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STATUTORY INSTRUMENTS

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**1998 No. 354 (C.8)**

**POLICE**

**The Police Act 1997 (Commencement No. 5 and Transitional Provisions) Order 1998**

<i>Made</i>	- - - -	<i>19th February 1998</i>
<i>Laid before Parliament</i>		<i>25th February 1998</i>
<i>Coming into force</i>	- -	<i>18th March 1998</i>

In exercise of the powers conferred upon him by section 135 of the Police Act 1997<sup>(1)</sup>, the Secretary of State hereby makes the following order:

**Citation, commencement and interpretation**

**1.**—(1) This Order may be cited as the Police Act 1997 (Commencement No. 5 and Transitional Provisions) Order 1998.

(2) This Order shall come into force on 18th March 1998.

(3) In this Order—

“the 1997 Act” means the Police Act 1997;

“nominated person” means a person nominated and appointed under article 4(4) below;

“police authority” means a police authority under section 3 of the Police Act 1996<sup>(2)</sup>; and

“property” includes money and all other property, real or personal.

**Commencement on 1st April 1998**

**2.**—(1) Subject to article 8 below, the provisions of the 1997 Act which are listed in paragraph (2) below shall come into force on 1st April 1998.

(2) The provisions referred to in paragraph (1) above are—

(a) section 2 (general functions of the NCIS Service Authority and NCIS), to the extent that it is not yet in force;

(b) section 3 (objectives), to the extent that it is not yet in force;

(c) section 5 (annual reports);

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(1) 1997 c. 50.  
(2) 1996 c. 16.

- (d) section 7 (removal of Director General by the Authority);
- (e) section 10 (general function of Director General);
- (f) section 11 (reports by Director General to the Authority);
- (g) section 12 (responsibility for co-ordination of police and Security Service activities);
- (h) section 20 (acceptance of gifts and loans);
- (i) section 22 (collaboration agreements), to the extent that it is not yet in force;
- (j) section 23 (aid by and for NCIS);
- (k) section 24 (provision of special services);
- (l) section 29 (removal of Director General etc);
- (m) section 30 (power to give directions after adverse report);
- (n) section 31 (reports from NCIS Service Authority);
- (o) section 32 (reports from Director General);
- (p) section 33 (criminal statistics);
- (q) section 34 (inquiries);
- (r) section 35 (regulations as to standard of equipment);
- (s) section 36 (common services);
- (t) section 38 (appeals), to the extent that it is not yet in force;
- (u) section 40 (information as to the manner of dealing with complaints etc);
- (v) section 41 (arrangements for consultation);
- (w) section 42 (liability for wrongful acts of constables etc);
- (x) section 43 (causing disaffection);
- (y) section 48 (general functions of the NCS Service Authority and the National Crime Squad), to the extent that it is not yet in force;
- (z) section 49 (objectives), to the extent that it is not yet in force;
- (aa) section 51 (annual reports);
- (ab) section 53 (removal of Director General by the Authority);
- (ac) section 56 (general function of Director General);
- (ad) section 57 (reports by Director General to the Authority);
- (ae) section 65 (acceptance of gifts and loans);
- (af) section 67 (revenue accounts and capital finance);
- (ag) section 68 (financial administration);
- (ah) section 69 (provision of special services);
- (ai) section 74 (removal of Director General etc);
- (aj) section 75 (power to give directions after adverse report);
- (ak) section 76 (reports from NCS Service Authority);
- (al) section 77 (reports from Director General);
- (am) section 78 (criminal statistics);
- (an) section 79 (inquiries);
- (ao) section 80 (regulations as to standard of equipment);
- (ap) section 82 (appeals), to the extent that it is not yet in force;

- (aq) section 84 (information as to the manner of dealing with complaints etc);
- (ar) section 85 (arrangements for consultation);
- (as) section 86 (liability for wrongful acts of constables etc);
- (at) section 87 (causing disaffection);
- (au) section 88 (application to NCS Service Authority of local authority enactments), in respect of paragraphs 4, 7, 8, 9 (to the extent that it is not in force), 11 to 13, 15 to 24, 27, 28, 30 and 31 of Schedule 6;
- (av) section 109 (Police Information Technology Organisation), to the extent that it is not yet in force;
- (aw) section 110 (relationship between the Organisation and the Secretary of State);
- (ax) section 111 (interpretation of Part IV), to the extent that it is not yet in force;
- (ay) section 134 (amendments and repeals), in respect of paragraphs 1, 2, 4 to 7, 10 to 12, 15 to 22, 24 to 26, 27 (to the extent that it is not yet in force), 29 (to the extent that it is not yet in force), 30 to 37, 41 (to the extent that it is not yet in force), 42, 44 to 48, 53, 54, 56, 58 to 64, 69 to 71, 74 to 80, 84, 85, 87, 89, 90 and 92 of Schedule 9 and in respect of the entries in Schedule 10 relating to the Police (Scotland) Act 1967, the Leasehold Reform Act 1967, the Local Government Act 1972, the Police Pensions Act 1976, the Local Government (Miscellaneous Provisions) Act 1976, the Security Service Act 1989, the Aviation and Maritime Security Act 1990, the Environment Act 1995, the Police Act 1996 and the Security Service Act 1996;
- (az) paragraphs 4, 7, 8, 9 (to the extent that it is not yet in force), 11 to 13, 15 to 24, 27, 28, 30 and 31 of Schedule 6;
- (ba) paragraphs 3, 5 to 7, 8 (to the extent that it is not yet in force) and 12 to 17 of Schedule 8;
- (bb) paragraphs 1, 2, 4 to 7, 10 to 12, 15 to 22, 24 to 26, 27 (to the extent that it is not yet in force), 29 (to the extent that it is not yet in force), 30 to 37, 41 (to the extent that it is not yet in force) 42, 44 to 48, 53, 54, 56, 58 to 64, 69 to 71, 74 to 80, 84, 85, 87, 89, 90 and 92 of Schedule 9; and
- (bc) schedule 10 in respect of the entries relating to the Police (Scotland) Act 1967, the Leasehold Reform Act 1967, the Local Government Act 1972, the Police Pensions Act 1976, the Local Government (Miscellaneous Provisions) Act 1976, the Security Service Act 1989, the Aviation and Maritime Security Act 1990, the Environment Act 1995, the Police Act 1996 and the Security Service Act 1996.

### **Transfer of employees**

3.—(1) Every person who—

- (a) immediately before 1st April 1998 is employed by the Crown, a police authority or the Commissioner of Police of the Metropolis in the organisation maintained by the Secretary of State under section 57 of the Police Act 1996 known as the National Criminal Intelligence Service;
  - (b) but for the provisions of this Order would continue to be so employed; and
  - (c) whose name is mentioned on the National Criminal Intelligence Service designated list,
- shall, on that date, transfer to, and become an employee of, the NCIS Service Authority.

(2) Every person who—

- (a) immediately before 1st April 1998 is employed by a police authority, by the Commissioner of Police of the Metropolis or by the Crown in a regional crime squad or a regional technical support unit or in the organisation maintained by the Secretary of State under

section 57 of the Police Act 1996 known as the Office of the National Co-ordinator of Regional Crime Squads in England and Wales;

(b) but for the provisions of this Order would continue to be so employed; and

(c) whose name is mentioned on the National Crime Squad designated list,

shall, on that date, transfer to, and become an employee of, the National Crime Squad Service Authority.

(3) Every person who—

(a) immediately before 1st April 1998 is employed by the Crown in the organisation maintained by the Secretary of State under section 57 of the Police Act 1996 known as the Police Information Technology Organisation;

(b) but for the provisions of this Order would continue to be so employed; and

(c) whose name is mentioned on the Police Information Technology Organisation designated list,

shall, on that date, transfer to, and become an employee of, the Police Information Technology Organisation established under section 109 of the 1997 Act.

(4) The contract of employment of a person who is transferred by virtue of this article shall not terminate on the date of the transfer but shall have effect as if originally made between that employee and the body to whose employment he has been transferred.

(5) A person transferred under paragraph (1) above shall be deemed to have been appointed by the NCIS Service Authority under section 9(1)(c) of the 1997 Act as a member of the National Criminal Intelligence Service.

(6) A person transferred under paragraph (2) above shall be deemed to have been appointed by the NCS Service Authority under section 55(1)(c) of the 1997 Act as a member of the National Crime Squad.

(7) In this article—

“the National Criminal Intelligence Service designated list” means the list marked “Police Act 1997 (Staff Transfer) National Criminal Intelligence Service Designated List” which is signed by the Secretary of State, one copy of which is deposited with the NCIS Service Authority, one copy of which is deposited in the offices of the Secretary of State;

“the National Crime Squad designated list” means the list marked “Police Act 1997 (Staff Transfer) National Crime Squad Designated List” which is signed by the Secretary of State, one copy of which is deposited with the National Crime Squad Service Authority and one copy of which is deposited in the offices of the Secretary of State;

“the Police Information Technology Organisation designated list” means the list marked “Police Act 1997 (Staff Transfer) Police Information Technology Organisation Designated List” which is signed by the Secretary of State, one copy of which is deposited with the Police Information Technology Organisation established under section 109 of the 1997 Act and one copy of which is deposited in the offices of the Secretary of State.

(8) This article has effect without prejudice to the Transfer of Undertakings (Protection of Employment) Regulations 1981(3).

#### **Agreements to transfer property, etc.**

4.—(1) As soon as practicable after 18th March 1998, the Secretary of State shall—

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(3) S.I. 1981/1974 as amended by section 33 of the Trade Union Reform and Employment Rights Act 1993 c. 19 and the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995 (S.I. 1995/2589).

- (a) use his best endeavours to determine whether it is fair and reasonable to make any transfers of property, rights and liabilities from the Crown to the NCIS Service Authority or to PITO; and
  - (b) give notice in writing to the NCIS Service Authority or (as the case may be) the Police Information Technology Organisation specifying any such transfers and the date or dates on which they are to take effect under article 5 below.
- (2) As soon as practicable after 18th March 1998 every police authority, the Receiver for the Metropolitan Police District and the National Crime Squad Service Authority shall—
- (a) use their best endeavours to determine whether it is fair and reasonable to make any transfer of property, rights and liabilities from the police authority or the Receiver to the National Crime Squad Service Authority; and
  - (b) make an agreement in writing specifying which of those transfers are to take effect under article 5 below on 1st April 1998 and which of those transfers are to take effect on such later date as may be so specified.
- (3) A notice under paragraph (1) above and an agreement under paragraph (2) above may—
- (a) indicate that there are matters specified therein about which a determination or, as the case may be, an agreement is still to be made; or
  - (b) provide for a variation in the transfer of property, rights or liabilities in circumstances specified in the notice or agreement.
- (4) Where it has become apparent that a police authority or the Receiver and the National Crime Squad Service Authority are unable to agree about whether a transfer of property, rights and liabilities should be made under paragraph (2) above—
- (a) the police authority or the Receiver and the National Crime Squad Service Authority may nominate and appoint a person to determine the dispute in accordance with article 6 below; or
  - (b) if the police authority or the Receiver and the National Crime Squad Service Authority are unable to agree either that the dispute should be so determined or on the person to be nominated, the police authority, the Receiver or the National Crime Squad Service Authority may require the Secretary of State to nominate and appoint such a person.
- (5) In this article and article 6 below, references to the transfer of property, rights and liabilities mean—
- (a) the transfer from the Crown or a police authority or the Receiver (as the case may be) to the NCIS Service Authority, PITO or the National Crime Squad Service Authority, or the apportionment between them of any property and of rights and liabilities relating to it;
  - (b) such transfer or apportionment of any other rights and liabilities; and
  - (c) the creation of any rights and liabilities between them.

### **Transfer of property etc.**

- 5.—(1) This article shall have effect to—
- (a) transfer from the Crown or a police authority or the Receiver (as the case may be) to the NCIS Service Authority, PITO or the National Crime Squad Service Authority (as the case may be) and to vest in them—
    - (i) such property;
    - (ii) such rights and liabilities relating thereto; and
    - (iii) such other rights and liabilities,

as may be specified in a written notice from the Secretary of State under article 4(1)(b) above, in a written agreement under article 4(2)(b) above or in an instrument giving effect to the decision of a nominated person under article 6 below;

(b) apportion between them—

- (i) such property;
- (ii) such rights and liabilities relating thereto; and
- (iii) such other rights and liabilities,

as may be so specified; and

(c) create between them such rights and liabilities as may be so specified;

on 1st April 1998 or such other later date, or dates, as may be so specified.

### **Determination by nominated person**

6.—(1) Where a nominated person has been appointed under article 4 above, he shall (as soon as practicable after his appointment) proceed to determine in accordance with paragraphs (4) to (8) below a dispute as to which (if any) transfers of property, rights and liabilities from a police authority or the Receiver to the National Crime Squad Service Authority it is fair and reasonable to make.

(2) Where a nominated person appointed under article 4 above determines that a transfer shall be made, he shall draw up an instrument to give effect to his determination, and any such instrument shall specify the date or dates on which it is to take effect.

(3) A nominated person shall not determine a dispute unless both parties to it have been afforded an opportunity to make written or, if either so requests, oral representations and any such representations have been considered.

(4) Any oral representations shall be made at a hearing on a date and at a place appointed by the nominated person after consultation with the parties to the dispute.

(5) The parties shall have the right to appear by Counsel or a solicitor or by the clerk or other officer of either of the parties.

(6) The nominated person shall be paid such remuneration and reimbursed for such expenses as—

- (a) the parties to the dispute may determine before he is appointed; or
- (b) in the absence of such agreement, may be determined by the Secretary of State.

(7) The nominated person shall make such order as to which of the parties to the dispute shall pay the costs incurred under this article, including the costs incurred under paragraphs (5) and (6) above, as may appear to him to be fair and reasonable.

(8) Any order under paragraph (7) above may apportion the costs between the parties.

### **Revocations**

7. Articles 4 to 7 of the Police Act 1997 (Commencement No. 4 and Transitional Provisions) Order 1997(4) shall be revoked on the 1st April 1998.

### **Transitional provision about basic credit approvals**

8.—(1) For the purposes of the issue of a basic credit approval under section 53 of the Local Government Housing Act 1989(5) to the National Crime Squad Service Authority in respect of the financial year beginning on 1st April 1998, section 67 of the 1997 Act (which amends the definition

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(4) S.I. 1997/2390.

(5) 1989 c. 42.

of “local authority” for purposes including the said section 53) shall come into force on 18th March 1998.

Home Office  
19th February 1998

*Alun Michael*  
Minister of State

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force for all purposes on 1st April 1998 most of the provisions of Parts I, II and IV of the Police Act 1997 which are not currently in force or, as the case may be, which are in force for certain purposes only.

Article 3 provides for the transfer of employees from the Crown, the Commissioner of Police for the Metropolis or a police authority (as the case may be) to the National Crime Squad Service Authority, the NCIS Service Authority and PITO (as the case may be). Articles 4 and 5 provide for the transfer of property from the Crown or the Receiver of the Metropolitan Police District to the NCIS Service Authority or PITO and from a police authority to the National Crime Squad Service Authority on or after 1st April 1998. Article 6 provides for a person nominated under article 4 to determine any dispute arising under that article. Article 7 makes provision in respect of revocations. Article 8 makes a transitional provision in respect of basic credit approvals for the National Crime Squad.

## NOTE AS TO EARLIER COMMENCEMENT ORDERS

(NOTE AS TO EARLIER COMMENCEMENT ORDERS)

The following provisions of the Police Act 1997 have been brought into force by commencement order made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Sections 1, 17, 47, 62, 129 and Schedules 1 and 2 (all partially); and sections 44 to 46, 89, 90, 128 and 130 to 132	25.6.1997	1997/1377 (C.50)
Sections 1 and 47 and Schedules 1 and 2 (for the purposes for which they were not already in force), sections 6, 13 to 16, 18, 52, 58 to 61, 63, 88 (partially) and 134 (partially), paragraphs 27 (partially) and paragraphs 28, 40, 41 (partially) and 88 of Schedule 9	23.7.1997	1997/1388 (C.50)
Section 101	5.8.1997	1997/1930 (C.79)
Sections 2, 3, 48, 49, 91, 96, 109, 111, 134 (all partially), sections 25 to 27, 70 to 72, Schedule 4, paragraphs 3, 5 and 10 of Schedule 6, paragraphs 1, 2, 4, 8 to 11 and 18 of Schedule 8 and	22.8.1997	1997/1930 (C.79)

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
paragraphs 3, 8, 9, 29(3), 82 and 83 of Schedule 9		
Sections 17 and 61 (partially) and Schedules 3 and 5	8.10.1997	1997/1930 (C.79)
Sections 4, 8, 9, 19, 21, 22 (partially), 28, 37 to 39, 50, 54, 55, 64, 66, 73, 81 to 83, 88 (partially) and 134 (partially), paragraphs 1 to 3, 6, 9(e) and 29 of Schedule 6, paragraphs 13, 14, 23, 38, 39, 43, 49 to 52, 55, 57, 66 to 68, 72, 73, 81, 86 and 91 of Schedule 9	31.10.1997	1997/2390 (C.92)