

SCHEDULES

SCHEDULE 2

Section 2

AMENDMENTS TO THE POLICE ACT 1996

Membership etc of police authorities

- 1 In section 4 (membership of police authorities outside Greater London), in subsection (4), for “Schedules 2 and 3” there is substituted “Schedule 2”.
- 2 For Schedule 2 there is substituted—

“SCHEDULE 2

Section 4

POLICE AUTHORITIES ESTABLISHED UNDER SECTION 3

Membership of police authorities

- 1 (1) The Secretary of State shall by regulations make provision in relation to the membership of police authorities established under section 3.
- (2) Regulations under this paragraph shall provide for a police authority to consist of—
 - (a) persons who are members of a relevant council, and
 - (b) other persons, including at least one lay justice.
- (3) Those regulations shall—
 - (a) specify the number of members falling within paragraph (a) and paragraph (b) of sub-paragraph (2), and
 - (b) secure that the majority of members of a police authority are persons falling within paragraph (a) of that sub-paragraph.
- (4) Those regulations may make further provision as to qualification for membership, and may provide for a specified number of the members of a police authority to be persons of a specified description.
- (5) Those regulations may include provision as to—
 - (a) how a member is to be appointed;
 - (b) disqualification for membership;
 - (c) the tenure of office of a member (including the circumstances in which a member ceases to hold office or may be removed or suspended from office);
 - (d) re-appointment as a member;
 - (e) the validity of acts and proceedings of a person appointed as a member in the event of his disqualification or lack of qualification;

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- (f) the validity of proceedings of a police authority in the event of a vacancy in membership or of a defect in the appointment of a member or in the composition of the authority;
- (g) the payment of remuneration and allowances to a member and the reimbursement of expenses.

Appointment of councillor members

- 2 Regulations under paragraph 1 shall provide that—
- (a) in the case of a police authority in relation to which there is only one relevant council, the members falling within paragraph 1(2) (a) are to be appointed by that council;
 - (b) in any other case, those members are to be appointed by a joint committee consisting of persons appointed by the relevant councils from among their own members.

Appointment of other members

- 3 (1) Regulations under paragraph 1 shall provide that the members falling within paragraph 1(2)(b) are to be appointed—
- (a) by the existing members of the authority,
 - (b) from among persons on a short-list prepared by a selection panel.
- (2) Those regulations may make provision as to qualification for membership of a selection panel, and may provide for a specified number of the members of a panel to be persons of a specified description.
- (3) Those regulations may include provision as to—
- (a) the number of members of a selection panel;
 - (b) how and by whom a member of a panel is to be appointed;
 - (c) disqualification for membership;
 - (d) the tenure of office of a member of a panel (including the circumstances in which a member ceases to hold office or may be removed or suspended from office);
 - (e) re-appointment as a member of a panel;
 - (f) the conduct of proceedings of a panel, including any procedures that a panel is to follow;
 - (g) the validity of acts and proceedings of a person appointed as a member of a panel in the event of his disqualification or lack of qualification;
 - (h) the validity of proceedings of a panel in the event of a vacancy in membership or of a defect in the appointment of a member or in the composition of the panel;
 - (i) the payment of remuneration and allowances to a member of a panel and the reimbursement of expenses.

Chairman and vice chairmen

- 4 (1) The Secretary of State shall by regulations provide that—

Status: This is the original version (as it was originally enacted).

- (a) a police authority is to appoint a chairman from among its members at each annual meeting; and
 - (b) at an annual meeting a police authority may appoint one or more vice-chairmen from among its members.
- (2) Regulations under this paragraph may make further provision about how a chairman or vice-chairman is to be appointed, and provision as to—
 - (a) qualification and disqualification for appointment;
 - (b) the tenure of office of a chairman or vice-chairman (including the circumstances in which a chairman or vice-chairman ceases to hold office or may be removed or suspended from office);
 - (c) eligibility for re-appointment;
 - (d) the validity of acts and proceedings of a person appointed as chairman or vice-chairman in the event of his disqualification or lack of qualification;
 - (e) the validity of proceedings of a police authority in the event of a vacancy in the office of chairman or vice-chairman or of a defect in the appointment of a chairman or vice-chairman;
 - (f) the payment of remuneration and allowances to a chairman or vice-chairman and the reimbursement of expenses.

Standards committees

- 5 The Secretary of State may by regulations make provision as to the payment of remuneration and allowances to, and the reimbursement of expenses of, members of the standards committee of a police authority established under section 3.

Consultation

- 6 Before making regulations under this Schedule the Secretary of State shall consult—
 - (a) the Association of Police Authorities,
 - (b) persons whom he considers to represent the interests of county and district councils in England and county and county borough councils in Wales,
 - (c) in the case of regulations that are not to apply to all police authorities established under section 3—
 - (i) any police authority to which the regulations are to apply, and
 - (ii) any relevant council in relation to such an authority,
 - and
 - (d) such other persons as he thinks fit.

Supplementary

- 7
 - (1) Regulations under this Schedule may make different provision for different police authorities.
 - (2) Regulations under this Schedule may make transitional, consequential, incidental and supplemental provision or savings.

Status: This is the original version (as it was originally enacted).

- (3) A statutory instrument containing regulations under this Schedule shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

- 8 (1) For the purposes of this Schedule a council is a “relevant council” in relation to a police authority in England if it is the council for—
- (a) a county, or
 - (b) a district comprised in an area for which there is no county council,
- which constitutes, or is wholly within, the authority’s police area.

- (2) For the purposes of this Schedule a council is a “relevant council” in relation to a police authority in Wales if it is the council for a county or county borough which constitutes, or is wholly within, the authority’s police area.

- 9 In this Schedule “lay justice” has the meaning given by section 9 of the Courts Act 2003.”

3 In section 5C (membership etc of Metropolitan Police Authority), in subsection (6), for “Schedules 2A and 3” there is substituted “Schedule 2A”.

4 For Schedule 2A there is substituted—

“SCHEDULE 2A

Section 5C

THE METROPOLITAN POLICE AUTHORITY

Membership of Authority

- 1 (1) The Secretary of State shall by regulations make provision in relation to the membership of the Metropolitan Police Authority.
- (2) Regulations under this paragraph shall provide for the Authority to consist of—
- (a) persons appointed from among the persons specified in sub-paragraph (3), and
 - (b) other persons, including at least one lay justice.
- (3) The persons referred to in sub-paragraph (2)(a) are—
- (a) the Mayor of London, and
 - (b) members of the London Assembly.
- (4) Regulations under this paragraph shall—
- (a) specify the number of members falling within paragraph (a) and paragraph (b) of sub-paragraph (2), and
 - (b) secure that the majority of members of the Authority are persons falling within paragraph (a) of that sub-paragraph.

Status: This is the original version (as it was originally enacted).

- (5) Those regulations may make further provision as to qualification for membership, and may provide for a specified number of the members of the Authority to be persons of a specified description.
- (6) Those regulations may include provision as to—
 - (a) how a member is to be appointed;
 - (b) disqualification for membership;
 - (c) the tenure of office of a member (including the circumstances in which a member ceases to hold office or may be removed or suspended from office);
 - (d) re-appointment as a member;
 - (e) the validity of acts and proceedings of a person appointed as a member in the event of his disqualification or lack of qualification;
 - (f) the validity of proceedings of the Authority in the event of a vacancy in membership or of a defect in the appointment of a member or in the composition of the Authority;
 - (g) the payment of remuneration and allowances to a member and the reimbursement of expenses.

Appointment of members from London Assembly etc

- 2 Regulations under paragraph 1 shall provide that the members falling within paragraph 1(2)(a) are to be appointed by the Mayor of London.

Appointment of other members

- 3 (1) Regulations under paragraph 1 shall provide that—
 - (a) one of the members falling within paragraph 1(2)(b) is to be appointed by the Secretary of State, and
 - (b) the other members are to be appointed by the existing members of the Metropolitan Police Authority from among persons on a short-list prepared by a selection panel.
- (2) Those regulations may make provision as to qualification for membership of a selection panel, and may provide for a specified number of the members of a panel to be persons of a specified description.
- (3) Those regulations may include provision as to—
 - (a) the number of members of a selection panel;
 - (b) how and by whom a member of a panel is to be appointed;
 - (c) disqualification for membership;
 - (d) the tenure of office of a member of a panel (including the circumstances in which a member ceases to hold office or may be removed or suspended from office);
 - (e) re-appointment as a member of a panel;
 - (f) the conduct of proceedings of a panel, including any procedures that a panel is to follow;

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- (g) the validity of acts and proceedings of a person appointed as a member of a panel in the event of his disqualification or lack of qualification;
- (h) the validity of proceedings of a panel in the event of a vacancy in membership or of a defect in the appointment of a member or in the composition of the panel;
- (i) the payment of remuneration and allowances to a member of a panel and the reimbursement of expenses.

Chairman and vice chairmen

- 4 (1) The Secretary of State shall by regulations provide that—
- (a) if the Mayor of London is a member of the Metropolitan Police Authority, he is to be the chairman;
 - (b) if not, the Mayor of London is to appoint a chairman from among the members of the Authority.
- (2) The Secretary of State shall by regulations provide that the Mayor of London may appoint one or more vice-chairmen from among the members of the Authority.
- (3) Regulations under this paragraph may make further provision about how a chairman or vice-chairman is to be appointed, and provision as to—
- (a) qualification and disqualification for appointment;
 - (b) the tenure of office of a chairman or vice-chairman (including the circumstances in which a chairman or vice-chairman ceases to hold office or may be removed or suspended from office);
 - (c) eligibility for re-appointment;
 - (d) the validity of acts and proceedings of a person appointed as chairman or vice-chairman in the event of his disqualification or lack of qualification;
 - (e) the validity of proceedings of the Authority in the event of a vacancy in the office of chairman or vice-chairman or of a defect in the appointment of a chairman or vice-chairman;
 - (f) the payment of remuneration and allowances to a chairman or vice-chairman and the reimbursement of expenses.

Standards committees

- 5 The Secretary of State may by regulations make provision as to the payment of remuneration and allowances to, and the reimbursement of expenses of, members of the Metropolitan Police Authority's standards committee.

Consultation

- 6 Before making any regulations under this Schedule, the Secretary of State shall consult—
- (a) the Metropolitan Police Authority,
 - (b) the Association of Police Authorities,
 - (c) the Greater London Authority,

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- (d) persons whom he considers to represent the interests of London boroughs, and
- (e) such other persons as he thinks fit.

Supplementary

- 7 (1) Regulations under this Schedule may make transitional, consequential, incidental and supplemental provision or savings.
- (2) A statutory instrument containing regulations under this Schedule shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Interpretation

- 8 In this Schedule “lay justice” has the meaning given by section 9 of the Courts Act 2003.”
- 5 In section 19 (approval of decisions about precepts), in subsection (2)(b), for “appointed under paragraph 2 of Schedule 2” there is substituted “who are members of a relevant council as defined in paragraph 8 of Schedule 2”.
- 6 Schedules 3 (police authorities: selection of independent members) and 3A (police authorities: selection of lay justice members) are repealed.

Functions of police authorities

- 7 (1) Section 6 (general functions of police authorities) is amended as follows.
- (2) In subsection (1)—
 - (a) the words after “section 3” become paragraph (a) of that subsection;
 - (b) at the end of that paragraph there is inserted “, and
 - (b) shall hold the chief officer of police of that force to account for the exercise of his functions and those of persons under his direction and control.”
- (3) In subsection (2)—
 - (a) in paragraph (a), for “objectives determined by the Secretary of State under section 37” there is substituted “strategic priorities determined by the Secretary of State under section 37A”;
 - (b) in paragraph (b), for “under section 7” there is substituted “by virtue of section 6ZB”;
 - (c) for paragraph (d) there is substituted—
 - “(d) any plan issued by the authority by virtue of section 6ZB.”
- (4) Subsection (4) (police authorities to comply with directions given under section 38 or 40) is omitted.
- 8 After section 6 there is inserted—

“6ZA Power to confer particular functions on police authorities

- (1) The Secretary of State may by order confer particular functions on police authorities.

Status: This is the original version (as it was originally enacted).

- (2) Without prejudice to the generality of subsection (1), an order under this section may contain provision requiring a police authority—
 - (a) to monitor the performance of the police force maintained for its area in—
 - (i) complying with any duty imposed on the force by or under this Act, the Human Rights Act 1998 or any other enactment;
 - (ii) carrying out any plan issued by virtue of section 6ZB;
 - (b) to secure that arrangements are made for that force to co-operate with other police forces whenever necessary or expedient;
 - (c) to promote diversity within that force and within the authority.
- (3) Before making an order under this section the Secretary of State must consult—
 - (a) the Association of Police Authorities,
 - (b) the Association of Chief Police Officers, and
 - (c) such other persons as he thinks fit.
- (4) An order under this section may make different provision for different police authorities.
- (5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

Police authorities: objectives, plans and reports

- 9 After section 6ZA (inserted by paragraph 8) there is inserted—

“6ZB Plans by police authorities

- (1) Before the beginning of each financial year every police authority shall issue a plan (a “policing plan”) setting out—
 - (a) the authority’s objectives (“policing objectives”) for the policing of its area during that year; and
 - (b) the proposed arrangements for the policing of that area for the period of three years beginning with that year.
- (2) Policing objectives shall be so framed as to be consistent with any strategic priorities determined under section 37A.
- (3) Before determining policing objectives, a police authority shall—
 - (a) consult the relevant chief officer of police, and
 - (b) consider any views obtained by the authority in accordance with arrangements made under section 96.
- (4) A draft of a policing plan required to be issued by a police authority under this section shall be prepared by the relevant chief officer of police and submitted by him to the authority for it to consider.

The authority shall consult the relevant chief officer of police before issuing a policing plan which differs from the draft submitted by him under this subsection.

Status: This is the original version (as it was originally enacted).

- (5) The Secretary of State may by regulations make provision supplementing that made by this section.
- (6) The regulations may make provision (further to that made by subsection (3)) as to persons who are to be consulted, and matters that are to be considered, before determining policing objectives.
- (7) The regulations may contain provision as to—
 - (a) matters to be dealt with in policing plans (in addition to those mentioned in subsection (1));
 - (b) persons who are to be consulted, and matters that are to be considered, in preparing policing plans;
 - (c) modification of policing plans;
 - (d) persons to whom copies of policing plans are to be sent.
- (8) Before making regulations under this section the Secretary of State must consult—
 - (a) the Association of Police Authorities,
 - (b) the Association of Chief Police Officers, and
 - (c) such other persons as he thinks fit.
- (9) Regulations under this section may make different provision for different police authorities.
- (10) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (11) In this section “the relevant chief officer of police”, in relation to a police authority, means the chief officer of police of the police force maintained by that authority.

6ZC Reports by police authorities

- (1) The Secretary of State may by order require police authorities to issue reports concerning the policing of their areas.
- (2) An order under this section may contain provision as to—
 - (a) the periods to be covered by reports, and, as regards each period, the date by which reports are to be issued;
 - (b) the matters to be dealt with in reports;
 - (c) persons to whom copies of reports are to be sent.
- (3) Before making an order under this section the Secretary of State must consult—
 - (a) the Association of Police Authorities,
 - (b) the Association of Chief Police Officers, and
 - (c) such other persons as he thinks fit.
- (4) An order under this section may make different provision for different police authorities.

Status: This is the original version (as it was originally enacted).

- (5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”
- 10 The following sections are repealed—
 section 6A (three-year strategy plans);
 section 7 (local policing objectives);
 section 8 (local policing plans);
 section 9 (annual reports by police authorities).
- 11 In section 9A (general functions of Commissioner of Police of the Metropolis), in subsection (2), for the words after “shall have regard” there is substituted “to—
 (a) any arrangements involving the metropolitan police force that are made by virtue of section 6ZA(2)(b);
 (b) the policing plan issued by the Metropolitan Police Authority under section 6ZB.”
- 12 In section 10 (general functions of chief constables), in subsection (2), for the words after “shall have regard” there is substituted “to—
 (a) any arrangements involving his force that are made by virtue of section 6ZA(2)(b);
 (b) the policing plan issued by the police authority for his area under section 6ZB.”
- 13 (1) Section 96B (national and international functions: application of requirements relating to reports etc) is amended as follows.
 (2) In subsection (2), for “section 7(1) shall have effect as if the reference” there is substituted “section 6ZB(1) shall have effect as if a reference”.
 (3) Subsection (3) is repealed.
 (4) In subsection (4), for “section 9(1)” there is substituted “section 6ZC(1)”.

Appointment of deputy chief constables etc

- 14 (1) Section 11A (appointment and removal of deputy chief constables) is amended as follows.
 (2) In subsection (1) (police forces to have a deputy chief constable), for “a deputy chief constable” there is substituted “one or more deputy chief constables”.
 (3) For subsection (2) there is substituted—
 “(2) The appointment of a person to be a deputy chief constable of a police force shall be made, in accordance with regulations under section 50, by the police authority responsible for maintaining that force.
 (2A) Where the police authority responsible for maintaining a police force—
 (a) proposes to increase the number of deputy chief constables that the force has, or
 (b) proposes to appoint a particular person to be a deputy chief constable,
 it may do so only after consultation with the chief constable and subject to the approval of the Secretary of State.”

- 15 (1) Section 12A (power of deputy to exercise functions of chief constable) is amended as follows.
- (2) In subsection (1), for “A deputy chief constable” there is substituted “The appropriate deputy chief constable”.
- (3) After that subsection there is inserted—
- “(1A) The appropriate deputy chief constable for the purposes of subsection (1) is—
- (a) in the case of a police force that has only one deputy chief constable, the deputy chief constable;
 - (b) in the case of a police force that has more than one deputy chief constable, the most senior deputy chief constable.
- (1B) The chief constable of a police force that has more than one deputy chief constable shall, after consulting the police authority responsible for maintaining the force, designate the deputy chief constables in order of seniority for the purposes of subsection (1A)(b).
- (1C) During any absence, incapacity or suspension from duty of the person who—
- (a) is designated as the most senior deputy chief constable for the purposes of subsection (1A)(b), or
 - (b) is treated under this subsection as the most senior deputy chief constable,
- the person designated as the next most senior deputy chief constable shall be treated as the most senior one for those purposes.”
- (4) For subsection (2) there is substituted—
- “(2) The chief constable of a police force shall, after consulting the police authority responsible for maintaining the force, designate a person holding the rank of assistant chief constable in that force to exercise or perform any or all of the powers or duties of the chief constable during any period when—
- (a) the chief constable is absent, incapacitated or suspended from duty and—
 - (i) the deputy chief constable, or each of the deputy chief constables, is also absent, incapacitated or suspended from duty, or
 - (ii) the office of the deputy chief constable, or of each of the deputy chief constables, is vacant;
- or
- (b) the office of the chief constable is vacant and—
 - (i) the office of the deputy chief constable, or of each of the deputy chief constables, is also vacant, or
 - (ii) the deputy chief constable, or each of the deputy chief constables, is absent, incapacitated or suspended from duty.”
- (5) In subsection (5), for “subsections (1) and (2)” there is substituted “subsections (1) to (2)”.

Status: This is the original version (as it was originally enacted).

Civilian employees of police authorities

- 16 (1) Section 15 (civilian employees) is amended as follows.
- (2) For subsection (2) (civilians employed by police authority to be under direction and control of chief officer of police) there is substituted—
- “(2) A police authority shall exercise its powers under section 101 (and section 107) of the Local Government Act 1972 so as to secure that, subject to section 24(3A), any person employed by the authority under this section solely to assist the police force maintained by the authority is under the direction and control of the chief officer of police of that force.”
- (3) Subsection (3) (power to agree or determine exceptions to section 15(2)) is omitted.
- 17 In section 24 (aid of one police force by another), after subsection (3) there is inserted—
- “(3A) While a person employed by a police authority under section 15 solely to assist the police force maintained by that authority is provided under this section for the assistance of another police force, he shall, notwithstanding section 15(2), be under the direction and control of the chief officer of police of that other force.”

Clerks to police authorities renamed chief executives

- 18 (1) Section 16 (appointment of clerk by police authority) is amended as follows.
- (2) In subsections (1) and (2), for “clerk to” there is substituted “chief executive of”.
- (3) In the heading, for “clerk” there is substituted “chief executive”.
- 19 In Schedule 6 (appeals to police appeal tribunals), in paragraph 6(2), for “clerk” there is substituted “chief executive”.
- 20 (1) A reference in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) to the clerk to a police authority has effect as a reference to the chief executive of the authority.
- (2) A person holding office as clerk to a police authority on the commencement of paragraph 18 continues in that office as chief executive of the authority.
- (3) In this paragraph “police authority” means—
- (a) a police authority established under section 3 of the Police Act 1996 (c. 16);
 - (b) the Metropolitan Police Authority.

Jurisdiction of special constables

- 21 (1) Section 30 (jurisdiction of constables) is amended as follows.
- (2) For subsection (2) (jurisdiction of special constables) there is substituted—
- “(2) A special constable shall have all the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters.”
- (3) Subsections (3) and (4) are omitted.

Status: This is the original version (as it was originally enacted).

- 22 In section 24(3) (constable assisting another police force to be under direction and control of chief officer of that force), for “section 10(1)” there is substituted “sections 9A(1) and 10(1)”.
- 23 In section 27(2) (special constables to be under direction and control of chief officer), after “Subject to” there is inserted “section 24(3) and”.

Secretary of State’s strategic functions in relation to police authorities

- 24 Sections 36A (National Policing Plan) and 37 (setting of objectives for police authorities) are repealed.
- 25 Before section 38 there is inserted—

“37A Setting of strategic priorities for police authorities

- (1) The Secretary of State may determine strategic priorities for the policing of the areas of all police authorities to which this section applies.
- (2) Before determining any such priorities the Secretary of State shall consult—
- (a) the Association of Police Authorities, and
 - (b) the Association of Chief Police Officers.
- (3) The Secretary of State shall arrange for any priorities determined under this section to be published in such manner as he considers appropriate.
- (4) The police authorities to which this section applies are those established under section 3 and the Metropolitan Police Authority.”
- 26 (1) Section 38 (setting of performance targets) is amended as follows.
- (2) In subsection (1)—
- (a) for “an objective has been determined under section 37” there is substituted “a strategic priority has been determined under section 37A”;
 - (b) for “to achieve the objective” there is substituted “to give effect to that priority”.
- (3) In subsection (2), for “section 37” there is substituted “section 37A”.
- (4) After subsection (4) there is inserted—
- “(5) A police authority that is given a direction under this section shall comply with it.”

Power to give directions to police authority or chief officer of police

- 27 For section 40 (power to give directions to police authority) there is substituted—

“40 Power to give directions in relation to police force

- (1) Where the Secretary of State is satisfied that the whole or any part of a police force is failing to discharge any of its functions in an effective manner, whether generally or in particular respects, he may direct the police authority responsible for maintaining the force to take specified measures for the purpose of remedying the failure.

Status: This is the original version (as it was originally enacted).

- (2) Where the Secretary of State is satisfied that the whole or a part of a police force will fail to discharge any of its functions in an effective manner, whether generally or in particular respects, unless remedial measures are taken, he may direct the police authority responsible for maintaining the force to take specified measures in order to prevent such a failure occurring.
- (3) The measures that may be specified in a direction under subsection (1) or (2) include the submission to the Secretary of State of an action plan setting out the measures which the person or persons submitting the plan propose to take for the purpose of remedying the failure in question or (as the case may be) preventing such a failure occurring.
- (4) The Secretary of State shall not give a direction under this section in relation to any police force unless—
 - (a) the police authority responsible for maintaining the force and the chief officer of police of that force have each been given such information about the Secretary of State's grounds for proposing to give that direction as he considers appropriate for enabling them to make representations or proposals under the following paragraphs of this subsection;
 - (b) that police authority and chief officer have each been given an opportunity of making representations about those grounds;
 - (c) that police authority and chief officer have each had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and
 - (d) the Secretary of State has considered any such representations and any such proposals.
- (5) Subsection (4) does not apply if the Secretary of State is satisfied that—
 - (a) the police authority responsible for maintaining the force and the chief officer of police of that force have already been made aware of the matters constituting the Secretary of State's grounds for proposing to give a direction under this section;
 - (b) the information they had about those matters was sufficient to enable them to identify remedial measures that would have made the giving of the direction unnecessary; and
 - (c) they have each had a reasonable opportunity to take such measures.
- (6) The Secretary of State shall not give a direction under this section unless Her Majesty's Chief Inspector of Constabulary has been given—
 - (a) the same information about the grounds for proposing to give that direction as is required to be given under subsection (4)(a) (or would be so required but for subsection (5)); and
 - (b) an opportunity of making written observations about those grounds.

The Secretary of State shall publish any such observations in such manner as appears to him to be appropriate.
- (7) A police authority that is given a direction under this section shall comply with it.

40A Power to give directions in relation to police authority

- (1) Where the Secretary of State is satisfied that a police authority is failing to discharge any of its functions in an effective manner, whether generally or in particular respects, he may direct the police authority to take specified measures for the purpose of remedying the failure.
- (2) Where the Secretary of State is satisfied that a police authority will fail to discharge any of its functions in an effective manner, whether generally or in particular respects, unless remedial measures are taken, he may direct the police authority to take specified measures in order to prevent such a failure occurring.
- (3) The measures that may be specified in a direction under subsection (1) or (2) include the submission to the Secretary of State of an action plan setting out the measures which the authority submitting the plan proposes to take for the purpose of remedying the failure in question or (as the case may be) preventing such a failure occurring.
- (4) The Secretary of State shall not give a direction under this section in relation to a police authority unless—
 - (a) the police authority has been given such information about the Secretary of State's grounds for proposing to give that direction as he considers appropriate for enabling it to make representations or proposals under the following paragraphs of this subsection;
 - (b) the police authority has been given an opportunity of making representations about those grounds;
 - (c) the police authority has had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and
 - (d) the Secretary of State has considered any such representations and any such proposals.
- (5) Subsection (4) does not apply if the Secretary of State is satisfied that—
 - (a) the police authority has already been made aware of the matters constituting the Secretary of State's grounds for proposing to give a direction under this section;
 - (b) the information the authority had about those matters was sufficient to enable it to identify remedial measures that would have made the giving of the direction unnecessary; and
 - (c) the authority has had a reasonable opportunity to take such measures.
- (6) The Secretary of State shall not give a direction under this section unless Her Majesty's Chief Inspector of Constabulary has been given—
 - (a) the same information about the grounds for proposing to give that direction as is required to be given under subsection (4)(a) (or would be so required but for subsection (5)); and
 - (b) an opportunity of making written observations about those grounds.

The Secretary of State shall publish any such observations in such manner as appears to him to be appropriate.

Status: This is the original version (as it was originally enacted).

- (7) A police authority that is given a direction under this section shall comply with it.
- (8) Nothing in this section or in section 40 prevents the Secretary of State from exercising (whether in relation to the same matter or different matters or at the same time or at different times) both his powers under this section and his powers under section 40.

40B Procedure for directions under section 40 or 40A

- (1) The Secretary of State may by regulations make further provision as to the procedure to be followed in cases where—
 - (a) a proposal is made for the giving of a direction under section 40;
 - (b) a proposal is made for the giving of a direction under section 40A.
- (2) Before making any regulations under this section, the Secretary of State shall consult with—
 - (a) the Association of Police Authorities;
 - (b) the Association of Chief Police Officers; and
 - (c) such other persons as he thinks fit.
- (3) Regulations under this section may make different provision for different cases and circumstances.
- (4) A statutory instrument containing regulations under this section shall not be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.
- (5) On giving a direction under section 40 or section 40A to a police authority, the Secretary of State shall notify the chief officer of police of the force in question that he has given that direction.
- (6) Where the Secretary of State gives a direction under section 40 or section 40A he shall lay before Parliament—
 - (a) a copy of the direction; and
 - (b) a report about it.
- (7) A report under subsection (7)—
 - (a) shall be prepared at such time as the Secretary of State considers appropriate; and
 - (b) may relate to more than one direction.”

28 In section 41 (directions as to minimum budget), in subsection (1), after “section 40” there is inserted “or 40A”.

Power to give directions as to action plans

29 Sections 41A and 41B (power to give directions as to action plans, and procedure for doing so) are repealed.

Arrangements for obtaining the views of the community on policing

- 30 (1) Section 96 (arrangements for obtaining the views of the community on policing) is amended as follows.
- (2) In subsection (1)(b), after “crime” there is inserted “and anti-social behaviour”.
- (3) In subsection (2), for “subsection (6)” there is substituted “provision made by virtue of subsection (6)(b)”.
- (4) For subsections (6) to (10) there is substituted—
- “(6) The Secretary of State may by regulations—
- (a) make provision supplementing that made by this section (or by regulations under paragraph (b));
- (b) make provision applying in place of subsection (2) in relation to the City of London police area.
- (7) Regulations under subsection (6)(a) may contain—
- (a) provision requiring a police authority to review arrangements made under this section from time to time;
- (b) provision (further to that made by subsection (2) or by regulations under subsection (6)(b)) as to persons whom a police authority is to consult in making or reviewing the arrangements;
- (c) provision as to matters to which a police authority is to have regard in making or reviewing the arrangements;
- (d) provision for the Secretary of State, if not satisfied with the adequacy of arrangements made under this section by a police authority, to require the authority—
- (i) to submit reports to him concerning the arrangements;
- (ii) to review the arrangements.
- (8) Before making regulations under this section the Secretary of State must consult—
- (a) the Association of Police Authorities,
- (b) the Association of Chief Police Officers, and
- (c) such other persons as he thinks fit.
- (9) Regulations under this section may make different provision for different police authorities.
- (10) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.”