follows.
- (2) After sub-paragraph (1) insert—
- “(1A) But this paragraph does not apply where the person investigating submitted a report on the investigation under provision made by virtue of paragraph 20A(4)(b) and did not (as a result of provision made by virtue of paragraph 20A(4)(a)) submit a further report under paragraph 22(2).
- (1B) Where this paragraph applies, the complainant has the right to apply to the relevant review body for a review of the outcome of the complaint.
- (1C) The relevant review body must notify the following of an application for a review under sub-paragraph (1B)—
- (a) the appropriate authority,
- (b) every person entitled to be kept properly informed in relation to the complaint under section 21, and
- (c) the person complained against (if any).”
- (3) Omit sub-paragraphs (2) to (3).
- (4) For sub-paragraph (4) substitute—
- “(4) Where the relevant review body so requires on the making of an application for a review under sub-paragraph (1B), the appropriate authority must provide the relevant review body with—
- (a) a copy of the report of the investigation, and
- (b) such information concerning the authority’s determinations under paragraph 24 as is described in a notification given by the relevant review body to the authority.”
- (5) After sub-paragraph (4) insert—
- “(4A) On a review applied for under sub-paragraph (1B), the relevant review body must determine whether the outcome of the complaint is a reasonable and proportionate outcome.
- (4B) In making a determination under sub-paragraph (4A), the relevant review body may review the findings of the investigation.
- (4C) Where the Commission is the relevant review body and the Commission finds that the outcome is not a reasonable and proportionate outcome, the Commission may—
- (a) make its own findings (in place of, or in addition to, findings of the investigation);
- (b) direct that the complaint be re-investigated;
- (c) make a recommendation to the appropriate authority in respect of any person serving with the police—
- (i) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to

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- answer in relation to the person's conduct to which the investigation related;
- (ii) that the person's performance is, or is not, unsatisfactory;
  - (iii) that disciplinary proceedings of the form specified in the recommendation are brought against the person in respect of the person's conduct, efficiency or effectiveness to which the investigation related;
  - (iv) that any disciplinary proceedings brought against that person are modified so as to deal with such aspects of that conduct, efficiency or effectiveness as may be so specified;
- (d) make a recommendation under paragraph 28ZA.
- (4D) Where the Commission makes a recommendation under sub-paragraph (4C)(c)—
- (a) the appropriate authority must notify the Commission whether it accepts the recommendation and (if it does) set out in the notification the steps that it is proposing to take to give effect to it, and
  - (b) sub-paragraphs (4) to (8) and (9)(b) of paragraph 27 apply in relation to the recommendation as if it had been made under that paragraph.
- (4E) Where a local policing body is the relevant review body and the local policing body finds that the outcome is not a reasonable and proportionate outcome, the local policing body may—
- (a) make a recommendation to the appropriate authority that the complaint be re-investigated by the authority on its own behalf;
  - (b) where the complaint has not previously been referred to the Commission under paragraph 4, make a recommendation to the appropriate authority that it refer the complaint to the Commission under sub-paragraph (2) of that paragraph;
  - (c) make a recommendation to the appropriate authority in respect of any person serving with the police—
    - (i) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to the person's conduct to which the investigation related;
    - (ii) that the person's performance is, or is not, unsatisfactory;
    - (iii) that disciplinary proceedings of the form specified in the recommendation are brought against the person in respect of the person's conduct, efficiency or effectiveness to which the investigation related;
    - (iv) that any disciplinary proceedings brought against that person are modified so as to deal with such aspects of that conduct, efficiency or effectiveness as may be so specified;
  - (d) make a recommendation under paragraph 28ZA.
- (4F) Sub-paragraph (4G) applies where, on a review applied for under sub-paragraph (1B), the relevant review body determines that the report of the

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investigation indicates that a criminal offence may have been committed by a person (if any) to whose conduct the investigation related and that—

- (a) the circumstances are such that, in the opinion of the relevant review body, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or
- (b) any matters dealt with in the report fall within any category of matters prescribed for the purposes of paragraph 24(2B)(b).

(4G) Where this sub-paragraph applies—

- (a) if the Commission is the relevant review body, the Commission must notify the Director of Public Prosecutions of the determination under sub-paragraph (4F) and send the Director a copy of the report;
- (b) if a local policing body is the relevant review body, the local policing body must make a recommendation to the appropriate authority that the appropriate authority—
  - (i) notify the Director of Public Prosecutions of the determination under sub-paragraph (4F), and
  - (ii) send the Director a copy of the report.

(4H) The Secretary of State may by regulations make further provision about recommendations under sub-paragraph (4E)(a), (b) or (c) or (4G)(b).

(4I) The regulations may (amongst other things) authorise the local policing body making the recommendation to require a response to the recommendation.

(4J) Where this paragraph applies because the person investigating submitted a report on the investigation under provision made by virtue of paragraph 20A(4)(b) (“the first report”) and a further report under paragraph 22(2), the references in sub-paragraphs (4B) and (4C)(a) to the findings of the investigation do not include a reference to findings on the first report.”

(6) Omit sub-paragraphs (5) to (9A).

(7) In sub-paragraph (10)—

- (a) in the words before paragraph (a)—
  - (i) for “appeal” substitute “review”;
  - (ii) for “any determination” substitute “the outcome of a review”;
  - (iii) after “paragraph” insert “and of its reasons for the determination made under sub-paragraph (4A)”;
- (b) in paragraph (a), omit “(unless it is the relevant appeal body)”;
- (c) in paragraph (d)—
  - (i) for “appeal” substitute “review”;
  - (ii) omit “proposed review or”.

(8) Omit sub-paragraph (11).

(9) In sub-paragraph (13)—

- (a) in paragraph (a), for “appeals under this paragraph are to be brought” substitute “applications under sub-paragraph (1B) are to be made”;
- (b) in paragraph (b), for “appeal must be brought” substitute “application must be made”;

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(c) for paragraph (c) substitute—

“(c) for the procedure to be followed by the relevant review body when carrying out a review applied for under sub-paragraph (1B).”

(10) After sub-paragraph (13) insert—

“(14) In this paragraph references in relation to an investigation to the outcome of the complaint do not include the outcome of any criminal or disciplinary proceedings brought in relation to any matter which was the subject of the investigation.”

35 After paragraph 25 insert—

*“Information for complainant about disciplinary recommendations*

25A (1) This paragraph applies where, on the review of the outcome of a complaint under paragraph 25, the Commission makes a recommendation under sub-paragraph (4C)(c) of that paragraph.

(2) Where the appropriate authority notifies the Commission under paragraph 25(4D)(a) that the recommendation has been accepted, the Commission must notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21 of that fact and of the steps that have been, or are to be taken, by the appropriate authority to give effect to it.

(3) Where the appropriate authority—

(a) notifies the Commission under paragraph 25(4D)(a) that it does not (either in whole or in part) accept the recommendation, or

(b) fails to take steps to give full effect to the recommendation, the Commission must determine what, if any, further steps to take under paragraph 27 as applied by paragraph 25(4D)(b).

(4) The Commission must notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21—

(a) of any determination under sub-paragraph (3) not to take further steps, and

(b) where the Commission determines under that sub-paragraph that it will take further steps, of the outcome of the taking of those steps.”

36 For the italic heading before paragraph 26, substitute “Re-investigations following a review”.

37 (1) Paragraph 26 (reviews and re-investigations following an appeal) is amended as follows.

(2) Omit sub-paragraph (1).

(3) In sub-paragraph (2), omit “or sub-paragraph (1)”.

(4) In sub-paragraph (3), for “(3)” substitute “(4)”.

(5) After sub-paragraph (3) insert—

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“(3A) Where, following a recommendation under paragraph 25(4E)(a) in relation to a complaint, the appropriate authority determines that it is appropriate for it to re-investigate the complaint on its own behalf, sub-paragraphs (3) to (5) of paragraph 16 shall apply in relation to the re-investigation as they apply in relation to an investigation to which paragraph 16 applies.”

(6) In sub-paragraph (4)—

- (a) for “25(8)” substitute “25(4C)(b)”;
- (b) omit “or sub-paragraph (1) of this paragraph”;
- (c) before “as they apply” insert “and any re-investigation of the type described in sub-paragraph (3A) of this paragraph”.

(7) After sub-paragraph (4) insert—

“(4A) Where the Commission determines under sub-paragraph (2) that the re-investigation should take the form of an investigation by the appropriate authority on its own behalf, the Commission may also give the appropriate authority such directions as to the handling of the matter in future as the Commission thinks fit.”

(8) For sub-paragraph (5) substitute—

“(5) The Commission shall notify the appropriate authority of any determination that it makes under this paragraph and of its reasons for making the determination.

(5A) The Commission shall also notify the following of any determination that it makes under this paragraph and of its reasons for making the determination—

- (a) the complainant;
- (b) every person entitled to be kept properly informed in relation to the complaint under section 21;
- (c) the person complained against (if any).

(5B) The duty imposed by sub-paragraph (5A) on the Commission shall have effect subject to such exceptions as may be provided for by regulations made by the Secretary of State.

(5C) Subsections (6) to (8) of section 20 apply for the purposes of sub-paragraph (5B) as they apply for the purposes of that section.”

(9) Omit sub-paragraph (6).

38 In the italic heading before paragraph 30—

- (a) for “Appeals” substitute “Reviews”;
- (b) for “appeal” substitute “review”.

39 (1) Paragraph 30 (appeals: the relevant appeal body) is amended as follows.

(2) In sub-paragraph (1)—

- (a) in the words before paragraph (a)—
  - (i) for “appeal”, in the first place it occurs, substitute “review”;
  - (ii) for “an appeal” substitute “a review”;

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- (b) in paragraph (a), after “in a case where” insert “a local policing body is the appropriate authority in relation to the relevant complaint or”;
- (c) for paragraph (b) substitute—
  - “(b) the local policing body which is the relevant local policing body in relation to the relevant complaint, in any other case.”

(3) For sub-paragraph (2) substitute—

“(2) In this paragraph and paragraphs 31 and 32—

“relevant complaint”, in relation to a review, means the complaint to which the review relates;

“relevant local policing body”, in relation to a relevant complaint where a chief officer is the appropriate authority in relation to the complaint, means the local policing body for the area of the police force of which the chief officer is a member;

“review” means a review applied for under paragraph 6A(2) or 25(1B).”

40 For paragraph 31 (appeal made to the Commission in error) substitute—

“31 (1) This paragraph applies in a case where—

- (a) an application for a review is made to the Commission, and
- (b) a local policing body is the relevant review body in relation to the review.

(2) The Commission must—

- (a) forward the application to the local policing body, and
- (b) notify the person who applied for the review—
  - (i) that the local policing body is the relevant review body, and
  - (ii) the application has been forwarded.

(3) The application is to be taken to have been—

- (a) made to the local policing body, and
- (b) so made at the time when it is forwarded to the local policing body.”

41 For paragraph 32 (appeal made to appropriate authority in error) substitute—

“32 (1) This paragraph applies in a case where—

- (a) an application for a review is made to a local policing body, and
- (b) the Commission is the relevant review body in relation to the review.

(2) The local policing body must—

- (a) forward the application to the Commission, and
- (b) notify the person who applied for the review—
  - (i) that the Commission is the relevant review body, and
  - (ii) the application has been forwarded.

(3) The application is to be taken to have been—

- (a) made to the Commission, and

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- (b) so made at the time when it is forwarded to the Commission.”
- 42 In section 15 of the Police Reform Act 2002 (general duties of local policing bodies, chief officers and inspectors)—
- (a) in subsection (4) (duty to provide the Commission with assistance), at the end insert “or any review under paragraph 25 of Schedule 3”;
  - (b) in subsection (6)—
    - (i) in paragraph (a), after “investigation” insert “or review (as the case may be)”;
    - (ii) omit the “and” at the end of paragraph (a);
    - (iii) in paragraph (b), at the beginning insert “in the case of an investigation,”;
    - (iv) at the end of paragraph (b) insert “and
      - (c) in the case of a review applied for under paragraph 25(1B) of Schedule 3 in respect of an investigation, irrespective of who had the person appointed to carry out the investigation under his direction and control;”.
- 43 In section 16 of the Police Reform Act 2002 (payment for assistance with investigations)—
- (a) in subsection (1)(b), for “in such a connection to the Commission.” substitute “to the Commission in connection with an investigation under this Part or a review under paragraph 25 of Schedule 3.”;
  - (b) in subsection (2)(b)—
    - (i) in the words before sub-paragraph (i), for “in such a connection by a police force (“the assisting force”) to the Commission” substitute “by a police force (“the assisting force”) to the Commission in connection with an investigation under this Part or a review under paragraph 25 of Schedule 3”;
    - (ii) omit the “or” at the end of sub-paragraph (i);
    - (iii) after sub-paragraph (ii) insert “, or
      - (iii) a review under paragraph 25 of Schedule 3 of the outcome of a complaint where the complainant expressed dissatisfaction with a force other than that force.”
- 44 In section 18 of the Police Reform Act 2002 (inspections of police premises on behalf of the Commission), in subsection (2), after paragraph (b) insert—
- “(c) the purposes of any review by the Commission under paragraph 25 of Schedule 3.”

## PART 5

### RECOMMENDATIONS BY THE COMMISSION AND LOCAL POLICING BODIES

- 45 In Part 3 of Schedule 3 to the Police Reform Act 2002, after paragraph 28 insert—

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*“Recommendations by the Commission or a local policing body*

- 28ZA (1) A recommendation under this paragraph (for the purposes of paragraphs 6A, 23, 24 and 25) is a recommendation of a kind described in regulations made by the Secretary of State which is made with a view to remedying the dissatisfaction expressed by the complainant concerned.
- (2) A recommendation of a kind described in regulations under subsection (1) may (amongst other things) be a recommendation that compensation be paid.
- (3) The reference in subsection (1) to the complainant concerned—
- (a) in relation to a recommendation made by virtue of paragraph 6A(5)(b) or (6)(c), is a reference to the complainant who applied under paragraph 6A(2) for the review;
  - (b) in relation to a recommendation made by virtue of paragraph 23(5F) or 24(6A), is a reference to the complainant whose complaint, having been investigated, resulted in the submission of the report under paragraph 22;
  - (c) in relation to a recommendation made by virtue of paragraph 25(4C)(d) or (4E)(d), is a reference to the complainant who applied under paragraph 25(1B) for the review.
- (4) The Secretary of State may by regulations make further provision about recommendations under this paragraph.
- (5) The regulations may (amongst other things)—
- (a) specify the persons to whom recommendations under this paragraph may be made;
  - (b) authorise the person making a recommendation under this paragraph (whether the Commission or a local policing body) to require a response to the recommendation;
  - (c) require the person making a recommendation under this paragraph to send a copy of the recommendation, and any response to it, to any prescribed person or person of a prescribed description.”

46 In consequence of the insertion of paragraph 28ZA, in paragraph 28A of Schedule 3 to the Police Reform Act 2002, after sub-paragraph (3) insert—

- “(3A) Where this paragraph applies—
- (a) by virtue of sub-paragraph (1)(a) or (b) and the report is a report of an investigation of a complaint, or
  - (b) by virtue of sub-paragraph (2),
- a recommendation made under sub-paragraph (3) may not be a recommendation of a kind described in regulations made under paragraph 28ZA(1).”

## PART 6

### CONSEQUENTIAL AMENDMENTS

- 47 In the Police Reform Act 2002—
- (a) in section 15—
    - (i) in subsection (3)(a), omit “, 17”;
    - (ii) in subsection (5), in the words after paragraph (c), omit “, 17”;
  - (b) in section 18(2)(b)—
    - (i) omit “supervision or”;
    - (ii) for “management” substitute “direction”;
  - (c) in section 20—
    - (i) in subsection (1)(b), for “management” substitute “direction”;
    - (ii) in subsection (2), omit the “or” at the end of paragraph (a) and omit paragraph (b);
  - (d) in section 21—
    - (i) in subsection (6)(b), for “management” substitute “direction”;
    - (ii) in subsection (7), omit the “or” at the end of paragraph (a) and omit paragraph (b);
  - (e) in section 22—
    - (i) omit subsection (5)(c);
    - (ii) omit subsection (5)(f);
  - (f) in section 23—
    - (i) in subsection (2)(i)—
      - (a) omit “supervision or”;
      - (b) for “management” substitute “direction”;
    - (ii) omit subsection (2)(m);
  - (g) in section 29—
    - (i) in subsection (1), omit the definition of “local resolution”;
    - (ii) in subsection (6)—
      - (a) omit “under the supervision of the Commission,”;
      - (b) for “management” substitute “direction”;
      - (c) omit “17,”;
  - (h) in Schedule 3—
    - (i) in paragraph 19F(1)(a), for “management” substitute “direction”;
    - (ii) in paragraph 20(1), for paragraph (a) substitute—
      - “(a) the conduct to which the investigation relates has been certified in accordance with regulations under paragraph 20A, or”;
    - (iii) in paragraph 20, omit sub-paragraph (2);
    - (iv) in paragraph 21A(3), omit “or 17”;
    - (v) in paragraph 21A(6)(a), for “15(5)” substitute “15(5A) or (5B)”;
    - (vi) in paragraph 22(3), omit “17 or”;
    - (vii) in paragraph 22(7) and (8), for “within paragraph 19C(1)(a) or (b)” substitute “to which paragraph 19A applies”;
    - (viii) in paragraph 23(1)(a), for “management” substitute “direction”;
    - (ix) in paragraph 23(13), after “21A(2)” insert “, (2A)”;

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- (x) in paragraph 24(1), omit the “or” at the end of paragraph (a) and omit paragraph (b);
  - (xi) in paragraph 24(2), omit “or (as the case may be) of the copy”;
  - (xii) omit paragraph 24(5A) to (5C);
  - (xiii) in paragraph 24(6), omit “or (as the case may be) copy”;
  - (xiv) in paragraph 24(11), after “21A(2)” insert “, (2A)”;
  - (xv) in paragraph 24A(1), after “21A(2)” insert “, (2A)”;
  - (xvi) in paragraph 24B(3)(a), for “15(5)” substitute “15(5A) or (5B)”;
  - (xvii) in paragraph 25(1), omit the “or” at the end of paragraph (a) and omit paragraph (b);
  - (xviii) omit paragraph 27(1)(b) and (3);
  - (xix) in paragraph 27(9)(a), for “(1)(b) or (c)” substitute “(1)(c)”;
  - (xx) omit paragraph 28;
  - (xxi) in paragraph 28A(1)(a)—
    - (a) omit “supervised or”;
    - (b) for “managed” substitute “directed”;
  - (xxii) in paragraph 28A(2), in the words before paragraph (a), for “an appeal” substitute “a review”;
  - (xxiii) in paragraph 28A(2)(a)—
    - (a) for “8A” substitute “6A”;
    - (b) for “appeal” substitute “review”;
  - (xxiv) in paragraph 28A(2)(b) and (3), for “appeal” substitute “review”;
  - (xxv) in paragraph 28A(4)(b), for “an appeal” substitute “a review”;
  - (xxvi) in paragraph 29, omit the definition of “direction and control matter”.
- 48 In the Serious Organised Crime and Police Act 2005—
- (a) in Schedule 11, omit paragraphs 3 and 4;
  - (b) in Schedule 12, omit paragraphs 15, 16(3) and 19.
- 49 In the Police and Justice Act 2006, in Part 7 of Schedule 1, omit paragraph 89(4).
- 50 In the Criminal Justice and Immigration Act 2008, in Schedule 23, omit paragraphs 5 to 10, 14(5), 13(5) and (6), 17 and 18(3).
- 51 In the Police Reform and Social Responsibility Act 2011—
- (a) in Schedule 14, omit paragraphs 8(5), 9(2), 10, 13, 14(2), (4) and (5), 16, 17, 18, 19 and 20(3) to (11) and (13);
  - (b) in Schedule 16, omit paragraph 300(4).
- 52 In the Police (Complaints and Conduct) Act 2012, omit section 1(3).
- 53 In the Crime and Courts Act 2013, in Part 2 of Schedule 6, omit paragraph 17(3).
- 54 In the Anti-social Behaviour, Crime and Policing Act 2014, in Part 3 of Schedule 11, omit paragraph 95(2) to (5).