

SCHEDULES

SCHEDULE 1

Section 6

PROVISION FOR POLICE AND CRIME COMMISSIONER TO BE FIRE AND RESCUE AUTHORITY

PART 1

AMENDMENTS TO THE FIRE AND RESCUE SERVICES ACT 2004

1 The Fire and Rescue Services Act 2004 is amended as follows.

2 Before section 1 insert—

“Fire and rescue authorities”.

3 In section 1(4) (fire and rescue authorities) for the words from “sections” to the end substitute “—

(a) sections 2 and 4 (schemes constituting combined fire and rescue authorities for particular areas), and

(b) sections 4A and 4B (orders providing for police and crime commissioners to be fire and rescue authorities).”

4 Before section 2 insert—

“Combined fire and rescue authorities”.

5 After section 4 insert—

“Fire and rescue authority involving police and crime commissioner

4A Power to provide for police and crime commissioner to be fire and rescue authority

(1) The Secretary of State may by order provide—

(a) for the creation of a corporation sole as the fire and rescue authority for the area specified in the order, and

(b) for the person who is for the time being the police and crime commissioner for the relevant police area to be for the time being that fire and rescue authority.

(2) In subsection (1) “the relevant police area” means the police area which—

(a) is the same as the area of the fire and rescue authority created by the order, or

(b) if the order creates two or more fire and rescue authorities, is the same as the areas of those authorities taken together.

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- (3) The whole of an area of a fire and rescue authority created by an order under this section must be—
 - (a) within England, and
 - (b) outside the metropolitan police district and the City of London police area.
- (4) An order under this section may be made only if the relevant police and crime commissioner has submitted a proposal for the order to the Secretary of State.
- (5) An order under this section may be made only if it appears to the Secretary of State that—
 - (a) it is in the interests of economy, efficiency and effectiveness for the order to be made, or
 - (b) it is in the interests of public safety for the order to be made.
- (6) The Secretary of State may not make an order under this section in a case within subsection (5)(a) if the Secretary of State thinks that the order would have an adverse effect on public safety.
- (7) In this section “relevant police and crime commissioner” has the same meaning as in Schedule A1; and that Schedule makes further provision about the procedure for an order under this section.

4B Changes to existing fire and rescue authorities

- (1) An order under section 4A may make alterations to the areas of fire and rescue authorities in England outside Greater London.
- (2) The alterations that may be made by virtue of subsection (1) include alterations that result in a reduction or an increase in the number of such areas.
- (3) An order under section 4A(1) may make provision for the abolition of—
 - (a) a metropolitan county fire and rescue authority,
 - (b) a combined fire and rescue authority constituted by a scheme under section 2,
 - (c) a combined fire and rescue authority constituted by a scheme to which section 4 applies, or
 - (d) a fire and rescue authority created by an order under section 4A(1).

4C Transfer of property, rights and liabilities

- (1) This section applies if the Secretary of State makes an order under section 4A.
- (2) The Secretary of State may make one or more schemes for the transfer of property, rights and liabilities from an existing fire and rescue authority (“the transferor”) to the fire and rescue authority created by the order (“the transferee”).
- (3) The things that may be transferred under a transfer scheme include—

- (a) property, rights and liabilities that could not otherwise be transferred;
 - (b) property acquired, and rights and liabilities arising, after the making of the scheme;
 - (c) criminal liabilities.
- (4) A transfer scheme may make supplementary, incidental, transitional and consequential provision and may in particular—
- (a) create rights, or impose liabilities, in relation to property or rights transferred;
 - (b) make provision about the continuing effect of things done by the transferor in respect of anything transferred;
 - (c) make provision about the continuation of things (including legal proceedings) in the process of being done by, on behalf of or in relation to the transferor in respect of anything transferred;
 - (d) make provision for references to the transferor in an instrument or other document in respect of anything transferred to be treated as references to the transferee;
 - (e) make provision for the shared ownership or use of property.
- (5) A transfer scheme may provide—
- (a) for the scheme to be modified by agreement after it comes into effect, and
 - (b) for any such modifications to have effect from the date when the original scheme comes into effect.
- (6) In this section—
- (a) references to the transfer of property include the grant of a lease;
 - (b) references to rights and liabilities include rights and liabilities under a contract of employment.

4D Further provision about authority created by section 4A order

- (1) A person who is a fire and rescue authority created by an order under section 4A is to be paid allowances, in respect of expenses incurred by the person in the exercise of the authority's functions, which are of the kinds and amounts determined by the Secretary of State as payable in accordance with this subsection.
- (2) A determination under subsection (1) may make different provision for different cases.
- (3) Payments under subsection (1) are to be made by the fire and rescue authority.
- (4) A fire and rescue authority created by an order under section 4A must appoint a person to be responsible for the proper administration of the authority's financial affairs (a "chief finance officer").
- (5) A fire and rescue authority created by an order under section 4A must appoint a person to act as chief finance officer of the authority if and so long as—
 - (a) that post is vacant, or

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- (b) the holder of that post is, in the authority’s opinion, unable to carry out the duties of that post.
- (6) Section 113 of the Local Government Finance Act 1988 (qualifications of responsible officer) applies to a person appointed under subsection (4) or (5) as it applies to the persons having responsibility for the administration of financial affairs mentioned in that section.
- (7) A fire and rescue authority created by an order under section 4A may—
 - (a) appoint such other staff as the authority thinks appropriate to enable the authority to exercise the functions of the authority;
 - (b) pay remuneration, allowances and gratuities to members of the authority’s staff.
- (8) In subsection (7) “allowances”, in relation to a member of the authority’s staff, means allowances in respect of expenses incurred by the member of staff in the course of employment as such a member of staff.
- (9) A fire and rescue authority created by an order under section 4A may pay—
 - (a) pensions to, or in respect of, persons who are or have been members of the authority’s staff, and
 - (b) amounts for or towards the provision of pensions to, or in respect of, persons who are or have been members of the authority’s staff.
- (10) An order under section 4A may make provision—
 - (a) about the delegation by the fire and rescue authority created by the order of the authority’s functions to the person who is for the time being the relevant deputy police and crime commissioner;
 - (b) about the further delegation of such functions by that person to a member of staff of the authority or of the relevant police and crime commissioner;
 - (c) about the delegation by the authority of such functions to a member of staff of the authority or of the relevant police and crime commissioner.
- (11) In subsection (10)—
 - “the relevant deputy police and crime commissioner” means the deputy police and crime commissioner for the police area—
 - (a) which corresponds to the area of the fire and rescue authority, or
 - (b) within which the area of the fire and rescue authority falls;
 - “the relevant police and crime commissioner” means the police and crime commissioner for that police area.
- (12) References in subsection (10) to a member of staff of a police and crime commissioner are to any of the following persons appointed under Schedule 1 to the Police Reform and Social Responsibility Act 2011—
 - (a) the commissioner’s chief executive;
 - (b) the commissioner’s chief finance officer;
 - (c) other staff.
- (13) Provision made under subsection (10) may—

- (a) enable the delegation of any of the functions of the fire and rescue authority;
 - (b) enable the delegation of any of the functions of the authority other than those specified or described in the order;
 - (c) enable the delegation of the functions of the authority specified or described in the order.
- (14) An order under section 4A may make provision about—
- (a) the personal liability of a person who is the fire and rescue authority created by the order for acts or omissions done by the person in the exercise of the authority’s functions;
 - (b) the personal liability of a person who is a member of staff of the fire and rescue authority created by the order for acts or omissions done by the person in the carrying out of duties as a member of staff.
- (15) A fire and rescue authority created by an order under section 4A may acquire land compulsorily.
- (16) The Acquisition of Land Act 1981 applies in relation to the compulsory purchase of land pursuant to subsection (15).

4E Requirement for authority created by section 4A order to have fire fund

- (1) Each fire and rescue authority created by an order under section 4A must keep a fund to be known as the fire fund.
- (2) All of the receipts of a fire and rescue authority created by an order under section 4A must be paid into the relevant fire fund.
- (3) All of the expenditure of a fire and rescue authority created by an order under section 4A must be paid out of the relevant fire fund.
- (4) A fire and rescue authority created by an order under section 4A must keep accounts of payments made into or out of the relevant fire fund.
- (5) Subsections (2) and (3) are subject to the provisions of—
 - (a) the scheme established under section 26 of the Fire Services Act 1947 (Firemen’s Pension Scheme) (as continued in force by order under section 36),
 - (b) a scheme under section 34 (pensions etc), or
 - (c) scheme regulations within the meaning of the Public Service Pensions Act 2013.
- (6) In this section “relevant fire fund”, in relation to a fire and rescue authority created by an order under section 4A, means the fire fund which that authority keeps.

4F Exercise of functions pursuant to section 4A order

- (1) A fire and rescue authority created by an order under section 4A must exercise its functions efficiently and effectively.
- (2) A person who is the fire and rescue authority by virtue of an order under section 4A may not act in that office unless the person has made and

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delivered a declaration of acceptance of office under section 70 of the Police Reform and Social Responsibility Act 2011 in accordance with that section.

- (3) Subsections (4) and (5) apply if—
- (a) an order under section 4A has effect for the area of a fire and rescue authority, and
 - (b) an acting commissioner is appointed under section 62 of the Police Reform and Social Responsibility Act 2011 for the police area—
 - (i) which corresponds to the area of the fire and rescue authority, or
 - (ii) within which the area of the fire and rescue authority falls.
- (4) The acting commissioner is to act as the fire and rescue authority for the period of the acting commissioner’s appointment.
- (5) Accordingly—
- (a) all of the functions of the fire and rescue authority are exercisable by the acting commissioner during that period, and
 - (b) any property or rights vested in the fire and rescue authority may be dealt with by the acting commissioner in that period as if vested in the acting commissioner.
- (6) Subsection (7) applies if a person elected as police and crime commissioner for a police area—
- (a) is disqualified from being, or being elected as, a police and crime commissioner, or
 - (b) is disqualified from being, or being elected as, the police and crime commissioner for that area.
- (7) Any acts of the person when acting in the office of fire and rescue authority are, despite that disqualification, as valid and effectual as if the person had not been disqualified.

4G Section 4A order: transitional provision

- (1) The transitional provision which may be made by an order under section 4A by virtue of section 60(2)(b) includes, in particular, provision of the kind described in the following provisions of this section.
- (2) An order under section 4A may make provision for a specified person to be the shadow fire and rescue authority for the area to which the order relates for a specified period.
- (3) A shadow fire and rescue authority is a person who has the specified functions of a fire and rescue authority in relation to that area, but is not otherwise the fire and rescue authority for that area.
- (4) An order under section 4A which includes provision by virtue of subsection (2) may make provision about the operation of any enactment in relation to—
- (a) the shadow fire and rescue authority, or
 - (b) any other person to whom the enactment would otherwise apply.

- (5) This includes provision for the enactment to apply with modifications in relation to a person within subsection (4)(a) or (b).
- (6) An order under section 4A may make provision about the operation of the Local Government Finance Act 1992 in relation to the fire and rescue authority created by the order during a specified period beginning with the time when the authority becomes the fire and rescue authority for the area to which the order relates.
- (7) This includes provision for that Act to apply for that period with modifications in relation to—
 - (a) the authority, or
 - (b) any other person to whom that Act would otherwise apply.
- (8) Provision under subsection (4) or (6) may, in particular, make different provision for different parts of an authority's area.
- (9) In this section—
 - (a) “specified” means specified in an order under section 4A;
 - (b) “enactment” includes an enactment contained in subordinate legislation within the meaning of the Interpretation Act 1978;
 - (c) references to the Local Government Finance Act 1992 include any provision made under that Act.

4H Delegation to chief constable for police area

- (1) The Secretary of State may by order make provision about—
 - (a) the delegation of functions of a fire and rescue authority created, or to be created, by an order under section 4A to the chief constable of the police force for the police area—
 - (i) which corresponds to the area of the fire and rescue authority, or
 - (ii) within which the area of the fire and rescue authority falls;
 - (b) the delegation by such a chief constable of the chief constable's fire and rescue functions.
- (2) Provision made under subsection (1) may—
 - (a) enable the delegation of any of the functions mentioned in that subsection;
 - (b) enable the delegation of any of the functions mentioned in that subsection other than those specified or described in the order;
 - (c) enable the delegation of such of the functions mentioned in that subsection as are specified or described in the order.
- (3) Provision made under subsection (1)(b) may enable delegation to—
 - (a) members of the chief constable's police force;
 - (b) the civilian staff of that police force, as defined by section 102(4) of the Police Reform and Social Responsibility Act 2011;
 - (c) members of staff transferred to the chief constable under a scheme under section 4I(1);

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- (d) members of staff appointed by the chief constable under section 4I(4).
- (4) An order under this section may be made only if the relevant police and crime commissioner has submitted a proposal for the order to the Secretary of State.
- (5) An order under this section may be made only if it appears to the Secretary of State that—
 - (a) it is in the interests of economy, efficiency and effectiveness for the order to be made, or
 - (b) it is in the interests of public safety for the order to be made.
- (6) The Secretary of State may not make an order under this section in a case within subsection (5)(a) if the Secretary of State thinks that the order would have an adverse effect on public safety.
- (7) In this section “relevant police and crime commissioner” has the same meaning as in Schedule A1; and that Schedule makes provision about the procedure for an order under this section which is not combined, or not proposed to be combined, with an order under section 4A (see in particular paragraph 7 of that Schedule).
- (8) In this section “fire and rescue functions”, in relation to a chief constable, means—
 - (a) functions which are delegated to the chief constable under provision made under subsection (1)(a), and
 - (b) functions relating to fire and rescue services which are conferred on the chief constable by or by virtue of any enactment.
- (9) This section is subject to section 37 (prohibition on employment of police in fire-fighting).

4I Further provision about chief constable covered by section 4H order

- (1) If an order is made under section 4H, the Secretary of State may make one or more schemes for the transfer of property, rights and liabilities—
 - (a) from a fire and rescue authority to the chief constable to whom the order applies, or
 - (b) from that chief constable to the fire and rescue authority to which the order applies.
- (2) The fire and rescue authority mentioned in subsection (1)(a) may be one created by an order under section 4A or another kind of fire and rescue authority.
- (3) Subsections (3) to (6) of section 4C apply to a transfer scheme under subsection (2) as they apply to a transfer scheme under that section.
- (4) A chief constable to whom an order under section 4H applies may appoint staff for the purpose of the exercise of the chief constable’s fire and rescue functions.
- (5) A chief constable to whom an order under section 4H applies may—

- (a) pay remuneration, allowances and gratuities to members of the chief constable's fire and rescue staff;
 - (b) pay pensions to, or in respect of, persons who are or have been such members of staff;
 - (c) pay amounts for or towards the provision of pensions to, or in respect of, persons who are or have been such members of staff.
- (6) In subsection (5) "allowances", in relation to a member of staff, means allowances in respect of expenses incurred by the member of staff in the course of employment as such a member of staff.
- (7) Subject to subsections (8) to (10), a person who is employed pursuant to a transfer by virtue of subsection (1) or an appointment under subsection (4) may not at the same time be employed pursuant to an appointment by a chief constable of the police force for a police area under Schedule 2 to the Police Reform and Social Responsibility Act 2011.
- (8) Where an order under section 4H is in force in relation to the chief constable of the police force for a police area, the person who is for the time being the police force's chief finance officer is to be responsible for the proper administration of financial affairs relating to the exercise of the chief constable's fire and rescue functions.
- (9) Subsection (7) does not prevent a person who is employed as a finance officer for fire functions from being at the same time employed as a finance officer for police functions.
- (10) In subsection (9)—
 - "finance officer for fire functions" means a member of a chief constable's fire and rescue staff who—
 - (a) is not a chief finance officer of the kind mentioned in subsection (8), and
 - (b) is employed to carry out duties relating to the proper administration of financial affairs relating to the exercise of the chief constable's fire and rescue functions;
 - "finance officer for police functions" means a member of a chief constable's civilian staff within the meaning of the Police Reform and Social Responsibility Act 2011 who—
 - (a) is not a chief finance officer of the kind mentioned in subsection (8), and
 - (b) is employed to carry out duties relating to the proper administration of a police force's financial affairs.
- (11) Where an order under section 4H is in force, the fire and rescue authority to which the order applies must pay—
 - (a) any damages or costs awarded against the chief constable to whom the order applies in any proceedings brought against the chief constable in respect of the acts or omissions of a member of the chief constable's fire and rescue staff;
 - (b) any costs incurred by the chief constable in any such proceedings so far as not recovered by the chief constable in the proceedings;
 - (c) any sum required in connection with the settlement of any claim made against the chief constable in respect of the acts or omissions

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of a member of the chief constable's fire and rescue staff, if the settlement is approved by the authority.

- (12) Where an order under section 4H is in force, the fire and rescue authority to which the order applies may, in such cases and to such extent as appears to the authority to be appropriate, pay—
- (a) any damages or costs awarded against a member of the fire and rescue staff of the chief constable to whom the order applies in proceedings for any unlawful conduct of that member of staff;
 - (b) costs incurred and not recovered by such a member of staff in such proceedings;
 - (c) sums required in connection with the settlement of a claim that has or might have given rise to such proceedings.
- (13) In this section—
- “fire and rescue functions” has the same meaning as in section 4H;
- “fire and rescue staff”, in relation to a chief constable to whom an order under section 4H applies, means—
- (a) staff transferred to the chief constable under a scheme under subsection (1), and
 - (b) staff appointed by the chief constable under subsection (4).

4J Exercise of functions pursuant to section 4H order

- (1) This section applies if—
- (a) an order under section 4H makes provision in relation to the area of a fire and rescue authority, and
 - (b) under the order, functions of the fire and rescue authority are delegated to the chief constable of the police force for the police area—
 - (i) which corresponds to the area of the fire and rescue authority, or
 - (ii) within which the area of the fire and rescue authority falls.
- (2) The chief constable must secure that good value for money is obtained in exercising—
- (a) functions which are delegated under the order, and
 - (b) functions relating to fire and rescue services which are conferred on the chief constable by or by virtue of any enactment.
- (3) The chief constable must secure that persons exercising functions delegated by the chief constable under the order obtain good value for money in exercising those functions.
- (4) The fire and rescue authority must—
- (a) secure the exercise of the duties which are delegated to the chief constable under the order,
 - (b) secure the exercise of the duties relating to fire and rescue services which are imposed on the chief constable by or by virtue of any enactment,

- (c) secure that functions which are delegated to the chief constable under the order are exercised efficiently and effectively, and
 - (d) secure that functions relating to fire and rescue services which are conferred or imposed on the chief constable by or by virtue of any enactment are exercised efficiently and effectively.
- (5) The fire and rescue authority must hold the chief constable to account for the exercise of such functions.

4K Complaints and conduct matters etc

- (1) If an order is made under section 4H(1)(b) that enables delegation to members of a police force or the civilian staff of a police force, the Secretary of State may by order amend Part 2 of the Police Reform Act 2002 (persons serving with the police: complaints and conduct matters etc) in consequence of that provision.
- (2) If an order is made under section 4H(1)(b) that enables delegation to members of staff transferred to a chief constable under a scheme under section 4I(1) or appointed by a chief constable under section 4I(4), the Secretary of State may by order make provision of the type described in subsection (3) in relation to those members of staff.
- (3) The provision referred to in subsection (2) is—
- (a) provision corresponding or similar to any provision made by or under Part 2 of the Police Reform Act 2002;
 - (b) provision applying (with or without modifications) any provision made by or under Part 2 of that Act.
- (4) The Secretary of State may by order, in consequence of any provision made under subsection (2), amend Part 2 of the Police Reform Act 2002.
- (5) Before making an order under this section the Secretary of State must consult—
- (a) the Police Advisory Board for England and Wales,
 - (b) the Independent Police Complaints Commission,
 - (c) such persons as appear to the Secretary of State to represent the views of police and crime commissioners,
 - (d) such persons as appear to the Secretary of State to represent the views of fire and rescue authorities, and
 - (e) such other persons as the Secretary of State considers appropriate.

4L Application of fire and rescue provisions

- (1) The Secretary of State may by order—
- (a) apply (with or without modifications) any provision of a fire and rescue enactment in relation to a person within subsection (2);
 - (b) make, in relation to a person within subsection (2), provision corresponding or similar to any provision of a fire and rescue enactment.
- (2) Those persons are—

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- (a) a chief constable of a police force for a police area to whom an order under section 4H applies,
 - (b) a member of staff transferred to such a chief constable under a scheme under section 4I(1),
 - (c) a member of staff appointed by such a chief constable under section 4I(4),
 - (d) a member of such a chief constable’s police force to whom functions have been delegated by virtue of section 4H(1)(b), and
 - (e) a member of the civilian staff of such a police force (as defined by section 102(4) of the Police Reform and Social Responsibility Act 2011) to whom functions have been delegated by virtue of section 4H(1)(b).
- (3) The power conferred by subsection (1)(a) or (b) includes power to apply (with or without modifications) any provision made under a fire and rescue enactment or make provision corresponding or similar to any such provision.
- (4) The Secretary of State may by order amend, revoke or repeal a provision of or made under an enactment in consequence of provision made by virtue of subsection (1).
- (5) In this section “fire and rescue enactment” means an enactment relating to a fire and rescue authority (including, in particular, an enactment relating to an employee of such an authority or property of such an authority).
- This includes an enactment contained in this Act.
- (6) References in this section to an enactment or to provision made under an enactment are to an enactment whenever passed or (as the case may be) to provision whenever the instrument containing it is made.

4M Application of local policing provisions

- (1) Schedule A2 makes provision about the application, in relation to a fire and rescue authority created by an order under section 4A, of legislation relating to police and crime commissioners.
- (2) The Secretary of State may by order—
- (a) apply (with or without modifications) any provision of a local policing enactment in relation to a fire and rescue authority created by an order under section 4A;
 - (b) make, in relation to a fire and rescue authority created by an order under section 4A, provision corresponding or similar to any provision of a local policing enactment.
- (3) The power conferred by subsection (2)(a) or (b) includes power to apply (with or without modifications) any provision made by or under a local policing enactment or make provision corresponding or similar to any such provision.
- (4) The Secretary of State may by order amend, revoke or repeal a provision of or made under an enactment in consequence of provision made by virtue of subsection (2).

(5) In this section “local policing enactment” means an enactment relating to a police and crime commissioner.

(6) References in this section to an enactment or to provision made under an enactment are to an enactment whenever passed or (as the case may be) to provision whenever the instrument containing it is made.”

6 Before section 5A insert—

“Powers of certain fire and rescue authorities”.

7 In section 5A (powers of certain fire and rescue authorities) in subsection (3) (authorities to which powers apply)—

(a) omit the “or” at the end of paragraph (c), and

(b) at the end of paragraph (d) insert “, or

(e) created by an order under section 4A.”

8 After section 5L insert—

“Interpretation of Part 1

5M Interpretation of Part 1

In this Part—

“City of London police area” means the City of London as defined for the purposes of the Acts relating to the City of London police force;

“metropolitan police district” means that district as defined in section 76 of the London Government Act 1963;

“police area” means a police area listed in Schedule 1 to the Police Act 1996 (police areas outside London).”

9 In section 21 (Fire and Rescue National Framework) after subsection (2) insert—

“(2A) The Framework may contain different provision for different descriptions of fire and rescue authority.”

10 After section 25 (but before the italic heading before section 26) insert—

“Police and crime plan

25A Police and crime plan

A fire and rescue authority created by an order under section 4A must, in carrying out its functions, have regard to the police and crime plan issued by the police and crime commissioner for the police area—

(a) which corresponds to the area of the fire and rescue authority, or

(b) within which the area of the fire and rescue authority falls.”

11 In section 34 (pensions etc) after subsection (10) insert—

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- “(11) References in subsection (1) to persons who are or have been employed by a fire and rescue authority include persons who are or have been employed by the chief constable of the police force for a police area having been—
- (a) transferred to the chief constable under a scheme made under section 4I(1), or
 - (b) appointed by the chief constable under section 4I(4).
- (12) References in the other provisions of this section to a fire and rescue authority include a chief constable of the police force for a police area who employs persons of the kind mentioned in subsection (11).”

12 For section 37 (prohibition on employment of police) substitute—

“37 Prohibition on employment of police in fire-fighting

- (1) No member of a police force may be employed by a fire and rescue authority or a relevant chief constable for the purpose of—
 - (a) extinguishing fires, or
 - (b) protecting life and property in the event of fires.
- (2) Subsection (1) does not prevent the exercise of functions under section 7 (fire-fighting) by—
 - (a) a relevant chief constable, or
 - (b) a deputy chief constable to whom such functions have been delegated by a relevant chief constable.
- (3) In this section “relevant chief constable” means the chief constable of a police force for a police area to whom functions of a fire and rescue authority have been delegated under an order under section 4H.”

13 Before Schedule 1 insert—

“SCHEDULE
A1

Sections 4A(7) and
4H(7)

PROCEDURE FOR ORDERS UNDER SECTION 4A

Proposal for order under section 4A

- 1 (1) A proposal for an order under section 4A (a “section 4A proposal”) must contain an assessment of why—
 - (a) it is in the interests of economy, efficiency and effectiveness for the order to be made, or
 - (b) it is in the interests of public safety for the order to be made.
- (2) If the proposal suggests that an order under section 4A should be combined with an order under section 4H (delegation to chief constable for police area), the suggestion must set out the reasons for that suggestion.

Duty of relevant fire and rescue authority to cooperate in preparation of proposal

- 2 (1) A relevant fire and rescue authority must cooperate with a relevant police and crime commissioner in the preparation of a section 4A proposal.
- (2) A relevant fire and rescue authority must, in particular, provide a relevant police and crime commissioner with such information held by the authority as the commissioner reasonably requires for the purposes of the preparation of the proposal.
- (3) Sub-paragraph (2) does not require the authority to provide information if to do so would breach—
 - (a) any obligation of confidence owed by the authority, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (4) Sub-paragraphs (1) and (2) do not apply if the proposal is for an order to create a fire and rescue authority for an area which, before the order is made, contains only the areas of two or more fire and rescue authorities created by order under section 4A.

Consultation on proposal

- 3 (1) Before submitting a section 4A proposal to the Secretary of State, a relevant police and crime commissioner must—
 - (a) consult each relevant local authority about the proposal,
 - (b) consult people in the commissioner's police area about the proposal,
 - (c) consult each of the following about the proposal—
 - (i) persons appearing to the commissioner to represent employees who may be affected by the proposal;
 - (ii) persons appearing to the commissioner to represent members of a police force who may be so affected, and
 - (d) publish, in such manner as the commissioner thinks appropriate, the commissioner's response to the representations made or views expressed in response to those consultations.
- (2) Each consultation under sub-paragraph (1) is to be carried out in such manner as the relevant police and crime commissioner thinks appropriate.

Provision of representations to Secretary of State

- 4 (1) Sub-paragraphs (2) to (4) apply if, in response to a consultation by a relevant police and crime commissioner under paragraph 3(1)(a), a relevant local authority indicates that it does not support a section 4A proposal.
- (2) The commissioner must, in submitting the proposal to the Secretary of State, provide the Secretary of State with—

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- (a) copies of each document provided by the commissioner for the purposes of paragraph 3,
 - (b) copies of each representation made by a relevant local authority in response,
 - (c) a summary of the views expressed by people in the commissioner’s police area about the proposal,
 - (d) a summary of the views expressed about the proposal by persons consulted under paragraph 3(1)(c), and
 - (e) the commissioner’s response to those representations and views.
- (3) The Secretary of State must—
- (a) obtain an independent assessment of the proposal, and
 - (b) have regard to that assessment and to the material provided to the Secretary of State under sub-paragraph (2) in deciding whether to make an order under section 4A in response to the proposal.
- (4) The Secretary of State must publish the independent assessment—
- (a) as soon as is reasonably practicable after making a determination in response to the proposal, and
 - (b) in such manner as the Secretary of State thinks appropriate.

Decision by Secretary of State

- 5
- (1) Subject to sub-paragraphs (2) and (3), the Secretary of State may, in making an order under section 4A, give effect to the proposal for the order with such modifications as the Secretary of State thinks appropriate.
 - (2) If paragraph 1(2) applies to the proposal, the Secretary of State may not in response to the proposal make an order under section 4A which is not combined with an order under section 4H.
 - (3) Before making an order which gives effect to the proposal for the order with modifications, the Secretary of State must consult the following on the modifications—
 - (a) the relevant police and crime commissioner;
 - (b) each relevant local authority.

Interpretation

- 6
- (1) In this Schedule “section 4A proposal” has the meaning given by paragraph 1(1).
 - (2) In this Schedule “relevant police and crime commissioner”, in relation to a section 4A proposal, means a police and crime commissioner—
 - (a) whose police area is the same as, or contains all of, the area of the fire and rescue authority proposed to be created by the order, or
 - (b) all or part of whose police area falls within the area of that fire and rescue authority.

- (3) Any changes to the police areas contained in the proposal are to be disregarded in determining who is a relevant police and crime commissioner for the purposes of sub-paragraph (2).
- (4) If there is more than one relevant police and crime commissioner in relation to a section 4A proposal, references in this Schedule to the relevant police and crime commissioner are to all of those police and crime commissioners acting jointly.
- (5) In this Schedule “relevant fire and rescue authority”, in relation to a section 4A proposal prepared by a police and crime commissioner, means a fire and rescue authority—
- (a) whose area is the same as, or contains all of, the police area of the police and crime commissioner, or
 - (b) all or part of whose area falls within the police area of the police and crime commissioner.
- (6) In this Schedule “relevant local authority”, in relation to a section 4A proposal, means a local authority—
- (a) whose area is the same as, or contains all of, the area of the fire and rescue authority proposed to be created by the order, or
 - (b) all or part of whose area falls within the area of that fire and rescue authority.
- (7) In sub-paragraph (6) “local authority” means—
- (a) a county council,
 - (b) a district council for an area for which there is no county council,
 - (c) the Council of the Isles of Scilly, or
 - (d) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 which exercises the functions of a fire and rescue authority by virtue of section 105 or 105A of that Act.

Application of this Schedule to certain orders under section 4H

- 7 (1) This paragraph makes provision about the application of this Schedule to an order under section 4H which is not combined, or proposed to be combined, with an order under section 4A (a “section 4H order”).
- (2) Subject as follows, this Schedule applies to a section 4H order as it applies to an order under section 4A.
- (3) The following provisions of this Schedule do not apply in relation to a section 4H order—
- (a) paragraph 1(2);
 - (b) paragraph 5(2);
 - (c) paragraph 6.
- (4) In the application of this Schedule to a section 4H order—
- (a) “relevant police and crime commissioner” means the police and crime commissioner for the police area—

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- (i) which corresponds to the area of the fire and rescue authority to which the order relates, or
- (ii) within which the area of that fire and rescue authority falls;
- (b) “relevant fire and rescue authority” means that fire and rescue authority, and
- (c) “relevant local authority” means a local authority (within the meaning of paragraph 6(7))—
 - (i) whose area is the same as, or contains all of, the area of that fire and rescue authority, or
 - (ii) all or part of whose area falls within the area of that fire and rescue authority.

SCHEDULE A2

Section 4M(1)

APPLICATION OF LEGISLATION RELATING TO POLICE AND CRIME COMMISSIONERS

Introductory

- 1 (1) This Schedule makes provision about the application of certain enactments relating to police and crime commissioners to a relevant fire and rescue authority.
- (2) In this Schedule—
 - “relevant chief constable”, in relation to a relevant fire and rescue authority, means the chief constable of a police force (if any) to whom functions of the authority have been delegated under provision made under section 4H;
 - “relevant fire and rescue authority” means a fire and rescue authority created by an order under section 4A;
 - “relevant police and crime panel”, in relation to a relevant fire and rescue authority, means the police and crime panel for the police area—
 - (a) which corresponds to the area of the fire and rescue authority, or
 - (b) within which the area of the fire and rescue authority falls.
- (3) In this Schedule “fire and rescue plan” means a document which—
 - (a) is prepared and published by a relevant fire and rescue authority in accordance with the Fire and Rescue National Framework, and
 - (b) sets out the authority’s priorities and objectives, for the period covered by the document, in connection with the discharge of the authority’s functions.
- (4) In this Schedule “fire and rescue statement” means a document which—
 - (a) is prepared and published by a relevant fire and rescue authority in accordance with the Fire and Rescue National Framework, and

- (b) contains a statement of the way in which the authority has had regard, in the period covered by the document, to the Framework and to any fire and rescue plan prepared by the authority for that period.

Arrangements for obtaining the views of the community

- 2 (1) Subsections (1), (1B), (2), (5A) and (5B) of section 96 of the Police Act 1996 (arrangements for obtaining the views of the community on policing) apply in relation to a relevant fire and rescue authority as they apply in relation to an elected local policing body, subject to sub-paragraph (2).
- (2) As applied by sub-paragraph (1), those subsections have effect as if—
 - (a) the reference in subsection (1) to each police area were to each area of a relevant fire and rescue authority,
 - (b) in that subsection, for paragraphs (a) and (b) and the words following those paragraphs there were substituted “the views of people in that area about fire and rescue services”,
 - (c) in subsections (1B) and (5A) the references to a police area listed in Schedule 1 to that Act were to the area of a relevant fire and rescue authority,
 - (d) the reference in subsection (2) to the police area were to the area of the relevant fire and rescue authority, and
 - (e) the reference in that subsection to the chief officer of police for that police area were to the relevant chief constable.

Scrutiny of fire and rescue plan

- 3 (1) Subsections (6) to (12) of section 5 of the Police Reform and Social Responsibility Act 2011 (scrutiny of police and crime plans) apply in relation to a relevant fire and rescue authority as they apply in relation to an elected local policing body, subject to sub-paragraph (2).
- (2) As applied by sub-paragraph (1), those subsections have effect as if—
 - (a) references to a police and crime plan were to a fire and rescue plan,
 - (b) references to the relevant chief constable (within the meaning of that section) were to the relevant chief constable (within the meaning of this Schedule),
 - (c) references to the relevant police and crime panel (within the meaning of that Act) were to the relevant police and crime panel (within the meaning of this Schedule),
 - (d) in subsection (9), paragraph (b)(ii) and the words following that paragraph were omitted, and
 - (e) in subsection (10)(a) the words from “and to each” to “relevant police area” were omitted.

Information for public

- 4 (1) Section 11 of the Police Reform and Social Responsibility Act 2011 (information for public etc) applies in relation to a relevant fire and

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rescue authority as it applies in relation to an elected local policing body, subject to sub-paragraph (2).

- (2) As applied by sub-paragraph (1), that section has effect as if—
- (a) references to the relevant chief officer of police were to the relevant chief constable, and
 - (b) references to the chief officer's functions were to the relevant chief constable's fire and rescue functions.

Scrutiny of fire and rescue statement

- 5 (1) Subsections (2) to (5) of section 12 of the Police Reform and Social Responsibility Act 2011 (annual reports) apply in relation to a relevant fire and rescue authority as they apply in relation to an elected local policing body, subject to sub-paragraph (2).
- (2) As applied by sub-paragraph (1), those subsections have effect as if—
- (a) references to an annual report were to a fire and rescue statement, and
 - (b) references to the relevant police and crime panel (within the meaning of that Act) were to the relevant police and crime panel (within the meaning of this Schedule).

Information for police and crime panels

- 6 (1) Section 13 of the Police Reform and Social Responsibility Act 2011 (information for police and crime panels) applies in relation to a relevant fire and rescue authority as it applies in relation to an elected local policing body, subject to sub-paragraph (2).
- (2) As applied by sub-paragraph (1), that section has effect as if—
- (a) references to the relevant police and crime panel (within the meaning of that Act) were to the relevant police and crime panel (within the meaning of this Schedule), and
 - (b) in subsection (2), paragraphs (a) to (c) were omitted.

Duties when carrying out functions

- 7 (1) Subsections (1), (2) and (4) to (7) of section 17 of the Police Reform and Social Responsibility Act 2011 (duties when carrying out functions) apply in relation to a relevant fire and rescue authority as they apply in relation to an elected local policing body, subject to sub-paragraph (2).
- (2) As applied by sub-paragraph (1), those subsections have effect as if—
- (a) the reference in subsection (1) to policing in an elected local policing body's area were to fire and rescue services in the relevant fire and rescue authority's area,
 - (b) the reference in subsection (2) to the relevant police and crime panel (within the meaning of that Act) were to the relevant police and crime panel (within the meaning of this Schedule),
 - (c) the reference in that subsection to any report or recommendations made by the panel on the annual report for the previous financial year were to any report or recommendations

made by the panel with respect to the discharge of the relevant fire and rescue authority's functions, and

- (d) the reference in subsection (7) to elected local policing bodies were to relevant fire and rescue authorities.

Powers of police and crime panels

- 8 (1) Subsections (2) to (9) and (11) of section 28 of the Police Reform and Social Responsibility Act 2011 (police and crime panels outside London) apply in relation to a relevant fire and rescue authority as they apply in relation to a police and crime commissioner, subject to sub-paragraph (2).
- (2) As applied by sub-paragraph (1), those subsections have effect as if—
- (a) references to the police and crime panel or a police and crime panel were to the relevant police and crime panel,
 - (b) the references in subsection (3) to the draft police and crime plan were to the draft fire and rescue plan,
 - (c) the references in subsection (4) to an annual report were to a fire and rescue statement,
 - (d) the references in subsections (5) and (6) to Schedules 1 and 5 were to those Schedules as applied by this Schedule,
 - (e) the references in those subsections to Schedule 8 were omitted, and
 - (f) the second reference in subsection (8) to the police area were to the area of the relevant fire and rescue authority.

Power to require attendance and information

- 9 (1) Section 29 of the Police Reform and Social Responsibility Act 2011 (power to require attendance and information) applies in relation to a relevant fire and rescue authority as it applies in relation to a police and crime commissioner, subject to sub-paragraph (2).
- (2) As applied by sub-paragraph (1), that section has effect as if—
- (a) references to the police and crime panel or a police and crime panel were to the relevant police and crime panel, and
 - (b) the reference in subsection (6) to the relevant chief constable (within the meaning of that section) were to the relevant chief constable (within the meaning of this Schedule).

Conduct of fire and rescue authority

- 10 Section 31 of the Police Reform and Social Responsibility Act 2011 (conduct of police and crime commissioner etc) applies in relation to a holder of the office of relevant fire and rescue authority as it applies in relation to a holder of the office of police and crime commissioner.

Scrutiny of appointment of chief finance officer

- 11 (1) Paragraphs 9(1)(b) and (2) and 10 to 12 of Schedule 1 to the Police Reform and Social Responsibility Act 2011 (scrutiny of appointment

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of chief finance officer) apply in relation to a relevant fire and rescue authority as they apply in relation to a police and crime commissioner, subject to sub-paragraph (2).

- (2) As applied by sub-paragraph (1), those paragraphs have effect as if—
- (a) the references in paragraph 9 to the relevant police and crime panel (within the meaning of that Act) were to the relevant police and crime panel (within the meaning of this Schedule),
 - (b) the reference in paragraph 9(1)(b) to the commissioner’s chief finance officer were to the relevant fire and rescue authority’s chief finance officer within the meaning of section 4D of this Act,
 - (c) the references in paragraphs 10, 11 and 12 to the police and crime panel or a police crime panel were to the relevant police and crime panel, and
 - (d) paragraph 10(9) defined “relevant post-election period” as the period that—
 - (i) begins with the day of the poll at an ordinary election under section 50 of the Police Reform and Social Responsibility Act 2011 of the police and crime commissioner for the relevant police area, and
 - (ii) ends with the day on which the person elected as that police and crime commissioner delivers a declaration of acceptance of office under section 70 of that Act.
- (3) In sub-paragraph (2)(d)(i) “the relevant police area” means the police area—
- (a) which corresponds to the area of the relevant fire and rescue authority, or
 - (b) within which the area of the relevant fire and rescue authority falls.

Scrutiny of precepts

- 12 (1) Schedule 5 to the Police Reform and Social Responsibility Act 2011 (issuing precepts) applies in relation to a relevant fire and rescue authority as it applies in relation to a police and crime commissioner, subject to sub-paragraph (2).
- (2) As applied by sub-paragraph (1), that Schedule has effect as if references to the relevant police and crime panel (within the meaning of that Act) or to the police and crime panel were to the relevant police and crime panel (within the meaning of this Schedule).

Regulations about complaints and conduct matters

- 13 (1) Schedule 7 to the Police Reform and Social Responsibility Act 2011 (regulations about complaints and conduct matters) applies in relation to a holder of the office of relevant fire and rescue authority as it applies in relation to a holder of the office of police and crime commissioner, subject to sub-paragraph (2).

- (2) As applied by sub-paragraph (1), that Schedule has effect as if references to police and crime panels were to relevant police and crime panels.”

PART 2

AMENDMENTS TO OTHER ACTS

Fire Services Act 1947 (c. 41)

- 14 In section 26 of the Fire Services Act 1947 (firefighters’ pension scheme) (as continued in force by order under section 36 of the Fire and Rescue Services Act 2004) after subsection (5) insert—

“(5A) References in this section to employment as a member of a fire brigade or on duties connected with the provision of fire services include employment by the chief constable of the police force for a police area as a result of—

- (a) a transfer to the chief constable under a scheme made under section 4I(1) of the Fire and Rescue Services Act 2004, or
- (b) an appointment by the chief constable under section 4I(4) of that Act.

(5B) References in this section to a fire authority include the chief constable of the police force for a police area who employs persons as mentioned in subsection (5A).”

Landlord and Tenant Act 1954 (c. 56)

- 15 In section 69(1) of the Landlord and Tenant Act 1954 (interpretation) in the definition of “local authority” for “or a combined authority established under section 103 of that Act” substitute “, a combined authority established under section 103 of that Act or a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004”.

Local Government Act 1966 (c. 42)

- 16 In section 11 of the Local Government Act 1966 (grants for certain expenditure due to ethnic minority population) in subsection (2) (bodies to which the section applies) after “This section shall apply to” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004,”.

Leasehold Reform Act 1967 (c. 88)

- 17 The Leasehold Reform Act 1967 is amended as follows.
- 18 In section 28 (retention or resumption of land required for public purposes) in subsection (5)(a) (application to local authorities) after “any combined authority established under section 103 of that Act,” insert “any fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004,”.
- 19 In Schedule 4A (exclusion of certain shared ownership leases) in paragraph 2(2) (leases granted by certain local authorities: bodies to which the exclusion applies) after paragraph (b) insert—

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“(ba) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

Local Government Grants (Social Need) Act 1969 (c. 2)

20 In section 1 of the Local Government Grants (Social Need) Act 1969 (grants for special social needs) in subsection (3) (meaning of “local authority”) after “shall also include” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

Employers’ Liability (Compulsory Insurance) Act 1969 (c. 57)

21 In section 3(2)(b) of the Employers’ Liability (Compulsory Insurance) Act 1969 (employers exempted from insurance: employers to which the exemption applies) after “a combined authority established under section 103 of that Act,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

Local Authorities (Goods and Services) Act 1970 (c. 39)

22 In section 1 of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities) in subsection (4) (interpretation) after “any combined authority established under section 103 of that Act,” insert “any fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

Local Government Act 1972 (c. 70)

23 The Local Government Act 1972 is amended as follows.

24 In section 120 (acquisition of land by agreement) after subsection (3A) insert—

“(3B) A fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 is to be treated as a principal council for the purposes of this section (apart from subsection (1)(b)).”

25 In section 138C(1) (application of provisions about religious etc observance and involvement with religious etc events) after paragraph (p) insert—

“(pa) a fire and rescue authority created by an order under section 4A of that Act, but only for the purposes of section 138B;”.

26 In section 222 (power of local authority to prosecute or defend legal proceedings) in subsection (2) (application to bodies other than local authorities) after “the Common Council” insert “and a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004”.

27 In section 223 (appearance of local authorities in legal proceedings) in subsection (2) (application to bodies other than local authorities) after “a combined authority,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

28 In section 229 (photographic copies of documents) in subsection (8) (meaning of “local authority”) after “a combined authority,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

- 29 In section 231 (service of notices on local authorities, etc) in subsection (4) (meaning of “local authority”) after “a combined authority,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.”
- 30 In section 232 (public notices) in subsection (1A) (meaning of “local authority”) after “a combined authority,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.”
- 31 In section 233 (service of notices by local authorities) in subsection (11) (meaning of “local authority”) after “a combined authority,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.”
- 32 In section 234 (authentication of documents) in subsection (4) (meaning of “local authority”) after “a combined authority,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.”

Employment Agencies Act 1973 (c. 35)

- 33 In section 13(7) of the Employment Agencies Act 1973 (activities to which the Act does not apply) after paragraph (fh) insert—
- “(fi) the exercise by a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 of any of its functions;”

Local Government Act 1974 (c. 7)

- 34 In section 25(1) of the Local Government Act 1974 (authorities subject to investigation) after paragraph (bg) insert—
- “(bh) a fire and rescue authority created by an order under section 4A of that Act;”

Health and Safety at Work etc Act 1974 (c. 37)

- 35 In section 28(6) of the Health and Safety at Work etc Act 1974 (restrictions on disclosure of information: meaning of local authority) after “a combined authority established under section 103 of that Act” insert “, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004”.

Local Government (Miscellaneous Provisions) Act 1976 (c. 57)

- 36 In section 44(1) of the Local Government (Miscellaneous Provisions) Act 1976 (interpretation of Part 1) in paragraph (a) of the definition of “local authority” after “a combined authority established under section 103 of that Act” insert “, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004”.

Rent (Agriculture) Act 1976 (c. 80)

- 37 In section 5(3) of the Rent (Agriculture) Act 1976 (tenancies which are not statutory tenancies) after paragraph (bbb) insert—
- “(bbc) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”

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Rent Act 1977 (c. 42)

- 38 In section 14(1) of the Rent Act 1977 (tenancies which are not protected tenancies) after paragraph (cc) insert—
- “(cd) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

Protection from Eviction Act 1977 (c. 43)

- 39 In section 3A(8)(a) of the Protection from Eviction Act 1977 (excluded tenancies and licences: licences to occupy local authority etc hostels) after “the Inner London Education Authority,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

Local Government, Planning and Land Act 1980 (c. 65)

- 40 The Local Government, Planning and Land Act 1980 is amended as follows.
- 41 In section 99 (disposal of land at direction of Secretary of State - supplementary) in subsection (4) (authorities who may make representations about directions) after paragraph (dbb) insert—
- “(dbc) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.
- 42 In Schedule 16 (bodies to whom Part 10 applies) after paragraph 5BC insert—
- “5BD A fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.”

Acquisition of Land Act 1981 (c. 67)

- 43 In section 17(4) of the Acquisition of Land Act 1981 (local authority and statutory undertakers’ land: interpretation) in paragraph (a) of the definition of “local authority” after “the Common Council of the City of London,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

Local Government (Miscellaneous Provisions) Act 1982 (c. 30)

- 44 The Local Government (Miscellaneous Provisions) Act 1982 is amended as follows.
- 45 In section 33 (enforceability by local authorities of certain covenants relating to land) in subsection (9)(a) (meaning of “principal council”) after “the London Residuary Body,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.
- 46 In section 41 (lost and uncollected property) in subsection (13) (interpretation) in the definition of “local authority” after paragraph (ezb) insert—
- “(ezc) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.
- 47 In section 45 (arrangements under Employment and Training Act 1973) in subsection (2) (local authorities to which section applies) after paragraph (c) (but before the “and” at the end of that paragraph) insert—
- “(ca) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

County Courts Act 1984 (c. 28)

- 48 In section 60(3) of the County Courts Act 1984 (right of audience of local authority: interpretation) in the definition of “local authority” after “a combined authority established under section 103 of that Act,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.”.

Housing Act 1985 (c. 68)

- 49 In section 4(1)(e) of the Housing Act 1985 (other descriptions of authority: local authorities) after “a combined authority” in both places insert “, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004”.

Landlord and Tenant Act 1985 (c.70)

- 50 In section 38 of the Landlord and Tenant Act 1985 (minor definitions) in the definition of “local authority” after “a combined authority established under section 103 of that Act” insert “, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004”.

Local Government Act 1986 (c. 10)

- 51 The Local Government Act 1986 is amended as follows.
- 52 In section 6(2)(a) (meaning of “local authority” for the purposes of Part 2) after the entry relating to a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 insert—
“a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004,”.
- 53 In section 9(1)(a) (meaning of “local authority” for the purposes of Part 3) after the entry relating to a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009 insert—
“a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004,”.

Landlord and Tenant Act 1987 (c.31)

- 54 In section 58(1) of the Landlord and Tenant Act 1987 (exempt landlords) in paragraph (a) (local authorities) after “the Common Council of the City of London,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004,”.

Local Government Act 1988 (c. 9)

- 55 In Schedule 2 to the Local Government Act 1988 (public supply or works contracts: the public authorities) in the entry relating to a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 and other fire and rescue authorities, after “applies” insert “, a fire and rescue authority created by an order under section 4A of that Act”.

Housing Act 1988 (c. 50)

- 56 The Housing Act 1988 is amended as follows.
- 57 In section 74(8) (transfer of land etc to housing action trusts: meaning of “local authority”) after paragraph (fb) insert—
- “(fc) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.
- 58 In Part 1 of Schedule 1 (tenancies which cannot be assured tenancies) in paragraph 12(2) (local authority tenancies: meaning of “local authority”) after paragraph (e) insert—
- “(ea) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

Road Traffic Act 1988 (c. 52)

- 59 In section 144(2)(a)(i) of the Road Traffic Act 1988 (exceptions from the requirement for third party insurance) after “the Inner London Education Authority,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

Local Government and Housing Act 1989 (c. 42)

- 60 The Local Government and Housing Act 1989 is amended as follows.
- 61 In section 1(9) (meaning of politically restricted post under a local authority) at the end insert “, and every member of staff of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.”
- 62 (1) Section 4 (designation and reports of head of paid service) is amended as follows.
- (2) In subsection (4) after paragraph (a) insert—
- “(aa) in the case of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, to the authority and to the police and crime panel for the police area—
- (i) which corresponds to the authority’s area, or
- (ii) within which the area of the authority falls;”.
- (3) After subsection (5A) insert—
- “(5B) It shall be the duty of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 to consider any report under this section by the head of the authority’s paid service and to do so no later than three months after the authority is sent a copy of the report.”
- (4) In subsection (6)(a) for “and an elected local policing body” substitute “, an elected local policing body and a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004”.
- 63 (1) Section 5 (designation and reports of monitoring officer) is amended as follows.
- (2) In subsection (3) after the second paragraph (a) insert—
- “(aa) in the case of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, to the authority and to the police and crime panel for the police area—

- (i) which corresponds to the authority’s area, or
- (ii) within which the area of the authority falls;”.

(3) In subsection (5)(a) after sub-paragraph (i) insert—

“(ia) in the case of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, no later than three months after the authority is sent a copy of the report;”.

(4) In subsection (8)—

- (a) in the definition of “chief finance officer” after “Schedule 1 to the Police Reform and Social Responsibility Act 2011” insert “, section 4D(4) of the Fire and Rescue Services Act 2004”, and
- (b) in paragraph (a) of the definition of “relevant authority” for “and an elected local policing body” substitute “, an elected local policing body and a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004”.

64 In section 21 (interpretation of Part 1) after subsection (1) insert—

“(1A) In section 7 references to a local authority include a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.

(1B) In the application of section 1(1) to a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 by virtue of subsection (1A) the reference to being or remaining a member of a local authority is to be read as a reference to becoming or remaining such an authority.”

65 In section 152(2) (meaning of “relevant authority” for the purposes of sections 150 and 151) after paragraph (f) insert—

“(fa) a fire and rescue authority created by an order under section 4A of that Act;”.

66 In section 155(4) (emergency financial assistance to local authorities: meaning of “local authority”) after paragraph (h) insert—

“(ha) a fire and rescue authority created by an order under section 4A of that Act;”.

67 Until the coming into force of the repeal of section 67 of the Local Government and Housing Act 1989 (application of provisions about companies in which local authorities have interests) by the Local Government and Public Involvement in Health Act 2007, subsection (3) of that section has effect as if after paragraph (h) there were inserted—

“(ha) a fire and rescue authority created by an order under section 4A of that Act;”.

Town and Country Planning Act 1990 (c. 8)

68 The Town and Country Planning Act 1990 is amended as follows.

69 In section 252 (procedures for highways orders) in the definition of “local authority” in subsection (12) after “a combined authority established under section 103 of that

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Act,” insert “a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.”.

- 70 In Schedule 14 (procedure for footpaths and bridleway orders) in paragraph 1(3) (meaning of “council”) for “or a combined authority established under section 103 of that Act” substitute “, a combined authority established under section 103 of that Act or a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004”.

Local Government Finance Act 1992 (c. 14)

- 71 (1) The Local Government Finance Act 1992 is amended as follows.
- (2) In section 39(1) (major precepting authorities) after paragraph (da) insert—
- “(db) a fire and rescue authority created by an order under section 4A of that Act;”.
- (3) In section 65(3) (duty of relevant authority to consult ratepayers: meaning of “relevant authority”) after “apart from a police and crime commissioner” insert “or a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.”.

Local Government (Overseas Assistance) Act 1993 (c. 25)

- 72 In section 1 of the Local Government (Overseas Assistance) Act 1993 (power to provide advice and assistance) in subsection (10) (other bodies) after paragraph (a) insert—
- “(aa) a fire and rescue authority created by an order under section 4A of that Act;”.

Deregulation and Contracting Out Act 1994 (c. 40)

- 73 The Deregulation and Contracting Out Act 1994 is amended as follows.
- 74 In section 70(1ZB) (functions of local authorities: application to certain fire and rescue authorities) after “applies” insert “or a fire and rescue authority created by an order under section 4A of that Act”.
- 75 In section 79A (local authorities in England) after paragraph (n) insert—
- “(na) a fire and rescue authority created by an order under section 4A of that Act;”.

Police Act 1996 (c. 16)

- 76 In section 63 of the Police Act 1996 (Police Advisory Board for England and Wales), at the end insert—
- “(4) Section 4K of the Fire and Rescue Services Act 2004 also imposes a requirement on the Secretary of State to consult the Police Advisory Board for England and Wales.”

Crime and Disorder Act 1998 (c. 37)

- 77 The Crime and Disorder Act 1998 is amended as follows.

- 78 In section 5(5) (authorities responsible for strategies: interpretation) in the definition of “fire and rescue authority” after paragraph (a) insert—
- “(aa) a fire and rescue authority created by an order under section 4A of that Act;”.
- 79 In section 17(2) (duty to consider crime and disorder implications: authorities to which duty applies) after the entry relating to a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies insert—
- “a fire and rescue authority created by an order under section 4A of that Act;”.
- 80 In section 115(2) (disclosure of information: meaning of relevant authority) after paragraph (i) insert—
- “(ia) a fire and rescue authority created by an order under section 4A of that Act;”.

Freedom of Information Act 2000 (c. 36)

- 81 In Part 2 of Schedule 1 to the Freedom of Information Act 2000 (public authorities: local government) after paragraph 14 insert—
- “14A A fire and rescue authority created by an order under section 4A of that Act.”

Police Reform Act 2002 (c. 30)

- 82 In section 38 of the Police Reform Act 2002 (police powers for civilian staff) after subsection (11) insert—
- “(11A) In the case of a police force maintained for a police area in England in accordance with section 2 of the Police Act 1996, the following are also relevant employees for the purposes of this section—
- (a) any member of staff transferred to the chief constable of the police force under a scheme made under section 4I(1) of the Fire and Rescue Services Act 2004 (transfer of property, rights and liabilities to chief constable to whom fire functions of a fire and rescue authority may be delegated);
- (b) any member of staff appointed by that chief constable under section 4I(4) of that Act (appointment of staff by chief constable to whom fire functions of a fire and rescue authority may be delegated).”

Local Government Act 2003 (c. 26)

- 83 (1) The Local Government Act 2003 is amended as follows.
- (2) In section 23(1) (local authorities to which the provisions about capital finance etc and accounts apply) after paragraph (m) insert—
- “(ma) a fire and rescue authority created by an order under section 4A of that Act;”.
- (3) In section 33(1) (expenditure grant: interpretation) after paragraph (l) insert—

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“(la) a fire and rescue authority created by an order under section 4A of that Act;”.

(4) In section 95(7) (power to trade in function-related activities through a company: interpretation) in the definition of “relevant authority” after paragraph (ab) insert—

“(ac) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

(5) In section 97(11) (power to modify enactments in connection with charging or trading: interpretation) in the definition of “relevant authority” after paragraph (aa) insert—

“(ab) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

Local Government and Public Involvement in Health Act 2007 (c. 28)

84 In section 104 of the Local Government and Public Involvement in Health Act 2007 (partner authorities) in subsection (5) (meaning of “fire and rescue authority”) after paragraph (a) insert—

“(aa) a fire and rescue authority created by an order under section 4A of that Act;”.

Equality Act 2010 (c. 15)

85 In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities) after the entry relating to a fire and rescue authority constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies insert—

“A fire and rescue authority created by an order under section 4A of that Act.”

Police Reform and Social Responsibility Act 2011 (c. 13)

86 The Police Reform and Social Responsibility Act 2011 is amended as follows.

87 (1) Section 1 (police and crime commissioners) is amended as follows.

(2) In subsection (3) for “The” substitute “Unless subsection (3B) applies, the”.

(3) After subsection (3) insert—

“(3A) Subsection (3B) applies if the person who is the police and crime commissioner for a police area is also the fire and rescue authority for the area which corresponds to, or an area which falls within, the police area.

(3B) In that case the name of the police and crime commissioner is “the Police, Fire and Crime Commissioner for” with the addition of the name of the police area.”

88 In section 5 (police and crime commissioner to issue police and crime plan) after subsection (5) insert—

“(5A) Subsections (5B) to (5E) apply to a police and crime commissioner for a police area—

- (a) which corresponds to the area of a fire and rescue authority created by an order under section 4A, or
- (b) within which the area of such a fire and rescue authority falls.
- (5B) Subject to subsection (5E), in issuing or varying a police and crime plan, the police and crime commissioner must have regard to—
- (a) the current Fire and Rescue National Framework prepared under section 21 of the Fire and Rescue Services Act 2004, and
- (b) the last document prepared and published by the fire and rescue authority in accordance with that Framework which sets out the authority’s priorities and objectives, for the period covered by the document, in connection with the discharge of the authority’s functions.
- (5C) A police and crime plan which the police and crime commissioner is required to prepare may be prepared jointly by the commissioner and the fire and rescue authority.
- (5D) If the police and crime commissioner and the fire and rescue authority prepare a joint police and crime plan, the plan must also set out the fire and rescue authority’s priorities and objectives, for the period of the plan, in connection with the discharge of the authority’s functions.
- (5E) Subsection (5B)(b) does not apply to a joint police and crime plan.”
- 89 In section 28 (police and crime panels outside London) after subsection (1) insert—
- “(1A) Subsection (1B) applies if the person who is the police and crime commissioner for a police area is also the fire and rescue authority for the area which corresponds to, or an area which falls within, the police area.
- (1B) The police and crime panel for the police area is to be known as “the Police, Fire and Crime Panel”.”
- 90 In section 66 (disqualification from election or holding office as police and crime commissioner: other grounds) after subsection (9) insert—
- “(10) Subsection (11) applies to the police and crime commissioner for a police area if, by virtue of an order under section 4A of the Fire and Rescue Services Act 2004, the person who is for the time being the commissioner for that area is also the fire rescue authority for an area which corresponds to or falls within the police area.
- (11) A person is disqualified from being elected as, or being, that police and crime commissioner if the person is employed by—
- (a) a fire and rescue authority within section 1(2) or (3) of the Fire and Rescue Services Act 2004,
- (b) a fire and rescue authority constituted by a scheme under section 2 of that Act or a scheme to which section 4 of that Act relates, or
- (c) a fire and rescue authority created by an order under section 4A of that Act.”
- 91 In Schedule 1 (police and crime commissioners) in paragraph 2 (salary etc) after subparagraph (3) insert—

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

“(4) Where the person who is the police and crime commissioner for a police area is also a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004, a determination under this paragraph in relation to that person may, in particular, take account of the fact that the person also exercises functions as that fire and rescue authority.”

92 (1) Schedule 6 (police and crime panels) is amended as follows.

(2) In paragraph 4(6) (functions of panels) at the end insert “or by, or by virtue of, the Fire and Rescue Services Act 2004.”

(3) In paragraph 22 (co-opted members of police and crime panels)—

- (a) the existing paragraph becomes sub-paragraph (1), and
- (b) at the end of that sub-paragraph insert—

“(2) Sub-paragraph (3) applies (as well as sub-paragraph (1)) in relation to a police and crime panel for a police area which, under or by virtue of the Fire and Rescue Services Act 2004, exercises functions in relation to a fire and rescue authority.

(3) A person may not be a co-opted member of the panel if the person is—

- (a) a member of staff of the fire and rescue authority, or
- (b) if an order under section 4H of that Act is in force in relation to that authority, a member of staff of the chief constable of the police force for the police area who has been—
 - (i) transferred to the chief constable under a scheme made under subsection 4I(1) of that Act, or
 - (ii) appointed by the chief constable under section 4I(4) of that Act.”

(4) In paragraph 27 (exercise of special functions) after sub-paragraph (2) insert—

“(3) The references in sub-paragraph (2) to section 28(3) and (4) and Schedule 5 include those provisions as applied in relation to a fire and rescue authority by virtue of Schedule A2 to the Fire and Rescue Services Act 2004.”

(5) After paragraph 32 insert—

“Duty to produce panel with fire and rescue expertise

32A (1) Sub-paragraph (2) applies in relation to a police and crime panel for a police area if—

- (a) a fire and rescue authority is created by an order under section 4A of the Fire and Rescue Services Act 2004, and
- (b) the area of the fire and rescue authority is the same as, or falls within, the police area.

(2) Each person listed in sub-paragraph (3)—

- (a) must consider whether the person could exercise a function conferred on the person by or by virtue of this Schedule to enable

the fire and rescue expertise objective to be met or to contribute to that objective being met, and

- (b) if the person considers that the person could exercise such a function to that end, must do so.

(3) Those persons are—

- (a) the panel,
 (b) a relevant local authority, and
 (c) the Secretary of State.

(4) The “fire and rescue expertise objective” referred to in this paragraph is the objective that members of the panel (when taken together) have the skills, knowledge and experience necessary for the panel effectively to discharge its functions in relation to the fire and rescue authority.”

93 In Schedule 8 (appointment, suspension and removal of senior police officers) in paragraph 2 (no appointment until end of confirmation process)—

- (a) in sub-paragraph (1A) for “A person” substitute insert “Subject to sub-paragraph (1AA), a person”, and
 (b) after sub-paragraph (1A) insert—

“(1AA) Where, under an order under section 4H of the Fire and Rescue Services Act 2004, functions of a fire and rescue authority are delegated to the chief constable of the police force for a police area, a person is eligible for appointment as that chief constable if the person—

- (a) has experience at a senior level in the provision of services provided under the Fire and Rescue Services Act 2004, and
 (b) has undertaken training in relation to policing matters of a kind that is specified by the College of Policing for the purposes of this paragraph.”

Localism Act 2011 (c. 20)

94 (1) The Localism Act 2011 is amended as follows.

(2) In section 41(3) (power of fire and rescue authority to appoint officers and employees to be subject to pay policy statement) after “43(1)(i)” insert “or (j)”.

(3) In section 43(1) (meaning of “relevant authority” for purposes of provisions on pay accountability)—

- (a) omit the “or” at the end of paragraph (h), and
 (b) at the end of paragraph (i) insert “, or
 (j) in relation only to sections 38, 40 and 41 and this section, a fire and rescue authority created by an order under section 4A of that Act.”

Public Service Pensions Act 2013 (c. 25)

95 In Schedule 1 to the Public Service Pensions Act 2013 (persons in public service: definitions) in paragraph 6 (fire and rescue workers) for the “or” at end of paragraph (a) substitute—

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- “(aa) the chief constable of the police force for a police area having been—
- (i) transferred to the chief constable under a scheme made under section 4I(1) of the Fire and Rescue Services Act 2004, or
 - (ii) appointed by the chief constable under section 4I(4) of that Act, or”.

Energy Act 2013 (c. 32)

96 In Part 3 of Schedule 9 to the Energy Act 2013 (protected information: permitted disclosures and restrictions on use) in paragraph 14(3) (local authorities and water authorities: interpretation) in the definition of “local authority” after paragraph (d) insert—

- “(da) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004;”.

Local Audit and Accountability Act 2014 (c. 2)

97 (1) The Local Audit and Accountability Act 2014 is amended as follows.

(2) In Schedule 2 (relevant authorities) after paragraph 22 insert—

“22A A fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.”

(3) In Schedule 7 (reports and recommendations by local auditor) in paragraph 5(7) (duty of certain authorities to consider report or recommendation) for “or the Mayor’s Office for Policing and Crime” substitute “, the Mayor’s Office for Policing and Crime or a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004”.

SCHEDULE 2

Section 9

THE LONDON FIRE COMMISSIONER

PART 1

AMENDMENTS TO THE GREATER LONDON AUTHORITY ACT 1999

1 The Greater London Authority Act 1999 is amended as follows.

2 In section 21 (disqualification from being the Mayor or an Assembly member) after subsection (1) insert—

“(1A) Subsection (1)(a) does not prevent a person appointed under section 67(1)(b) as the Deputy Mayor for Fire, or appointed under section 67(1)(b) and designated as the Deputy Mayor for Fire, from being elected as or being an Assembly member.”

3 In section 31(1) (limits of the Authority’s general power) for paragraph (c) substitute—

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- “(c) the London Fire Commissioner.”
- 4 (1) Section 45 (the Mayor’s periodic report to the Assembly) is amended as follows.
- (2) In subsection (6) omit “except as provided by subsection (7) below.”
- (3) Omit subsections (7) and (8).
- 5 (1) Section 60A (confirmation hearings etc for certain appointments by the Mayor) is amended as follows.
- (2) In subsection (3) (offices to which section 60A applies)—
- (a) before the entry for the chairman or deputy chairman of Transport for London insert—
- “London Fire Commissioner (see section 327A);
person appointed by the Mayor under section 67(1)(b) as the Deputy Mayor for Fire;”, and
- (b) omit the entry for the chairman of the London Fire and Emergency Planning Authority.
- (3) After subsection (4) insert—
- “(4A) This section also applies in any case where the Mayor proposes to designate as the Deputy Mayor for Fire a person appointed under section 67(1)(b).
- (4B) References in section 327H and Schedule 4A to appointment of a person as the Deputy Mayor for Fire (however expressed) include such a designation.”
- 6 (1) Section 61 (power to require attendance at Assembly meetings) is amended as follows.
- (2) In subsection (11) omit “, except as provided by subsection (12) below,”.
- (3) Omit subsections (12) and (13).
- 7 In section 67(1)(b) (power of Mayor to appoint ten members of staff in addition to the Mayor’s political advisers) for “ten” substitute “eleven”.
- 8 In section 68 (disqualification and political restriction) after subsection (3) insert—
- “(3A) Subsections (1) and (2) above do not prevent a person appointed under section 67(1)(b) as the Deputy Mayor for Fire, or appointed under section 67(1)(b) and designated as the Deputy Mayor for Fire, from becoming or remaining a member of the Assembly or any other local authority within the meaning of sections 1, 2 and 3A of the Local Government and Housing Act 1989.”
- 9 In section 70 (terms and conditions of employment) after subsection (7) insert—
- “(7A) Subsection (3) does not prevent—
- (a) a person appointed under section 67(1)(b) as the Deputy Mayor for Fire, or
- (b) a person appointed under section 67(1)(b) and designated as the Deputy Mayor for Fire,
- from being required to perform any work or services as an Assembly member.”
- 10 After Part 6 insert—

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“PART 6A

THE LONDON FIRE COMMISSIONER

327A The London Fire Commissioner

- (1) There is to be a London Fire Commissioner.
- (2) The London Fire Commissioner is a corporation sole.
- (3) The Mayor is to appoint the London Fire Commissioner.
- (4) The London Fire Commissioner has—
 - (a) the functions of the fire and rescue authority for Greater London under the Fire and Rescue Services Act 2004, and
 - (b) the other functions conferred on the Commissioner by or by virtue of any other enactment.
- (5) The London Fire Commissioner must secure that the London Fire and Rescue Service is efficient and effective.
- (6) In subsection (5) “the London Fire and Rescue Service” means the personnel, services and equipment secured by the London Fire Commissioner for the purposes of the carrying out of the Commissioner’s functions under—
 - (a) section 6 of the Fire and Rescue Services Act 2004 (fire safety),
 - (b) section 7 of that Act (fire-fighting),
 - (c) section 8 of that Act (road traffic accidents),
 - (d) any order under section 9 of that Act (emergencies) which applies to the Commissioner, or
 - (e) any other provision of or made under an enactment which confers functions on a fire and rescue authority.
- (7) The Mayor must hold the London Fire Commissioner to account for the exercise of the Commissioner’s functions.
- (8) Schedule 27A makes further provision about the London Fire Commissioner.

327B Disqualification for appointment as London Fire Commissioner

- (1) A person may not be appointed as the London Fire Commissioner unless the person has reached the age of 18.
- (2) A person is disqualified from being appointed as, or being, the London Fire Commissioner if the person is a member of the Assembly or a London borough council.
- (3) A person is disqualified from being appointed as, or being, the London Fire Commissioner if—
 - (a) the person is the subject of—
 - (i) a debt relief restrictions order under paragraph 1 of Schedule 4ZB to the Insolvency Act 1986,

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- (ii) an interim debt relief restrictions order under paragraph 5 of that Schedule,
 - (iii) a bankruptcy restrictions order under paragraph 1 of Schedule 4A to that Act, or
 - (iv) a bankruptcy restrictions interim order under paragraph 5 of that Schedule,
 - (b) a debt relief restrictions undertaking has effect in respect of the person under paragraph 7 of Schedule 4ZB to that Act,
 - (c) the person has been convicted in the United Kingdom, the Channel Islands or the Isle of Man of any imprisonable offence (whether or not sentenced to a term of imprisonment in respect of the offence), or
 - (d) the person is incapable of being elected as a member of the House of Commons, or is required to vacate a seat in the House of Commons, under Part 3 of the Representation of the People Act 1983 (consequences of corrupt or illegal practices).
- (4) For the purposes of subsection (3)(c) “an imprisonable offence” means an offence—
- (a) for which a person who has reached the age of 18 may be sentenced to a term of imprisonment, or
 - (b) for which, in the case of such a person, the sentence is fixed by law as life imprisonment.
- (5) For the purposes of subsection (3)(c) a person is to be treated as having been convicted—
- (a) on the expiry of the ordinary period allowed for an appeal or application in respect of the conviction, or
 - (b) if an appeal or application is made in respect of the conviction, when the appeal or application is finally disposed of or abandoned or fails by reason of non-prosecution.

327C Suspension and removal of London Fire Commissioner

- (1) The Mayor may with the approval of the Secretary of State suspend the London Fire Commissioner from duty.
- (2) If the Mayor suspends the London Fire Commissioner from duty, the Mayor must notify the Secretary of State of the suspension.
- (3) The Mayor may, subject to subsections (5) and (6), and with the approval of the Secretary of State, call upon the London Fire Commissioner to resign or retire.
- (4) The London Fire Commissioner must resign or retire if called upon to do so in accordance with subsection (3).
- (5) Before calling upon the London Fire Commissioner to resign or retire, the Mayor must—
 - (a) give the Commissioner a written explanation of the reasons why the Mayor is proposing to call for the Commissioner’s resignation or retirement,

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- (b) give the Commissioner the opportunity to make written representations about the proposal to call for the Commissioner’s resignation or retirement, and
 - (c) consider any written representations made by the Commissioner.
- (6) The Mayor must comply with subsection (5) before seeking the approval of the Secretary of State to call upon the London Fire Commissioner to resign or retire.

327D Directions etc by the Mayor

- (1) The Mayor may issue to the London Fire Commissioner—
- (a) guidance as to the manner in which the Commissioner is to exercise the Commissioner’s functions,
 - (b) general directions as to the manner in which the Commissioner is to exercise the Commissioner’s functions, or
 - (c) specific directions as to the exercise of the Commissioner’s functions.
- (2) Directions issued by the Mayor under subsection (1)(c) above may include a direction not to exercise a power specified in the direction.
- (3) The guidance or directions which may be issued by the Mayor under subsection (1) above include guidance or directions as to the manner in which the London Fire Commissioner—
- (a) is to perform any of the Commissioner’s duties, or
 - (b) is to conduct any legal proceedings.
- (4) In exercising any power conferred by this section, the Mayor must have regard to—
- (a) the Fire and Rescue National Framework, and
 - (b) fire safety enforcement guidance.
- (5) In this section—
- “the Fire and Rescue National Framework” means the Fire and Rescue National Framework prepared under section 21 of the Fire and Rescue Services Act 2004;
- “fire safety enforcement guidance” means guidance under article 26 (enforcement) of the Regulatory Reform (Fire Safety) Order 2005 ([SI 2005/1541](#)) given by the Secretary of State to the London Fire Commissioner in the Commissioner’s capacity as an enforcing authority for the purposes of that Order.

327E Directions to the Mayor by the Secretary of State

- (1) This section applies if the Secretary of State thinks that any guidance or directions (“the inconsistent guidance or directions”) issued under section 327D by the Mayor are inconsistent with—
- (a) the Fire and Rescue National Framework, or
 - (b) fire safety enforcement guidance.
- (2) In order to remove the inconsistency, the Secretary of State may direct the Mayor—

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

- (a) to make such revisions of the inconsistent guidance or directions as may be specified by the Secretary of State in the direction, or
 - (b) if the inconsistency arises from a specific direction under section 327D(1)(c) above, to revoke the direction.
- (3) Any direction given by the Secretary of State under subsection (2) above must specify or otherwise identify the inconsistency in question.
- (4) The Mayor must comply with any direction under subsection (2) above.
- (5) In this section “the Fire and Rescue National Framework” and “fire safety enforcement guidance” have the same meanings as in section 327D.

327F The Deputy Mayor for Fire

- (1) The Mayor may arrange for the Deputy Mayor for Fire to exercise any function of the Mayor relating to fire and rescue.
- (2) In this Part “the Deputy Mayor for Fire” means—
- (a) a person who has been appointed by the Mayor under section 67(1)
 - (b) as the Deputy Mayor for Fire, or
 - (b) a person who has been appointed by the Mayor under section 67(1)
 - (b) and designated by the Mayor as the Deputy Mayor for Fire.
- (3) In subsection (1) the reference to the functions of the Mayor relating to fire and rescue are to the Mayor’s functions under—
- (a) section 327A(7) (duty to hold London Fire Commissioner to account), and
 - (b) section 327D(1) (power to give guidance and directions to the London Fire Commissioner).
- (4) Section 327E applies in relation to the exercise of functions under section 327D(1) by the Deputy Mayor for Fire as it applies in relation to their exercise by the Mayor.

327G Scrutiny of documents prepared by London Fire Commissioner

- (1) This section applies to a document which is prepared and published by the London Fire Commissioner in accordance with the Fire and Rescue National Framework and which—
- (a) sets out the Commissioner’s priorities and objectives, for the period covered by the document, in connection with the discharge of the Commissioner’s functions, or
 - (b) contains a statement of the way in which the Commissioner has had regard, in the period covered by the document, to the Framework and to any document within paragraph (a) prepared by the Commissioner for that period.
- (2) The Commissioner must, before publishing the document or any revision to it, send a copy of the document or revision in draft to the Mayor and the Assembly.
- (3) The Commissioner may not publish the document or any revision to it unless—

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- (a) the Assembly has had an opportunity to review the draft document or revision, and make a report on it to the Mayor, under section 327I(1), and
 - (b) the Mayor has approved the draft document or revision.
- (4) In this section “the Fire and Rescue National Framework” has the same meaning as in section 327D.

327H The Assembly fire and emergency committee

- (1) The Assembly must arrange for the functions referred to in subsection (2) to be discharged on its behalf by a particular committee of the Assembly (“the fire and emergency committee”).
- (2) Those functions (“the fire and emergency committee functions”) are—
 - (a) the functions conferred on the Assembly by section 327I, and
 - (b) the functions conferred on the Assembly by section 60A and Schedule 4A in relation to the appointment of the London Fire Commissioner and the Deputy Mayor for Fire.
- (3) The Assembly may not arrange for the fire and emergency committee functions to be discharged on its behalf otherwise than in accordance with subsection (1).
- (4) The Assembly may not arrange for any of its other functions to be discharged by the fire and emergency committee.
- (5) The special scrutiny functions may only be exercised at a meeting of the whole committee; but that is without prejudice to rules of procedure about the quorum of a meeting of the whole committee.
- (6) Any provision made by or by virtue of an enactment which applies to committees of the Assembly, apart from the excluded provisions, applies to the fire and emergency committee as if the fire and emergency committee functions were to be discharged by the committee by virtue of arrangements under section 54(1)(a).
- (7) In subsection (6) “the excluded provisions” means—
 - (a) section 54(5), so far as it provides for the Assembly to retain power to exercise functions delegated to a committee, and
 - (b) section 55 (Assembly committees and sub-committees).
- (8) Any provision made by or by virtue of an enactment which confers, or relates to, the fire and emergency committee functions is to be read with the appropriate modifications; in particular—
 - (a) references to the Assembly are to be read as references to the fire and emergency committee, and
 - (b) references to proceedings of the Assembly are to be read as references to proceedings of the fire and emergency committee.
- (9) For the purposes of subsection (8), references to the fire and emergency committee include references to a sub-committee or member (if any) by whom functions are to be discharged in accordance with section 54(3).
- (10) The following provisions apply to the fire and emergency committee—

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- (a) the number of members of the committee, and their term of office, are to be fixed by the Assembly;
 - (b) persons who are not members of the Assembly may be members of the committee.
- (11) The following provisions apply to any sub-committee by which fire and emergency committee functions are to be discharged—
 - (a) the number of members of the sub-committee, and their term of office, are to be fixed by the fire and emergency committee;
 - (b) persons who are not members of the Assembly may be members of the sub-committee.
- (12) The fire and emergency committee functions must be exercised with a view to supporting the effective exercise of the functions of the London Fire Commissioner.
- (13) In this section “special scrutiny functions” means the functions conferred—
 - (a) by section 327I(1), or
 - (b) by section 60A and Schedule 4A in relation to the appointment of the London Fire Commissioner and the Deputy Mayor for Fire.

327I Functions to be discharged by the fire and emergency committee

- (1) The Assembly must—
 - (a) review any draft document or revision given to the Assembly by the London Fire Commissioner under section 327G(2), and
 - (b) make a report or recommendations on the draft document or revision to the Mayor.
- (2) The Assembly must keep under review the exercise of the functions of the London Fire Commissioner, insofar as the Assembly is not otherwise required to do so by the other provisions of this section or by Schedule 4A.
- (3) For the purposes of subsection (2), the powers of the Assembly include, in particular, power to investigate, and prepare reports about—
 - (a) any actions and decisions of the London Fire Commissioner,
 - (b) any actions and decisions of an officer of the London Fire Commissioner,
 - (c) matters relating to the functions of the London Fire Commissioner,
 - (d) matters in relation to which the functions of the London Fire Commissioner are exercisable, or
 - (e) any other matters which the Assembly considers to be of importance to fire and rescue services in Greater London.
- (4) The Assembly may investigate, and prepare reports about, the actions and decisions of the Deputy Mayor for Fire.
- (5) The Assembly may submit proposals to the London Fire Commissioner.
- (6) The Assembly may require a person referred to in subsection (7)—
 - (a) to attend proceedings of the Assembly for the purpose of giving evidence, or

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- (b) to produce to the Assembly documents in the person’s possession or under the person’s control.
- (7) Those persons are—
 - (a) the Deputy Mayor for Fire,
 - (b) the London Fire Commissioner,
 - (c) any officer of the London Fire Commissioner,
 - (d) any person who has within the 8 years prior to the date of the requirement to be imposed under subsection (6) been the Deputy Mayor for Fire or the London Fire Commissioner.
- (8) Nothing in subsection (6) requires an officer of the London Fire Commissioner to give any evidence, or produce any document, which discloses advice given to the London Fire Commissioner by that officer.
- (9) The following provisions apply (with appropriate modifications) to a requirement under subsection (6) as they apply to a requirement under section 61(1)—
 - (a) section 61(14) (meaning of document etc);
 - (b) section 62(3) to (6) (procedure for requiring attendance);
 - (c) section 63 (restriction of information);
 - (d) section 64 (failure to attend proceedings);
 - (e) section 65 (openness).”
- 11 (1) Omit Part 7 (the London Fire and Emergency Planning Authority).
- (2) The repeal of section 328 in that Part by sub-paragraph (1) does not affect the continued operation of subsections (5) to (7) of that section, and subsection (9) of that section so far as applying to those subsections.
- (3) In the application of those subsections by virtue of sub-paragraph (2), references in those subsections to the Fire etc Authority are to be read as references to the London Fire Commissioner.
- 12 In section 419(1) (bodies to be treated as local authorities for the purposes of enactments relating to taxation) for paragraph (c) substitute—
 - “(c) the London Fire Commissioner.”.
- 13 (1) Section 424(1) (interpretation) is amended as follows.
- (2) Omit the definition of “the Fire etc Authority”.
- (3) In the definition of “functional body” for paragraph (d) substitute—
 - “(d) the London Fire Commissioner;”.
- 14 (1) Schedule 4A (confirmation hearings etc for certain appointments) is amended as follows.
- (2) In paragraph 1 after sub-paragraph (7) insert—
 - “(8) Paragraph 9 does not apply in relation to—
 - (a) the appointment of a person as the London Fire Commissioner, or
 - (b) the appointment of a person as the Deputy Mayor for Fire under section 67(1)(b),
 (but see section 327H).

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- (9) Paragraph 11 applies to—
- (a) the appointment of a person as the London Fire Commissioner, and
 - (b) the appointment of a person as the Deputy Mayor for Fire under section 67(1)(b) if the candidate is not a member of the Assembly.

(10) Paragraphs 2, 4 and 5 are subject to paragraph 11.”

(3) After paragraph 10 insert—

- “11 (1) The Assembly may veto—
- (a) the appointment of the candidate as the London Fire Commissioner, or
 - (b) the appointment of the candidate as the Deputy Mayor for Fire if the candidate is not a member of the Assembly.
- (2) The exercise of that power of veto in relation to an appointment is not valid unless the Assembly—
- (a) has held a confirmation meeting in relation to the appointment before the exercise of the power; and
 - (b) notifies the Mayor of the veto within the period of 3 weeks described in paragraph 4(3).
- (3) If the Assembly vetoes the appointment of the candidate, the Mayor must not appoint the candidate.
- (4) References in this Schedule to the Assembly vetoing the appointment of a candidate are references to the Assembly making a decision, by the required majority, that the candidate should not be appointed—
- (a) as the London Fire Commissioner, or
 - (b) as the Deputy Mayor for Fire.
- (5) For that purpose, the Assembly makes that decision by the required majority if at least two-thirds of the votes given in making that decision are votes in favour of making that decision.”

15 After Schedule 27 insert—

“SCHEDULE 27A

Section 327A

THE LONDON FIRE COMMISSIONER

Appointment and tenure of office

- 1 (1) The terms and conditions on which the London Fire Commissioner is appointed are to be determined by the Mayor.
- (2) A person holds and vacates office as the London Fire Commissioner in accordance with the terms and conditions of the person’s appointment.
- (3) Sub-paragraph (2) is subject to section 327C (suspension and removal of London Fire Commissioner).

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Remuneration

- 2 (1) The person who is the London Fire Commissioner is to be paid such remuneration, allowances and gratuities as may be provided for under the terms and conditions of the Commissioner's appointment.
- (2) In sub-paragraph (1) "allowances", in relation to the London Fire Commissioner, means allowances in respect of expenses incurred by the person in the performance of the Commissioner's functions.
- (3) There is to be paid—
 - (a) a pension to, or in respect of, a person who has been the London Fire Commissioner, or
 - (b) amounts for or towards the provision of a pension to, or in respect of, such a person,in accordance with the terms and conditions of the Commissioner's appointment.
- (4) Payments under this paragraph are to be made by the London Fire Commissioner.
- (5) In determining the London Fire Commissioner's terms and conditions relating to these matters, the Mayor must have regard to the financial resources of the Commissioner.

The Deputy London Fire Commissioner

- 3 (1) The London Fire Commissioner may exercise the power in section 112 of the Local Government Act 1972 (appointment of staff) to appoint a Deputy London Fire Commissioner.
- (2) The Deputy London Fire Commissioner may exercise any or all of the powers and duties of the London Fire Commissioner—
 - (a) during any absence, incapacity or suspension from duty of the Commissioner,
 - (b) during any vacancy in the office of Commissioner, or
 - (c) at any other time, with the consent of the Commissioner.
- (3) The Deputy London Fire Commissioner may not act under sub-paragraph (2)(a) or (b) for a continuous period of three months or more without the consent of the Mayor.

Damages and costs in legal proceedings

- 4 (1) The following amounts must be paid by the London Fire Commissioner—
 - (a) any damages or costs awarded against the Commissioner in any proceedings brought against the Commissioner in respect of the acts or omissions of an officer employed by the Commissioner;
 - (b) any costs incurred by the Commissioner in any such proceedings so far as not recovered by the Commissioner in the proceedings;

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- (c) any sum required in connection with the settlement of any claim made against the Commissioner in respect of the acts or omissions of an officer employed by the Commissioner, if the settlement is approved by the Mayor.
- (2) The London Fire Commissioner may, in such cases and to such extent as appears to the Commissioner to be appropriate, pay—
- (a) any damages or costs awarded against an officer employed by the Commissioner in proceedings for any unlawful conduct of that officer,
 - (b) any costs incurred and not recovered by such an officer in such proceedings, and
 - (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.”
- 16 Omit Schedule 28 (the London Fire and Emergency Planning Authority).
- 17 Omit Schedule 29 (amendments relating to the London Fire and Emergency Planning Authority).

PART 2

AMENDMENTS TO OTHER ACTS

Essex County Council Act 1952 (c. 1)

- 18 In section 80 of the Essex County Council Act 1952 (precautions against fire) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

Landlord and Tenant Act 1954 (c. 56)

- 19 In section 69(1) of the Landlord and Tenant Act 1954 (interpretation) in the definition of “local authority” for “, the London Fire and Emergency Planning Authority” substitute “, the London Fire Commissioner”.

Local Government (Records) Act 1962 (c. 56)

- 20 The Local Government (Records) Act 1962 is amended as follows.
- 21 In section 2 (acquisition and deposit of records) in subsection (6) (bodies to which section 2 applies) for “to the London Fire and Emergency Planning Authority,” substitute “to the London Fire Commissioner.”
- 22 In section 8(1) (interpretation) in the definition of “local authority” for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner.”

London Government Act 1963 (c. 33)

- 23 The London Government Act 1963 is amended as follows.
- 24 In section 5(3) (delegation of functions in Greater London) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

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- 25 In section 75 (compensation for injury to or death of officers) in subsection (4) (application to London Fire and Emergency Planning Authority) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

Local Government Act 1966 (c. 42)

- 26 In section 11 of the Local Government Act 1966 (grants for certain expenditure due to ethnic minority population) in subsection (2) (bodies to which the section applies) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

Leasehold Reform Act 1967 (c. 88)

- 27 The Leasehold Reform Act 1967 is amended as follows.
- 28 In section 28 (retention or resumption of land required for public purposes) in subsection (5)(a) (application to local authorities) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner,”.
- 29 In Schedule 4A (exclusion of certain shared ownership leases) in paragraph 2(2) (leases granted by certain local authorities: bodies to which the exclusion applies) for paragraph (bb) substitute—
“(bb) the London Fire Commissioner;”.

Local Government Grants (Social Need) Act 1969 (c. 2)

- 30 In section 1 of the Local Government Grants (Social Need) Act 1969 (grants for special social needs) in subsection (3) (meaning of “local authority”) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

Employers’ Liability (Compulsory Insurance) Act 1969 (c. 57)

- 31 In section 3(2)(b) of the Employers’ Liability (Compulsory Insurance) Act 1969 (employers exempted from insurance: employers to which the exemption applies) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner,”.

Greater London Council (General Powers) Act 1969 (c. lii)

- 32 In section 30(ii) of the Greater London Council (General Powers) Act 1969 (savings for London Fire and Emergency Planning Authority) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

Local Authorities (Goods and Services) Act 1970 (c. 39)

- 33 In section 1 of the Local Authorities (Goods and Services) Act 1970 (supply of goods and services by local authorities) in subsection (4) (interpretation) in the definition of “local authority” for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

Pensions (Increase) Act 1971 (c. 56)

- 34 In Schedule 3 to the Pensions (Increase) Act 1971 (further administrative, incidental and consequential provisions) in paragraph 6(1)(a) (meaning of “local authority”) for sub-paragraph (ib) substitute—
“(ib) the London Fire Commissioner;”.

Local Government Act 1972 (c. 70)

- 35 The Local Government Act 1972 is amended as follows.
- 36 In section 70 (restriction on promotion of Bills for changing local government areas etc) for subsection (2) substitute—
“(2) Subsection (1) above shall have effect as if the reference to a joint authority included a reference to the London Fire Commissioner.”
- 37 (1) Section 100J (application of provisions about access to meetings and documents) is amended as follows.
- (2) In subsection (1) (bodies to which provisions about access to meetings and documents apply) omit paragraph (bb).
- (3) In subsection (2) omit “, (bb)”.
- (4) In subsection (3) omit “(bb),”.
- (5) Omit subsection (4A).
- 38 (1) Section 101 (arrangements for discharge of functions by local authorities) is amended as follows.
- (2) In subsection (13) omit “the London Fire and Emergency Planning Authority;”.
- (3) After subsection (13) insert—
“(13A) In this section “local authority” includes the London Fire Commissioner; but nothing in this section authorises functions of the Commissioner to be discharged by a committee or sub-committee of the Commissioner.”
- 39 In section 104 (disqualification for membership of committees and joint committees) omit subsection (5) (application to the London Fire and Emergency Planning Authority).
- 40 In section 138 (powers of principal councils with respect to emergencies or disasters) in subsection (5) (power of London Fire and Emergency Planning Authority to incur expenditure in connection with planning by principal councils) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.
- 41 In section 138C(1) (other authorities to which provisions about prayer and other religious observance apply) for paragraph (d) substitute—
“(d) the London Fire Commissioner but only for the purposes of section 138B;”.
- 42 In section 142 (provision of information etc relating to matters affecting local government) for subsection (4) substitute—
“(4) This section shall have effect as if any reference to a local authority included a reference to the London Fire Commissioner.”

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- 43 (1) Section 146A (application of miscellaneous provisions about local authorities to other authorities) is amended as follows.
- (2) In subsection (1)—
- (a) for “or (1ZE)” substitute “, (1ZE) or (1ZF)”, and
- (b) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.
- (3) In subsection (1ZC) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.
- (4) After subsection (1ZE) insert—
- “(1ZF) The London Fire Commissioner is not to be treated as a local authority for the purposes of section 135.”
- 44 In section 175 (allowances for attending conferences and meetings) in subsection (3B) (application to the London Fire and Emergency Planning Authority etc) for “the London Fire and Emergency Planning Authority, an economic prosperity board, a combined authority or” substitute “an economic prosperity board, a combined authority or”.
- 45 In section 176 (payment of expenses of official and courtesy visits) in subsection (3) (application to the London Fire and Emergency Planning Authority etc)—
- (a) after “board,” insert “and”, and
- (b) omit “and the London Fire and Emergency Planning Authority”.
- 46 In section 222 (power of local authority to prosecute or defend legal proceedings) in subsection (2) (application to the London Fire and Emergency Planning Authority etc) for “and the London Fire and Emergency Planning Authority” substitute “and the London Fire Commissioner”.
- 47 For section 244A substitute—

“244A Application of this Part to the London Fire Commissioner

This Part shall have effect as if any reference to a joint authority included a reference to the London Fire Commissioner.”

Employment Agencies Act 1973 (c. 35)

- 48 In section 13(7) of the Employment Agencies Act 1973 (activities to which the Act does not apply) for paragraph (fh) substitute—
- “(fh) the exercise by the London Fire Commissioner of any of the Commissioner’s functions;”.

Local Government Act 1974 (c. 7)

- 49 In section 25(1) of the Local Government Act 1974 (authorities subject to investigation) for paragraph (cza) substitute—
- “(cza) the London Fire Commissioner;”.

Health and Safety at Work etc Act 1974 (c. 37)

- 50 In section 28(6) of the Health and Safety at Work etc Act 1974 (restrictions on disclosure of information: meaning of local authority) for “and the London Fire and Emergency Planning Authority” substitute “and the London Fire Commissioner”.

Local Government (Miscellaneous Provisions) Act 1976 (c. 57)

- 51 In section 44(1) of the Local Government (Miscellaneous Provisions) Act 1976 (interpretation of Part 1) in the definition of “local authority”—
- (a) in paragraph (a) for “and the London Fire and Emergency Planning Authority” substitute “and the London Fire Commissioner”, and
 - (b) in paragraph (c) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

Rent (Agriculture) Act 1976 (c. 80)

- 52 In section 5(3) of the Rent (Agriculture) Act 1976 (tenancies which are not statutory tenancies) for paragraph (bbb) substitute—
- “(bbb) the London Fire Commissioner;”.

Rent Act 1977 (c. 42)

- 53 In section 14(1) of the Rent Act 1977 (tenancies which are not protected tenancies) for paragraph (cc) substitute—
- “(cc) the London Fire Commissioner;”.

London Hydraulic Power Act 1977 (c. xi)

- 54 In section 3(3)(b) of the London Hydraulic Power Act 1977 (notice of intention to use new pipeline) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

Protection from Eviction Act 1977 (c. 43)

- 55 In section 3A(8)(a) of the Protection from Eviction Act 1977 (excluded tenancies and licences: licences to occupy local authority etc hostels) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner;”.

Local Government, Planning and Land Act 1980 (c. 65)

- 56 The Local Government, Planning and Land Act 1980 is amended as follows.
- 57 In section 2 (duty of authorities to publish information) in subsection (1) (authorities to which the duty applies) for paragraph (kb) substitute—
- “(kb) the London Fire Commissioner;”.
- 58 In section 98 (disposal of land at direction of Secretary of State) in subsection (8A) (authorities to which provisions as to associated bodies apply) for paragraph (f) substitute—
- “(f) the London Fire Commissioner.”

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- 59 In section 99 (disposal of land at direction of Secretary of State - supplementary) in subsection (4) (authorities who may make representations about directions) for paragraph (dbb) substitute—
“(dbb) the London Fire Commissioner;”
- 60 In section 100 (interpretation and extent of Part 10) in subsection (1)(a) (meaning of “subsidiary”) for “, the London Fire and Emergency Planning Authority” substitute “, the London Fire Commissioner”.
- 61 In Schedule 16 (bodies to whom Part 10 applies) for paragraph 5BB substitute—
“5BB The London Fire Commissioner.”

Acquisition of Land Act 1981 (c. 67)

- 62 The Acquisition of Land Act 1981 is amended as follows.
- 63 In section 7(1) (interpretation) in the definition of “local authority” for paragraph (a1) substitute—
“(a1) the London Fire Commissioner;”.
- 64 In section 17(4) (local authority and statutory undertakers’ land: interpretation) in paragraph (a) of the definition of “local authority” for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner,”.

Local Government (Miscellaneous Provisions) Act 1982 (c. 30)

- 65 The Local Government (Miscellaneous Provisions) Act 1982 is amended as follows.
- 66 In section 33 (enforceability by local authorities of certain covenants relating to land) in subsection (9)(a) (meaning of “principal council”) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner,”.
- 67 In section 41 (lost and uncollected property) in subsection (13) (interpretation) in the definition of “local authority” for paragraph (f) substitute—
“(f) the London Fire Commissioner;”.
- 68 In section 45 (arrangements under Employment and Training Act 1973) in subsection (2) (local authorities to which section applies) for paragraph (d) substitute—
“(d) the London Fire Commissioner.”

County Courts Act 1984 (c. 28)

- 69 In section 60(3) of the County Courts Act 1984 (right of audience of local authority: interpretation) in the definition of “local authority” for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

Local Government Act 1985 (c. 51)

- 70 The Local Government Act 1985 is amended as follows.
- 71 In section 72 (accounts and audit) in subsection (5) for paragraph (a) substitute—
“(a) the London Fire Commissioner;”.
- 72 In Schedule 11 (police and fire services) in paragraph 2(4) (references to the Metropolitan Board of Works in the Metropolitan Fire Brigade Act 1985 to be

construed as references to the London Fire and Emergency Planning Authority) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

Housing Act 1985 (c. 68)

- 73 In section 4(1)(e) of the Housing Act 1985 (other descriptions of authority: local authorities) for “and the London Fire and Emergency Planning Authority” in both places substitute “and the London Fire Commissioner”.

Housing Associations Act 1985 (c.69)

- 74 In section 106(1) of the Housing Associations Act 1985 (minor definitions - general) in the definition of “local authority”—
- (a) for “, a combined authority established under section 103 of that Act” substitute “and a combined authority established under section 103 of that Act”,
 - (b) omit “and the London Fire and Emergency Planning Authority”, and
 - (c) omit “the London Fire and Emergency Planning Authority,” (in the second place).

Landlord and Tenant Act 1985 (c.70)

- 75 In section 38 of the Landlord and Tenant Act 1985 (minor definitions) in the definition of “local authority” for “and the London Fire and Emergency Planning Authority” substitute “and the London Fire Commissioner”.

Local Government Act 1986 (c. 10)

- 76 The Local Government Act 1986 is amended as follows.
- 77 In section 6(2)(a) (meaning of “local authority” for the purposes of Part 2) for the entry relating to the London Fire and Emergency Planning Authority substitute—
“the London Fire Commissioner.”
- 78 In section 9(1)(a) (meaning of “local authority” for the purposes of Part 3) for the entry relating to the London Fire and Emergency Planning Authority substitute—
“the London Fire Commissioner.”

Landlord and Tenant Act 1987 (c.31)

- 79 In section 58(1) of the Landlord and Tenant Act 1987 (exempt landlords) in paragraph (a) (local authorities) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner.”

Local Government Act 1988 (c. 9)

- 80 In Schedule 2 to the Local Government Act 1988 (public supply or works contracts: the public authorities) for the entry relating to the London Fire and Emergency Planning Authority substitute—
“The London Fire Commissioner.”

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

Housing Act 1988 (c. 50)

- 81 The Housing Act 1988 is amended as follows.
- 82 In section 74(8) (transfer of land etc to housing action trusts: meaning of “local authority”) for paragraph (g) substitute—
“(g) the London Fire Commissioner.”
- 83 In Part 1 of Schedule 1 (tenancies which cannot be assured tenancies) in paragraph 12(2) (local authority tenancies: meaning of “local authority”) for paragraph (ee) substitute—
“(ee) the London Fire Commissioner;”.

Road Traffic Act 1988 (c. 52)

- 84 In section 144(2)(a)(i) of the Road Traffic Act 1988 (exceptions from the requirement for third party insurance) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner;”.

Local Government and Housing Act 1989 (c. 42)

- 85 The Local Government and Housing Act 1989 is amended as follows.
- 86 In section 1(9) (meaning of politically restricted post under a local authority) for “and every member of staff of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004” (as inserted by paragraph 61 of Schedule 1) substitute “every member of staff of a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 and every member of staff of the London Fire Commissioner”.
- 87 (1) Section 4 (designation and reports of head of paid service) is amended as follows.
- (2) In subsection (4) after paragraph (aa) (as inserted by paragraph 62(2) of Schedule 1) insert—
“(ab) in the case of the London Fire Commissioner, to the Commissioner;”.
- (3) After subsection (5B) (as inserted by paragraph 62(3) of Schedule 1) insert—
“(5C) It shall be the duty of the London Fire Commissioner to consider any report under this section by the head of the Commissioner’s paid service and to do so no later than three months after the Commissioner is sent a copy of the report.”
- (4) In subsection (6)(a) for “and a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004” (as inserted by paragraph 62(4) of Schedule 1) substitute “, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 and the London Fire Commissioner”.
- 88 (1) Section 5 (designation and reports of monitoring officer) is amended as follows.
- (2) In subsection (3) after paragraph (aa) (as inserted by paragraph 63(2) of Schedule 1) insert—
“(ab) in the case of the London Fire Commissioner, to the Commissioner;”.

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

- (3) In subsection (5)(a) after sub-paragraph (ia) (as inserted by paragraph 63(3) of Schedule 1) insert—
- “(ib) in the case of the London Fire Commissioner, no later than three months after the Commissioner is sent a copy of the report;”.
- (4) In subsection (8) in paragraph (a) of the definition of “relevant authority” for “and a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004” (as inserted by paragraph 63(4) of Schedule 1) substitute “, a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 and the London Fire Commissioner”.
- 89 (1) Section 21 (interpretation of Part 1) is amended as follows.
- (2) In subsection (1)(i) omit “or the London Fire and Emergency Planning Authority”.
- (3) After subsection (1B) (as inserted by paragraph 64 of Schedule 1) insert—
- “(1C) In the following provisions of this Part references to a local authority include the London Fire Commissioner—
- (a) section 7 (all staff to be appointed on merit), and
- (b) section 10 (limit on paid leave for local authority duties).
- (1D) In the application of section 1(1) to the London Fire Commissioner by virtue of subsection (1C) the reference to being or remaining a member of a local authority is to be read as a reference to becoming or remaining the London Fire Commissioner.”
- 90 In section 152(2) (meaning of “relevant authority” for the purposes of sections 150 and 151) for paragraph (n) substitute—
- “(n) the London Fire Commissioner.”
- 91 In section 155(1A) (emergency financial assistance to local authorities: expenditure treated as incurred by Greater London Authority) for paragraph (a) substitute—
- “(a) the London Fire Commissioner.”.

Town and Country Planning Act 1990 (c. 8)

- 92 The Town and Country Planning Act 1990 is amended as follows.
- 93 In section 252 (procedures for highways orders) in the definition of “local authority” in subsection (12) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner,”.
- 94 In section 336(1) (interpretation) in the definition of “local authority” for paragraph (ab) substitute—
- “(ab) the London Fire Commissioner;”.
- 95 In Schedule 14 (procedure for footpaths and bridleways orders) in paragraph 1(3) (meaning of “council” in provisions about notices) for “, the London Fire and Emergency Planning Authority,” substitute “, the London Fire Commissioner,”.

London Local Authorities Act 1991 (c. xiii)

- 96 The London Local Authorities Act 1991 is amended as follows.

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

- 97 In section 7 (licensing of special treatment premises: duty to notify London Fire and Emergency Planning Authority of application) for “the London Fire and Emergency Planning Authority” in each place substitute “the London Fire Commissioner”.
- 98 In section 15(1) (powers of entry) for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

Local Government (Overseas Assistance) Act 1993 (c. 25)

- 99 In section 1 of the Local Government (Overseas Assistance) Act 1993 (power to provide advice and assistance) in subsection (10) (other bodies) for paragraph (dd) substitute—
- “(dd) the London Fire Commissioner;”

London Local Authorities Act 1995 (c. x)

- 100 In section 2 of the London Local Authorities Act 1995 (interpretation) in paragraph (b) of the definition of “the fire and rescue authority” for “the London Fire and Emergency Planning Authority” substitute “the London Fire Commissioner”.

Housing Grants, Construction and Regeneration Act 1996 (c. 53)

- 101 In section 3(2) of the Housing Grants, Construction and Regeneration Act 1996 (persons ineligible for grant) for paragraph (k) substitute—
- “(k) the London Fire Commissioner.”

Channel Tunnel Rail Link Act 1996 (c. 61)

- 102 In Schedule 3 to the Channel Tunnel Rail Link Act 1996 (highways) in paragraph 2(11) (definition of local authority) for “the London Fire and Emergency Planning Authority,” substitute “the London Fire Commissioner,”.

Crime and Disorder Act 1998 (c. 37)

- 103 The Crime and Disorder Act 1998 is amended as follows.
- 104 In section 5(5) (authorities responsible for strategies: interpretation) in the definition of “fire and rescue authority” for paragraph (c) substitute—
- “(c) the London Fire Commissioner.”
- 105 In section 17(2) (duty to consider crime and disorder implications: authorities to which duty applies) for the entry relating to the London Fire and Emergency Planning Authority substitute—
- “the London Fire Commissioner;”.
- 106 In section 115(2) (disclosure of information: meaning of relevant authority) for paragraph (h) substitute—
- “(h) the London Fire Commissioner;”.

Local Government Act 1999 (c. 27)

- 107 In section 1(1) of the Local Government Act 1999 (best value authorities) for paragraph (f) substitute—
- “(f) the London Fire Commissioner;”.

Freedom of Information Act 2000 (c. 36)

- 108 In Part 2 of Schedule 1 to the Freedom of Information Act 2000 (public authorities: local government) for paragraph 20 substitute—
- “20 The London Fire Commissioner.”

Courts Act 2003 (c. 39)

- 109 (1) Section 41 of the Courts Act 2003 (disqualification of lay justices who are members of local authorities) is amended as follows.
- (2) In subsection (6) for paragraph (d) substitute—
- “(d) the London Fire Commissioner.”
- (3) After subsection (6) insert—
- “(7) In the application of this section to the London Fire Commissioner, the reference in subsection (1) to a member of the local authority is to the person who is for the time being the Commissioner.”

Fire and Rescue Services Act 2004 (c. 21)

- 110 The Fire and Rescue Services Act 2004 is amended as follows.
- 111 In section 1(2) (fire and rescue authorities in England) in paragraph (c) for “London Fire and Emergency Planning Authority” substitute “London Fire Commissioner”.
- 112 In section 5A(3) (powers of certain fire and rescue authorities: authorities to which the section applies) for paragraph (b) substitute—
- “(b) the London Fire Commissioner.”
- 113 In section 5B (boundaries of power under section 5A) after subsection (5) insert—
- “(5A) Section 5A(1) does not authorise the London Fire Commissioner to enter into a contract to which this subsection applies without the consent of the Mayor of London.
- (5B) Subsection (5A) applies to a contract if—
- (a) the Mayor of London has notified the London Fire Commissioner that the Commissioner requires the Mayor’s consent before entering into a contract of a kind specified in the notification, and
- (b) the contract is of that kind.”

Local Government and Public Involvement in Health Act 2007 (c. 28)

- 114 In section 104 of the Local Government and Public Involvement in Health Act 2007 (partner authorities) in subsection (5) (meaning of “fire and rescue authority”) for paragraph (c) substitute—
- “(c) the London Fire Commissioner.”

Crossrail Act 2008 (c. 18)

- 115 In Schedule 3 to the Crossrail Act 2008 (stopping-up of highways) in paragraph 2(11) (local authorities which must be notified of proposed stopping-up) for paragraph (c) substitute—

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

“(c) the London Fire Commissioner.”.

Equality Act 2010 (c. 15)

- 116 In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities) for the entry relating to the London Fire and Emergency Planning Authority substitute—
 “The London Fire Commissioner.”.

Police Reform and Social Responsibility Act 2011 (c. 13)

- 117 In section 66 of the Police Reform and Social Responsibility Act 2011 (disqualification from election or holding office as police and crime commissioner: other grounds) after subsection (11) (as inserted by paragraph 90 of Schedule 1) insert—

“(12) A person is disqualified from being elected as, or being, police and crime commissioner if the person—
 (a) is the London Fire Commissioner, or
 (b) is a member of the staff of the London Fire Commissioner.”

Localism Act 2011 (c. 20)

- 118 The Localism Act 2011 is amended as follows.
- 119 In section 27 (duty to promote and maintain high standards of conduct) in subsection (6) (meaning of “relevant authority”) omit paragraph (g) (the London Fire and Emergency Planning Authority).
- 120 In section 43(1) (meaning of “relevant authority” for purposes of provisions on pay accountability) for paragraph (g) substitute—
 “(g) in relation only to sections 38, 40 and 41 and this section, the London Fire Commissioner.”.

Energy Act 2013 (c. 32)

- 121 In Part 3 of Schedule 9 to the Energy Act 2013 (protected information: permitted disclosures and restrictions on use) in paragraph 14(3) (local authorities and water authorities: interpretation) in the definition of “local authority” for paragraph (e) substitute—
 “(e) the London Fire Commissioner.”.

Local Audit and Accountability Act 2014 (c. 2)

- 122 (1) The Local Audit and Accountability Act 2014 is amended as follows.
- (2) In section 40 (access to local government meetings and documents) in subsection (6) (bodies to which provisions apply) for paragraph (f) substitute—
 “(f) the London Fire Commissioner.”.
- (3) In Schedule 7 (reports and recommendations by local auditor) in paragraph 5(7) (duty of certain authorities to consider report or recommendation) (as amended by paragraph 97 of Schedule 1) for “or a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004” substitute “, a fire and

rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004 or the London Fire Commissioner”.

Consequential repeals

- 123 In consequence of the amendments made by this Schedule the following provisions are repealed—
- (a) sections 25, 26 and 27 of the Greater London Authority Act 2007;
 - (b) paragraph 8(6) of Schedule 3 to the Local Government and Public Involvement in Health Act 2007.

SCHEDULE 3

Section 11

SCHEDULE TO BE INSERTED AS SCHEDULE A3 TO THE FIRE AND RESCUE SERVICES ACT 2004

“SCHEDULE A3

Section 28

ENGLISH INSPECTORS

Interpretation

- 1 (1) This paragraph applies for the purposes of this Schedule.
- (2) References to an English inspector are to an inspector appointed under section 28(A1).
- (3) References to the inspection function are to the function conferred on the English inspectors by section 28(A3).
- (4) References to a person providing services to a fire and rescue authority are to a person providing services, in pursuance of contractual arrangements (but without being employed by a fire and rescue authority), to assist the fire and rescue authority in relation to the exercise of its functions.
- (5) “Public authority” includes any person certain of whose functions are functions of a public nature.

Delegation

- 2 An English inspector may arrange for the inspection function to be exercised (to such extent as the inspector may determine) by another public authority on behalf of the inspector.

Working with Her Majesty’s Inspectors of Constabulary

- 3 An English inspector, when exercising the inspection function, must co-operate with Her Majesty’s Inspectors of Constabulary.
- 4 An English inspector may act jointly with Her Majesty’s Inspectors of Constabulary where it is appropriate to do so for the efficient and effective exercise of the inspection function.

Assistance for other public authorities

- 5
- (1) The chief fire and rescue inspector for England may, if he or she thinks it appropriate to do so, provide assistance to any other public authority for the purpose of the exercise by that authority of its functions.
 - (2) The chief fire and rescue inspector for England may do anything he or she thinks appropriate to facilitate the carrying out of an inspection under section 10 of the Local Government Act 1999 (inspection of best value authorities).
 - (3) Anything done under this paragraph may be done on such terms (including terms as to payment) as the chief fire and rescue inspector for England thinks fit.

Powers of English inspectors to obtain information etc

- 6
- (1) An English inspector may serve on a relevant person a notice requiring the person—
 - (a) to provide the inspector with any information or documents that the inspector reasonably requires for the purpose of the exercise of the inspection function;
 - (b) to produce or deliver up to the inspector any evidence or other things that the inspector reasonably requires for that purpose.

This is subject to sub-paragraphs (6) to (8).

- (2) In sub-paragraph (1), “relevant person” means—
 - (a) a fire and rescue authority in England;
 - (b) an employee of a fire and rescue authority in England;
 - (c) a person providing services to a fire and rescue authority in England;
 - (d) an employee of a person providing services to a fire and rescue authority in England;
 - (e) any other person who is, by virtue of any enactment, carrying out any of the activities of a fire and rescue authority in England.
- (3) A notice under this paragraph must—
 - (a) specify or describe the information, documents, evidence or other things that are required by the inspector;
 - (b) specify the period within which the information, documents, evidence or other things must be provided, produced or delivered up.
- (4) A notice under this paragraph may specify the form and manner in which any information, documents, evidence or other things are to be provided, produced or delivered up.
- (5) An English inspector may cancel a notice under this paragraph by written notice to the person on whom it was served.
- (6) A notice under this paragraph must not be used to obtain information, or any document or other thing, from a person if—
 - (a) the information, or the document or other thing, was obtained by that person (directly or indirectly) from a body or other entity mentioned in sub-paragraph (7), or
 - (b) the information, or the document or other thing, relates to a body or other entity mentioned in that sub-paragraph.

- (7) The bodies and other entities referred to in sub-paragraph (6) are—
- (a) the Security Service,
 - (b) the Secret Intelligence Service,
 - (c) the Government Communications Headquarters, or
 - (d) any part of Her Majesty’s forces, or of the Ministry of Defence, which engages in intelligence activities.
- (8) A notice under this paragraph must not require a person—
- (a) to provide information that might incriminate the person;
 - (b) to provide an item subject to legal privilege within the meaning of the Police and Criminal Evidence Act 1984 (see section 10 of that Act).
- (9) In this paragraph—
- “document” means anything in which information of any description is recorded;
 - “English inspector” includes—
- (a) a person appointed under section 28(A5) as an assistant inspector or other officer;
 - (b) a person authorised by an English inspector to act on behalf of the inspector for the purposes of this paragraph.

Powers of English inspectors to obtain access to premises

- 7 (1) An English inspector may serve on a person a notice requiring the person to allow the inspector access, which the inspector reasonably requires for the purpose of the exercise of the inspection function, to—
- (a) premises that are occupied (wholly or partly) for the purposes of—
 - (i) a fire and rescue authority in England,
 - (ii) a person providing services to a fire and rescue authority in England, or
 - (iii) any other person who is, by virtue of any enactment, carrying out any of the activities of a fire and rescue authority in England, and
 - (b) documents and other things on those premises.
- (2) A notice under this paragraph must—
- (a) specify or describe the premises to which the inspector requires access;
 - (b) specify the time when access is required (which may be immediately after the service of the notice).
- (3) Where there are reasonable grounds for not allowing the inspector to have access to the premises at the time specified under sub-paragraph (2)(b), the requirement under this paragraph has effect as a requirement to secure that access is allowed to the inspector at the earliest practicable time specified by the inspector after there cease to be such grounds.
- (4) An English inspector may cancel a notice under this paragraph by written notice to the person on whom it was served.
- (5) In this paragraph “document” and “English inspector” have the same meanings as in paragraph 6 (and, for that purpose, the reference in paragraph (b) of the definition

of “English inspector” in paragraph 6(9) to paragraph 6 is to be read as a reference to this paragraph).

Failure to comply with notice under paragraph 6 or 7

- 8 (1) If a person who has received a notice under paragraph 6 or 7—
- (a) fails or refuses without reasonable excuse to do what is required by the notice, or
 - (b) (in the case of a notice under paragraph 6) knowingly or recklessly provides information in response to the notice that is false in a material respect,
- the chief fire and rescue inspector for England may certify in writing to the High Court that the person has failed to comply with the notice.
- (2) The High Court may then inquire into the matter and, after hearing any witness who may be produced against or on behalf of the person, and after hearing any statement offered in defence, deal with the person as if the person had committed a contempt of court.

Sensitive information: restriction on further disclosure

- 9 (1) Where an English inspector, in exercise of the inspection function, receives information within sub-paragraph (2), the inspector must not disclose the information, or the fact that it has been received, unless the relevant authority consents to the disclosure.
- (2) The information is—
- (a) intelligence service information;
 - (b) information obtained from a government department which, at the time it is provided to the inspector, is identified by the department as information the disclosure of which may, in the opinion of the relevant authority—
 - (i) cause damage to national security, international relations or the economic interests of the United Kingdom or any part of the United Kingdom, or
 - (ii) jeopardise the safety of any person.
- (3) Where an English inspector discloses to another person information within sub-paragraph (2) that the inspector received in exercise of the inspection function, or the fact that the inspector has received such information in exercise of the inspection function, the other person must not disclose that information or that fact unless the relevant authority consents to the disclosure.
- (4) A prohibition on disclosure in sub-paragraph (1) or (3) does not apply to disclosure by one English inspector to another.
- (5) In this paragraph—
- “English inspector” includes—
- (a) a person appointed under section 28(A5) as an assistant inspector or other officer;
 - (b) a person authorised by an English inspector to act on behalf of the inspector for the purposes of paragraph 6 or 7;
- “government department” means a department of Her Majesty’s Government but does not include—

- (a) the Security Service,
 - (b) the Secret Intelligence Service, or
 - (c) the Government Communications Headquarters (“GCHQ”);
- “intelligence service information” means information that was obtained (directly or indirectly) from or that relates to—
- (a) the Security Service,
 - (b) the Secret Intelligence Service,
 - (c) GCHQ, or
 - (d) any part of Her Majesty’s forces, or of the Ministry of Defence, which engages in intelligence activities;
- “Minister of the Crown” includes the Treasury;
- “relevant authority” means—
- (a) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Security Service, the Director-General of the Security Service;
 - (b) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Secret Intelligence Service, the Chief of the Secret Intelligence Service;
 - (c) in the case of intelligence service information obtained (directly or indirectly) from or relating to GCHQ, the Director of GCHQ;
 - (d) in the case of intelligence service information obtained (directly or indirectly) from or relating to Her Majesty’s forces or the Ministry of Defence, the Secretary of State;
 - (e) in the case of information within sub-paragraph (2)(b)—
 - (i) the Secretary of State, or
 - (ii) the Minister of the Crown in charge of the government department from which the information was obtained (if that Minister is not a Secretary of State).

Provision of intelligence service information to English inspectors

- 10 (1) A person who provides information that is intelligence service information to an English inspector exercising the inspection function must—
- (a) make the inspector aware that the information is intelligence service information, and
 - (b) provide the inspector with such additional information as will enable the inspector to identify the relevant authority in relation to the information.
- (2) In this paragraph, “English inspector”, “intelligence service information” and “relevant authority” have the same meaning as in paragraph 9.”

SCHEDULE 4

Section 14

AMENDMENTS CONSEQUENTIAL ON THE AMENDED DEFINITION OF POLICE COMPLAINT

- 1 The Police Reform Act 2002 is amended as follows.
- 2 In section 10 (general functions of the Independent Police Complaints Commission), in subsection (2)—

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

- (a) in paragraph (a), for “made about the conduct of persons serving with the police” substitute “(within the meaning given by section 12)”;
 - (b) in paragraph (b), for “such persons” substitute “persons serving with the police”.
- 3 (1) Section 16 (payment for assistance with investigations) is amended as follows.
- (2) In subsection (2)(a)—
- (a) before sub-paragraph (i) insert—
 - “(ai) an investigation of a complaint where the complainant expressed dissatisfaction with the other force,”;
 - (b) in sub-paragraph (i), after “investigation” insert “of a recordable conduct matter”.
- (3) In subsection (2)(b)—
- (a) before sub-paragraph (i) insert—
 - “(ai) an investigation of a complaint where the complainant expressed dissatisfaction with a force other than that force,”;
 - (b) in sub-paragraph (i), after “investigation” insert “of a recordable conduct matter”.
- 4 In section 21 (duty to provide information for other persons), in subsection (2), in the words before paragraph (a), for “complaint or” substitute “complaint that relates to conduct of a person serving with the police or a”.
- 5 In section 23 (regulations), in subsection (2)(a), in the words before sub-paragraph (i), for “against any person” substitute “that relates to conduct of a person serving with the police”.
- 6 (1) Section 29 (interpretation of Part 2) is amended as follows.
- (2) In subsection (1), in the definition of “appropriate authority”—
- (a) omit “and” at the end of paragraph (a);
 - (b) after paragraph (a) insert—
 - “(aa) in relation to any other complaint, means the chief officer of the police force with which dissatisfaction is expressed by the complainant; and”;
- (3) In subsection (1), in the definition of “person complained against”, after “a complaint” insert “that relates to conduct of a person serving with the police”.
- (4) In subsection (2), for paragraphs (a) and (b) substitute—
- “(a) to the person by whom the complaint or purported complaint was made, or
 - (b) in a case where the complaint or purported complaint was made on behalf of someone else, to the person on whose behalf it was made;”.
- (5) After subsection (4) insert—
- “(4A) In this Part references, in relation to anything purporting to be a complaint other than a complaint about any conduct, to a member of the public include references to any person falling within subsection (3)(a) to (d) other than a person who is—
 - (a) a member of the police force with which dissatisfaction is expressed,

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- (b) a civilian employee of that police force,
 - (c) a special constable who is under the direction and control of the chief officer of that police force, or
 - (d) where dissatisfaction is expressed with the City of London police force, an employee of the Common Council of the City of London who is under the direction and control of the chief officer of that force.”
- 7 (1) Part 1 of Schedule 3 (handling of complaints) is amended as follows.
- (2) In paragraph 1(6), omit “any conduct that is”.
 - (3) In paragraph 4(1)(a), after “conduct” insert “or other matter”.
 - (4) In paragraph 4(6)(b), at the end insert “(if any)”.
 - (5) In paragraph 5(3)(b), at the end insert “(if any)”.
- 8 (1) Part 3 of Schedule 3 (investigations and subsequent proceedings) is amended as follows.
- (2) In paragraph 23(2A), after “a person” insert “(if any)”.
 - (3) In paragraph 24(2A), after “a person” insert “(if any)”.
 - (4) In paragraph 25(10)(d), at the end insert “(if any)”.

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—

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

- (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 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.

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- (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.

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(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.

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.”

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- (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.
- (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

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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
 - (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

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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 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.

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- (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—
- “(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—

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- (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—

- (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

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- (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—
 - (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—

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- (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
 - (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,

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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
- (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.

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- (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)—
- (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—

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“(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.
- (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.

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- (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.”
- 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—

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- “(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 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—

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- (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 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)—

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- (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”;
 - (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).

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- (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—

“(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;

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- (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”;
- (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.

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- (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
 - (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);

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(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—

“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

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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—

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- (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)”;
 - (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).

SCHEDULE 6

Section 28

SCHEDULE TO BE INSERTED AS SCHEDULE 3A TO THE POLICE REFORM ACT 2002

“SCHEDULE 3A

Section 29D(5)

WHISTLE-BLOWING INVESTIGATIONS: PROCEDURE

Designation of persons to take part in investigation

- 1 (1) Paragraph 19(1), (2) and (4) to (8) of Schedule 3 (investigations under that Schedule by the Commission itself), and any order made under paragraph 19(4) of that Schedule, apply where the Commission decides to carry out an investigation under section 29D(1) as they apply where the Commission has determined to investigate, or is required to investigate, a complaint, recordable conduct matter or DSI matter under that Schedule.
- (2) In the case of an investigation under section 29D(1) relating to any conduct of the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis, the person designated under paragraph 19(2) of Schedule 3 (as applied by sub-paragraph (1)) must be the person nominated by the Secretary of State for that purpose.

Protection of anonymity

- 2 (1) The person in charge of an investigation under section 29D(1), and any other person designated for the purposes of the investigation by virtue of paragraph 1, may not disclose the identity of the whistle-blower or information that might (whether alone or with other information) tend to reveal that identity.
- (2) Sub-paragraph (1) does not apply to the extent that—
- (a) the whistle-blower consents to the disclosure of his or her identity or (as the case may be) to the disclosure of information that might tend to reveal it, or
 - (b) the disclosure is authorised by regulations made by the Secretary of State under section 29J.
- (3) The person in charge of an investigation under section 29D(1) must take all reasonable steps to ensure that, where the identity of the whistle-blower, or information that might tend to reveal that identity, is disclosed for the purposes of the investigation (whether with the consent of the whistle-blower or in accordance with regulations under section 29J), it is not further disclosed without the consent of the person in charge.

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- (4) For the purpose of the duty under sub-paragraph (3), the person in charge may impose such requirements on persons to whom the identity of the whistle-blower, or information that might tend to reveal that identity, is disclosed as are specified in regulations made by the Secretary of State for the purpose of this paragraph.

Powers to obtain information etc

- 3 Paragraphs 19ZA to 19ZC of Schedule 3 apply in relation to an investigation under section 29D(1) as they apply in relation to an investigation under paragraph 19 of that Schedule.

Procedure where conduct matter is revealed during investigation

- 4 (1) If, during the course of an investigation under section 29D(1), it appears to the person in charge 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,
- the person in charge must make a submission to that effect to the Commission.
- (2) If, after considering the submission, the Commission determines that there is such an indication, it must—
- (a) notify the appropriate authority in relation to the person whose conduct is in question of its determination, and
 - (b) send to it a copy of the submission under sub-paragraph (1).
- (3) Where the appropriate authority in relation to the person whose conduct is in question is notified under sub-paragraph (2), it must record the matter under paragraph 11 of Schedule 3 to this Act as a conduct matter.
- (4) Where a matter is, in accordance with sub-paragraph (3), recorded under paragraph 11 of Schedule 3 as a conduct matter—
- (a) the person in charge of the investigation under section 29D(1) must (subject to any determination made by the Commission under paragraph 15(5B) of Schedule 3) continue the investigation as if appointed or designated to investigate the conduct matter, and
 - (b) the other provisions of Schedule 3 apply in relation to that matter accordingly (subject to regulations under sub-paragraph (5)).
- (5) The Secretary of State may by regulations make provision modifying Schedule 3 in relation to an investigation of a matter that, in accordance with sub-paragraph (3), is recorded under paragraph 11 of that Schedule as a conduct matter but only for the purpose of making provision for the protection of the anonymity of whistle-blowers.

Procedure where DSI matter is revealed during investigation

- 5 (1) If, during the course of an investigation under section 29D(1), it appears to the person in charge that the matter may be a DSI matter, the person must make a submission to that effect to the Commission.

- (2) If, after considering the submission, the Commission determines the matter is a DSI matter, it must—
 - (a) notify the appropriate authority in relation to the DSI matter, and
 - (b) send to it a copy of the submission under sub-paragraph (1).
- (3) Where the appropriate authority in relation to the DSI matter is notified under sub-paragraph (2), it must record the matter under paragraph 14A of Schedule 3 to this Act as a DSI matter.
- (4) Where a matter is, in accordance with sub-paragraph (3), recorded under paragraph 14A of Schedule 3 as a DSI matter—
 - (a) the person in charge of the investigation under section 29D(1) must (subject to any determination made by the Commission under paragraph 15(5B) of Schedule 3) continue the investigation as if appointed or designated to investigate the DSI matter, and
 - (b) the other provisions of Schedule 3 apply in relation to that matter accordingly (subject to regulations under sub-paragraph (5)).
- (5) The Secretary of State may by regulations make provision modifying Schedule 3 in relation to an investigation that, in accordance with sub-paragraph (3), is recorded under paragraph 14A of that Schedule as a DSI matter but only for the purpose of making provision for the protection of the anonymity of whistle-blowers.
- (6) In this paragraph, references to the appropriate authority in relation to a DSI matter have the same meaning as in Part 2 (see section 29).

Conclusion of investigation

- 6 (1) When an investigation under section 29D(1) is concluded, the person in charge of the investigation must submit a report on it to the Commission.
- (2) The Commission—
 - (a) must send a copy of the report to the whistle-blower, and
 - (b) may, with the consent of the whistle-blower, send a copy of the report to the appropriate authority.
- (3) The Secretary of State may by regulations make provision for circumstances in which the duty under sub-paragraph (2)(a) does not apply.
- (4) The power conferred by sub-paragraph (3) may be exercised only to the extent that the Secretary of State considers necessary for any of the permitted non-disclosure purposes.
- (5) The Secretary of State may also by regulations make provision for circumstances in which (despite sub-paragraph (2)(b)) a copy of the report may be sent to the appropriate authority without the consent of the whistle-blower.
- (6) The power conferred by sub-paragraph (5) may be exercised only to the extent that the Secretary of State considers necessary for any of the permitted disclosure purposes.
- (7) Where the Commission would contravene section 21A by sending a copy of a report in its entirety to the whistle-blower or to the appropriate authority, the Commission may comply with its duty under sub-paragraph (2)(a) or (as the case may be) may

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exercise its power under sub-paragraph (2)(b) (or under regulations under sub-paragraph (5)) by sending instead a copy of the report after having removed or obscured the information which it is prohibited from disclosing by section 21A.

- (8) In this paragraph—
- (a) “the permitted non-disclosure purposes” has the same meaning as in section 29I;
 - (b) “the permitted disclosure purposes” has the same meaning as in section 29J.

Power of Commission to make recommendations

- 7 (1) On receipt of a report under paragraph 6, the Commission may make a recommendation in relation to any matter dealt with in it.
- (2) The Secretary of State may by regulations make further provision about recommendations under this paragraph.
- (3) The regulations may (amongst other things)—
- (a) describe the kinds of recommendations that the Commission may make under this paragraph;
 - (b) specify the persons to whom the recommendations may be made;
 - (c) authorise the Commission to require a response to a recommendation made under this paragraph.”

SCHEDULE 7

Section 29

DISCIPLINARY PROCEEDINGS: FORMER MEMBERS OF MOD POLICE, BRITISH TRANSPORT POLICE AND CIVIL NUCLEAR CONSTABULARY

Ministry of Defence Police Act 1987 (c. 4)

- 1 The Ministry of Defence Police Act 1987 is amended as follows.
- 2 (1) Section 3A (regulations relating to disciplinary matters) is amended as follows.
- (2) After subsection (1A) insert—
- “(1B) Regulations under this section may provide for the procedures that are established by or under regulations made by virtue of subsection (1A) to apply (with or without modifications) in respect of the conduct, efficiency or effectiveness of any person where—
- (a) an allegation relating to the conduct, efficiency or effectiveness of the person comes to the attention of the chief constable of the Ministry of Defence Police, the Ministry of Defence Police Committee, the Independent Police Complaints Commission, the Police Investigations and Review Commissioner or the Police Ombudsman for Northern Ireland,
 - (b) at the time of the alleged misconduct, inefficiency or ineffectiveness the person was a member of the Ministry of Defence Police, and
 - (c) condition A, B or C is satisfied in relation to the person.

- (1C) Condition A is that the person ceases to be a member of the Ministry of Defence Police after the allegation first comes to the attention of a person mentioned in subsection (1B)(a).
- (1D) Condition B is that the person had ceased to be a member of the Ministry of Defence Police before the allegation first came to the attention of a person mentioned in subsection (1B)(a) but the period between the person having ceased to be a member of the Ministry of Defence Police and the allegation first coming to the attention of a person mentioned in subsection (1B)(a) does not exceed the period specified in regulations under this section.
- (1E) Condition C is that—
- (a) the person had ceased to be a member of the Ministry of Defence Police before the allegation first came to the attention of a person mentioned in subsection (1B)(a),
 - (b) the period between the person having ceased to be a member of the Ministry of Defence Police and the allegation first coming to the attention of a person mentioned in subsection (1B)(a) exceeds the period specified for the purposes of condition B, and
 - (c) the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, the person could have been dealt with by dismissal if the person had still been a member of the Ministry of Defence Police.
- (1F) Regulations made by virtue of subsection (1B) as they apply in a case where condition C is satisfied in relation to a person must provide that disciplinary proceedings may be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness only if the Independent Police Complaints Commission determines that taking such proceedings would be reasonable and proportionate having regard to—
- (a) the seriousness of the alleged misconduct, inefficiency or ineffectiveness,
 - (b) the impact of the allegation on public confidence in the police, and
 - (c) the public interest.
- (1G) Regulations made by virtue of subsection (1B) may make provision about matters to be taken into account by the Independent Police Complaints Commission for the purposes of subsection (1F)(a) to (c).
- (1H) Regulations made by virtue of subsection (1B) must provide that disciplinary proceedings which are not the first disciplinary proceedings to be taken against the person in respect of the alleged misconduct, inefficiency or ineffectiveness may be taken only if they result from a re-investigation of the allegation (whether carried out under regulations under this section or by virtue of section 26 of the Police Reform Act 2002) that begins within the period specified in the regulations.

The period specified must begin with the date when the person ceased to be a member of the Ministry of Defence Police.”

- (3) In subsection (2), for “The regulations” substitute “Regulations under this section”.
- 3 In section 4 (representation etc at disciplinary proceedings), in subsection (4)—
- (a) in the definition of “the officer concerned”, after “member” insert “or, as the case may be, the former member”;

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- (b) in the definition of “relevant authority”—
 - (i) after paragraph (a) insert—
 - “(aa) where the officer concerned is a former member of the Ministry of Defence Police who immediately before ceasing to be such a member was not a senior officer, the chief constable for the Ministry of Defence Police;”;
 - (ii) after paragraph (b) insert—
 - “(c) where the officer concerned is a former member of the Ministry of Defence Police who immediately before ceasing to be such a member was a senior officer, the Ministry of Defence Police Committee;”.
- 4 In section 4A (appeals against dismissal etc), in subsection (1)(a), after “member” insert “, or former member”.
- 5 Regulations made in pursuance of section 3A(1B) of the Ministry of Defence Police Act 1987 (as inserted by paragraph 2)—
- (a) may not make provision in relation to a person who ceases to be a member of the Ministry of Defence Police before the coming into force of paragraph 2 of this Schedule;
 - (b) may make provision in relation to a person who ceases to be a member of the Ministry of Defence Police after the coming into force of paragraph 2 of this Schedule even though the alleged misconduct, inefficiency or ineffectiveness occurred at a time before the coming into force of that paragraph, but only if the alleged misconduct, inefficiency or ineffectiveness is such that, if proved, there could be a finding in relation to the person in disciplinary proceedings that the person would have been dismissed if the person had still been a member of the Ministry of Defence Police.

Railways and Transport Safety Act 2003 (c. 20)

- 6 The Railways and Transport Safety Act 2003 is amended as follows.
- 7 In section 36 (police regulations: general), after subsection (1) insert—
- “(1A) To the extent that subsection (1) concerns regulations made in pursuance of section 50(3A) of the Police Act 1996, or matters that could be dealt with by such regulations, the reference in subsection (1) to constables or other persons employed in the service of the Police Force includes former constables and other persons formerly employed in the service of the Police Force.”
- 8 In section 37 (police regulations: special constables), after subsection (1) insert—
- “(1ZA) To the extent that subsection (1) concerns regulations made in pursuance of section 51(2B) of the Police Act 1996, or matters that could be dealt with by such regulations, the reference in subsection (1) to special constables of the Police Force includes former special constables of the Police Force.”
- 9 In section 42 (police regulations by Secretary of State), in subsection (3)—
- (a) after “50(3)” insert “or (3A)”;
 - (b) after “51(2A)” insert “or (2B)”.

- 10 Regulations made under section 36, 37 or 42 of the Railways and Transport Safety Act 2003 that make provision that applies regulations made in pursuance of section 50(3A) or 51(2B) of the Police Act 1996, or that deals with matters that could be dealt with by such regulations, in relation to former constables, and former special constables, of the British Transport Police Force and other persons formerly employed in the service of the British Transport Police Force—
- (a) may not make provision that would not be permitted in relation to former members of a police force and former special constables by section 29(7)(a);
 - (b) may make provision that would be permitted in relation to former members of a police force and former special constables by section 29(7)(b).

Energy Act 2004 (c. 20)

- 11 The Energy Act 2004 is amended as follows.
- 12 In section 58 (government, administration and conditions of service of Civil Nuclear Constabulary), in subsection (1)(a), after “members” insert “or former members”.
- 13 (1) In Schedule 13 (directions by Secretary of State about Civil Nuclear Constabulary), paragraph 3 (government, administration and conditions of service) is amended as follows.
- (2) After sub-paragraph (2) insert—
 - “(2A) To the extent that sub-paragraph (2) concerns provision that may be made in pursuance of section 50(3A) of the Police Act 1996, the reference in sub-paragraph (1) to members of the Constabulary includes former members.”
- 14 Provision made by the Civil Nuclear Police Authority that relates to former members of the Civil Nuclear Constabulary and matters which are the subject of regulations made in pursuance of section 50(3A) of the Police Act 1996—
- (a) may not be provision that would not be permitted in relation to former members of a police force and former special constables by section 29(7)(a);
 - (b) may be provision that would be permitted in relation to former members of a police force and former special constables by section 29(7)(b).

SCHEDULE 8

Section 30

PART TO BE INSERTED AS PART 4A OF THE POLICE ACT 1996

“PART 4A

POLICE BARRED LIST AND POLICE ADVISORY LIST

*Police barred list***88A Duty to report dismissals etc to College of Policing**

- (1) The relevant authority must report a person to the College of Policing where—
- (a) the person ceases to be a member of a police force or a special constable by virtue of being dismissed at proceedings conducted under regulations made in pursuance of section 50(3) or 51(2A);
 - (b) the person is a former member of a police force or a former special constable and there is a finding in relation to the person in disciplinary proceedings that the person would have been dismissed if the person had still been a member of a police force or a special constable;
 - (c) the person ceases to be a civilian police employee by virtue of being dismissed and the reason, or one of the reasons, for the dismissal relates to conduct, efficiency or effectiveness;
 - (d) the person is a former civilian police employee and there is a finding in relation to the person in disciplinary proceedings that the person would have been dismissed if the person had still been such an employee.
- (2) A report under subsection (1)—
- (a) must be made within such period as is specified in regulations made by the Secretary of State;
 - (b) must include such information as is so specified.
- (3) In this section “relevant authority” means—
- (a) in relation to a person falling within subsection (1)(a), other than a person who was a chief officer of police immediately before being dismissed, the chief officer of police of the police force of which the person was a member, or for which the person was appointed as a special constable, at that time;
 - (b) in relation to a person falling within subsection (1)(a) who was a chief officer of police immediately before being dismissed, the local policing body for the police force of which the person was a member at that time;
 - (c) in relation to a person falling within subsection (1)(b), other than a former chief officer of police, the chief officer of police of the police force of which the person was last a member or for which the person was last appointed as a special constable;
 - (d) in relation to a person falling within subsection (1)(b) who is a former chief officer of police, the local policing body for the police force of which the person was last a member;
 - (e) in relation to a person falling within subsection (1)(c), the chief officer of police under whose direction and control the person was immediately before being dismissed;

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- (f) in relation to a person falling within subsection (1)(d), the chief officer of police under whose direction and control the person was immediately before ceasing to be a civilian police employee.
- (4) In this section “disciplinary proceedings” means—
 - (a) in relation to a former member of a police force or a former special constable, proceedings conducted under regulations made in pursuance of section 50(3A) or 51(2B);
 - (b) in relation to a former civilian police employee, any proceedings that are identified as disciplinary proceedings in relation to such a person by regulations made by the Secretary of State.
- (5) For the purposes of this section, a person is a civilian police employee if the person is—
 - (a) a member of the civilian staff of a police force, including the metropolitan police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011), or
 - (b) a person employed by the Common Council of the City of London in its capacity as police authority who is under the direction and control of the Commissioner of Police for the City of London.
- (6) A person is dismissed for the purposes of subsection (1)(c) if the circumstances in which the person ceases to be a civilian police employee amount to dismissal within the meaning of Part 10 of the Employment Rights Act 1996 (see section 95 of that Act).
- (7) Regulations under this section may make different provision for different cases and circumstances.
- (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

88B Duty to maintain police barred list

- (1) The College of Policing must maintain a list of persons who are reported to the College under section 88A.
- (2) The list maintained under subsection (1) is to be known as the police barred list.
- (3) The police barred list must include such information in relation to a person reported to the College of Policing under section 88A as is specified in regulations made by the Secretary of State.
- (4) Regulations under this section—
 - (a) may make different provision for different cases and circumstances;
 - (b) may confer a discretion on the College of Policing.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

88C Effect of inclusion in police barred list

- (1) A person who is included in the police barred list is a barred person for the purposes of this section and sections 88D and 88E.

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

- (2) Before employing or appointing any person, a person mentioned in subsection (5) must check with the College of Policing whether the proposed employee or proposed appointee (as the case may be) is a barred person.
- (3) A person mentioned in subsection (5) may not employ a barred person or otherwise appoint a barred person to any position.
- (4) For the purposes of subsections (2) and (3) a person who is to be seconded to work for a person mentioned in subsection (5), and who will not be employed by that person, is to be regarded as being appointed by that person.
- (5) The persons referred to in subsections (2) to (4) are—
 - (a) a chief officer of police;
 - (b) a local policing body;
 - (c) the chief inspector of constabulary;
 - (d) the Independent Police Complaints Commission;
 - (e) a person specified in regulations made by the Secretary of State.
- (6) A person may be specified in regulations under subsection (5)(e) only if the person has relevant public functions.
- (7) In this section and sections 88D and 88E “relevant public functions” means functions of a public nature exercisable in, or in relation to, England and Wales that relate to policing or law enforcement.
- (8) A statutory instrument containing regulations under subsection (5)(e) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.

88D Application of section 88C to persons with mixed functions

- (1) If a person to be specified in regulations under section 88C(5)(e) has both relevant public functions and other functions, the person may be so specified as follows (but not otherwise)—
 - (a) in relation to the exercise of the person’s relevant public functions, or
 - (b) in relation to the exercise of such of those relevant public functions as are of a description specified in the regulations.
- (2) In this section—
 - (a) a person who is specified in regulations under section 88C(5)(e) is referred to as a specified person, and
 - (b) in relation to that person, the functions in relation to the exercise of which the person is specified are referred to as specified functions.
- (3) In relation to a specified person—
 - (a) the duties in section 88C(2) and (3) apply only to the extent that the proposed employee or proposed appointee (as the case may be) will be involved in the exercise of specified functions;
 - (b) the additional duties in subsections (4) and (5) of this section apply where the specified person is proposing to arrange for an existing employee or existing appointee to become involved in the exercise of specified functions (not having previously been so involved).

- (4) Before making the arrangement, the specified person must check with the College of Policing whether the existing employee or existing appointee (as the case may be) is a barred person.
- (5) The specified person may not arrange for an existing employee or existing appointee who is a barred person to become involved in the exercise of specified functions.
- (6) For the purposes of subsections (3) to (5) a person who is seconded to work for a specified person is to be regarded as an existing appointee of that person (if not an existing employee of that person).

88E Prohibition on contractors using barred persons

- (1) A person mentioned in section 88C(5) may not enter into a contract for the provision of services if the terms of the contract would permit a barred person to be involved in the exercise of relevant public functions.
- (2) A local policing body may not enter into a contract for the provision of services to a chief officer of police if the terms of the contract would permit a barred person to be involved in the exercise of relevant public functions.
- (3) Subsection (1) applies in relation to a person specified in regulations under section 88C(5)(e) as described in section 88D(1)(b) as if the reference in subsection (1) to relevant public functions were a reference to those relevant public functions in relation to the exercise of which the person is specified.

88F Removal from police barred list

- (1) This section applies where a relevant authority reports a person to the College of Policing under section 88A and—
 - (a) in relation to a person reported by virtue of section 88A(1)(a), the person is reinstated as a member of a police force or a special constable (as the case may be) at proceedings conducted under rules made under section 85;
 - (b) in relation to a person reported by virtue of section 88A(1)(b), the finding that the person would have been dismissed is set aside at proceedings conducted under rules made under section 85;
 - (c) in relation to a person reported by virtue of section 88A(1)(c), the dismissal is found to have been an unfair dismissal—
 - (i) following a complaint under section 111 of the Employment Rights Act 1996, and
 - (ii) whether by an employment tribunal or on appeal;
 - (d) in relation to a person reported by virtue of section 88A(1)(d), the finding that the person would have been dismissed is set aside at proceedings that are identified as appeal proceedings by regulations made by the Secretary of State.
- (2) Where this section applies, the relevant authority must make a further report to the College of Policing in relation to the person.
- (3) A report under subsection (2)—
 - (a) must be made within such period as is specified in regulations made by the Secretary of State;
 - (b) must include such information as is so specified.

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

- (4) On receipt of a report under subsection (2) in relation to a person the College of Policing must remove the person from the police barred list.
- (5) The Secretary of State may by regulations make provision in connection with the removal of a person from the police barred list otherwise than under subsection (4).
- (6) Regulations under subsection (5) may confer functions on the College of Policing including functions which involve the exercise of a discretion.
- (7) “Relevant authority” has the same meaning in this section as it has in section 88A.
- (8) Regulations under this section may make different provision for different cases and circumstances.
- (9) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

88G Publication of information in police barred list

- (1) This section applies to a person who—
 - (a) is included in the police barred list, and
 - (b) is of a description specified in regulations made by the Secretary of State.
- (2) The College of Policing must (in accordance with subsection (3)) publish such information included in the police barred list in relation to a person to whom this section applies as is specified in regulations made by the Secretary of State.
- (3) Information published under subsection (2) must—
 - (a) be published in such manner as the College of Policing considers appropriate,
 - (b) be published within such period following its inclusion in the police barred list as is specified in regulations made by the Secretary of State,
 - (c) remain published by the College for a period of 5 years beginning with the date on which it is first published, and
 - (d) cease to be published by the College at the end of that period.
- (4) The Secretary of State may by regulations provide for the duty in subsection (2) to be subject to exceptions.
- (5) Regulations under subsection (4) may (amongst other things) make provision which has the effect that—
 - (a) information is never published;
 - (b) information ceases to be published by the College of Policing before the end of the period referred to in subsection (3)(c).
- (6) Regulations which make provision of the type described in subsection (5)(b) may confer functions on the College of Policing including functions which involve the exercise of a discretion.
- (7) Regulations under this section may make different provision for different cases and circumstances.
- (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

88H Power to disclose information in police barred list

The College of Policing may, if it considers it to be in the public interest to do so, disclose to any person information included in the police barred list which relates to a particular person who is included in the police barred list.

Police advisory list

88I Duty to report resignations and retirements to College of Policing

- (1) The relevant authority must report a person to the College of Policing where—
 - (a) the person ceases to be a person serving with the police by resigning or retiring after a relevant allegation about the person comes to the attention of the relevant authority but before disciplinary proceedings in respect of the allegation are brought or, if brought, before they are concluded;
 - (b) the person is a former member of a police force or a former special constable and a relevant allegation about the person comes to the attention of the relevant authority after the person having ceased to be a member of a police force or a special constable (as the case may be) by resigning or retiring.
- (2) But the duty in subsection (1)(a) does not apply if, before the person resigns or retires, it is determined that no disciplinary proceedings will be brought against the person in respect of the allegation.
- (3) A report under subsection (1)—
 - (a) must be made within such period as is specified in regulations made by the Secretary of State;
 - (b) must include such information as is so specified.
- (4) In this section “relevant authority” means—
 - (a) in relation to a person who was a member of a police force, other than a chief officer of police, immediately before resigning or retiring, the chief officer of police of that police force;
 - (b) in relation to a person who was a chief officer of police immediately before resigning or retiring, the local policing body for the police force of which the person was a member at that time;
 - (c) in relation to a person who was a special constable immediately before resigning or retiring, the chief officer of police of the police force for which the person was appointed as a special constable immediately before resigning or retiring;
 - (d) in relation to a person who was a civilian police employee immediately before resigning or retiring, the chief officer of police under whose direction and control the person was at that time.
- (5) For the purposes of this section a person is serving with the police if the person is—
 - (a) a member of a police force,
 - (b) a special constable, or
 - (c) a civilian police employee (within the meaning of section 88A).
- (6) For the purposes of this section an allegation about a person is a relevant allegation if—
 - (a) it relates to the conduct, efficiency or effectiveness of the person, and

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

- (b) the allegation (if proved) is of a type that might have resulted in the person being dismissed as described in section 88A(1)(a) or (c) if the person had not resigned or retired.
- (7) Regulations under this section may make different provision for different cases and circumstances.
- (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

88J Duty to maintain police advisory list

- (1) The College of Policing must maintain a list of persons who are reported to the College under section 88I.
- (2) The list maintained under subsection (1) is to be known as the police advisory list.
- (3) The police advisory list must include such information in relation to a person reported to the College of Policing under section 88I as is specified in regulations made by the Secretary of State.
- (4) Regulations under this section—
 - (a) may make different provision for different cases and circumstances;
 - (b) may confer a discretion on the College of Policing.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

88K Effect of inclusion in police advisory list

- (1) Before employing or appointing any person, a person mentioned in subsection (3) must check with the College of Policing whether the proposed employee or proposed appointee (as the case may be) is included in the police advisory list.
- (2) For the purposes of subsection (1) a person who is to be seconded to work for a person mentioned in subsection (3), and who will not be employed by that person, is to be regarded as being appointed by that person.
- (3) The persons referred to in subsections (1) and (2) are—
 - (a) a chief officer of police;
 - (b) a local policing body;
 - (c) the chief inspector of constabulary;
 - (d) the Independent Police Complaints Commission;
 - (e) a person specified in regulations made by the Secretary of State for the purposes of section 88C(5)(e).
- (4) In this section—
 - (a) a person who is specified in regulations under section 88C(5)(e) is referred to as a specified person, and
 - (b) in relation to that person, the functions in relation to the exercise of which the person is specified are referred to as specified functions.
- (5) In relation to a specified person—

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

- (a) the duty in subsection (1) applies only to the extent that the proposed employee or proposed appointee (as the case may be) will be involved in the exercise of specified functions;
 - (b) the additional duty in subsection (6) applies where the specified person is proposing to arrange for an existing employee or existing appointee to become involved in the exercise of specified functions (not having previously been so involved).
- (6) Before making the arrangement, the specified person must check with the College of Policing whether the existing employee or existing appointee (as the case may be) is included in the police advisory list.
- (7) For the purposes of subsections (5) and (6) a person who is seconded to work for a specified person is to be regarded as an existing appointee of that person (if not an existing employee of that person).

88L Removal from police advisory list

- (1) Subsection (2) applies where a relevant authority reports a person to the College of Policing under section 88I(1)(a) or (b) and—
- (a) it is determined that no disciplinary proceedings will be brought against the person,
 - (b) the disciplinary proceedings brought against the person are withdrawn, or
 - (c) the disciplinary proceedings brought against the person are concluded without there being a finding that the person would have been dismissed if the person had still been a person serving with the police.
- (2) Where this subsection applies, the relevant authority must make a further report to the College of Policing in relation to the person.
- (3) A report under subsection (2)—
- (a) must be made within such period as is specified in regulations made by the Secretary of State;
 - (b) must include such information as is so specified.
- (4) On receipt of a report under subsection (2) in relation to a person the College of Policing must remove the person from the police advisory list.
- (5) The College of Policing must remove a person from the police advisory list if the person becomes included in the police barred list by virtue of section 88A(1)(b) or (d).
- (6) The Secretary of State may by regulations make provision in connection with the removal from the police advisory list (otherwise than under subsection (4) or (5)) of a person who, immediately before resigning or retiring, was a member of a police force or a special constable.
- (7) The Secretary of State must by regulations make provision in connection with the removal from the police advisory list (otherwise than under subsection (4) or (5)) of a person who, immediately before resigning or retiring, was a civilian police employee.
- (8) Regulations under subsection (6) or (7) may confer functions on the College of Policing including functions which involve the exercise of a discretion.
- (9) In this section—
- “civilian police employee” has the same meaning as in section 88A;

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

“disciplinary proceedings” has the same meaning as in section 88A;
“person serving with the police” has the same meaning as in section 88I;
“relevant authority” has the same meaning as in section 88I.

- (10) Regulations under this section may make different provision for different cases and circumstances.
- (11) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

88M Power to disclose information in police advisory list

The College of Policing may, if it considers it to be in the public interest to do so, disclose to any person information included in the police advisory list which relates to a particular person who is included in the police advisory list.”

SCHEDULE 9

Section 33

INDEPENDENT OFFICE FOR POLICE CONDUCT

PART 1

AMENDMENTS TO SCHEDULE 2 TO THE POLICE REFORM ACT 2002

Introductory

- 1 Schedule 2 to the Police Reform Act 2002 is amended in accordance with this Part of this Schedule (see also paragraph 55 below for further minor and consequential amendments).

Director General

- 2 (1) Paragraph 1 (chairman) is amended as follows.
- (2) For sub-paragraph (1) substitute—
- “(1) The Director General holds office in accordance with the terms of his or her appointment.
- (1A) A person who holds office as Director General must not be an employee of the Office (but may have been such an employee before appointment as the Director General).”
- (3) In sub-paragraph (2) for “chairman of the Commission” substitute “Director General”.
- (4) In sub-paragraph (3)—
- (a) for “chairman of the Commission” substitute “Director General”;
- (b) for “chairman” substitute “Director General”.
- (5) In sub-paragraph (4)—

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

- (a) for “chairman of the Commission” substitute “Director General”;
- (b) for “chairman” substitute “Director General”.

(6) In sub-paragraph (5) for “chairman” substitute “Director General”.

Appointment etc of members

3 After paragraph 1 insert—

“Appointment of members

- 1A (1) The non-executive members of the Office are to be appointed by the Secretary of State.
- (2) A person who is a non-executive member must not be an employee of the Office (but may have been such an employee before appointment as a non-executive member).
- 1B (1) The employee members of the Office are to be appointed from the staff of the Office by the non-executive members.
- (2) If the non-executive members propose to appoint an employee member, the Director General must recommend a person to the non-executive members for appointment.
- (3) The Director General may also recommend a person to the non-executive members for appointment as an employee member without any proposal having been made under sub-paragraph (2).
- (4) On a recommendation of a person for appointment under sub-paragraph (2) or (3), the non-executive members may—
 - (a) appoint the person, or
 - (b) reject the recommendation.
- (5) If the non-executive members reject a recommendation they may require the Director General to recommend another person for appointment (in which case this sub-paragraph applies again and so on until somebody is appointed).”

- 4 (1) Paragraph 2 (ordinary members of the Commission) is amended as follows.
- (2) In sub-paragraph (1) for “an ordinary” substitute “a non-executive”.
- (3) Omit sub-paragraph (2).
- (4) In sub-paragraph (3) for “an ordinary” substitute “a non-executive”.
- (5) In sub-paragraph (4)—
 - (a) for “an ordinary”, in both places, substitute “a non-executive”;
 - (b) for “five” substitute “three”.
- (6) In sub-paragraph (5)—
 - (a) for “An ordinary” substitute “A non-executive”;
 - (b) for “his office as a member of the Commission” substitute “from being a non-executive member of the Office”.

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

- (7) In sub-paragraph (6)—
- (a) for “an ordinary” substitute “a non-executive”;
 - (b) omit paragraph (b).
- (8) Omit sub-paragraph (8).
- 5 After paragraph 2 insert—
- “Terms of appointment etc: employee members*
- 2A (1) A person holds office as an employee member in accordance with the terms of his or her appointment (subject to the provisions of this Schedule).
- (2) Those terms may not include arrangements in relation to remuneration.
- (3) An appointment as an employee member may be full-time or part-time.
- (4) The appointment of an employee member terminates—
- (a) if the terms of the member’s appointment provides for it to expire at the end of a period, at the end of that period, and
 - (b) in any event, when the member ceases to be an employee of the Office.
- (5) An employee member may resign by giving written notice to the non-executive members.
- (6) The non-executive members may terminate the appointment of an employee member by giving the member written notice if they are satisfied that any of the grounds mentioned in paragraph 2(6)(a) to (g) apply in relation to the employee member.”
- 6 Omit paragraph 3 (deputy chairmen) (including the italic heading before that paragraph).
- 7 Omit paragraph 5 (chief executive) (including the italic heading before that paragraph).

Vacancy or incapacity in office of Director General

- 8 After paragraph 3 insert—
- “Director General: vacancy or incapacity*
- 3A (1) This paragraph applies if—
- (a) the office of Director General is vacant, or
 - (b) it appears to the Office that the ability of the Director General to carry out the Director General’s functions is seriously impaired because of ill health (whether mental or physical).
- (2) The Office may, with the agreement of the Secretary of State, authorise an employee of the Office to carry out the functions of the Director General during the vacancy or period of ill health.

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

- (3) A person who falls within section 9(3) may not be authorised under this paragraph to carry out the functions of the Director General.
- (4) A person who has been sentenced to a term of imprisonment of three months or more may not, at any time in the five years following the day of sentence, be authorised under this paragraph to carry out the functions of the Director General.
- (5) Paragraph 1(6) applies for the purposes of sub-paragraph (4).
- (6) Authorisation of a person under this paragraph ceases to have effect—
 - (a) at the end of the vacancy or period of ill health,
 - (b) on the Office revoking the authorisation for any reason, or
 - (c) on the Secretary of State withdrawing agreement to the authorisation for any reason.”

Remuneration arrangements

- 9 (1) Paragraph 4 (remuneration, pensions etc of members) is amended as follows.
- (2) In sub-paragraph (1), for the words from “the chairman” to the end substitute “the Director General as the Secretary of State may determine”.
 - (3) In sub-paragraph (2)—
 - (a) in paragraph (a), for “chairman, deputy chairman or member of the Commission” substitute “Director General”;
 - (b) in the words after paragraph (b) for “Commission” substitute “Office”.
 - (4) After sub-paragraph (2) insert—

“(3) The Secretary of State may make remuneration arrangements in relation to non-executive members of the Office.
 - (4) Remuneration arrangements under sub-paragraph (3)—
 - (a) may make provision for a salary, allowances and other benefits but not for a pension, and
 - (b) may include a formula or other mechanism for adjusting one or more of those elements from time to time.
 - (5) Amounts payable by virtue of sub-paragraph (4) are to be paid by the Office.”

Staff

- 10 (1) Paragraph 6 (staff) is amended as follows.
- (2) For sub-paragraph (1) substitute—

“(1) The Office may appoint staff.”
 - (3) In sub-paragraph (2) for “Commission”, in both places, substitute “Office”.
 - (4) In sub-paragraph (3)—
 - (a) for “Commission” substitute “Office”;

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

- (b) after “staffing” insert “(including arrangements in relation to terms and conditions and management of staff)”;
 - (c) for “it” substitute “the Director General”.
- (5) In sub-paragraph (4)—
- (a) for “Commission”, in the first place, substitute “Office”;
 - (b) for “Commission”, in the second place, substitute “Director General”.
- (6) After sub-paragraph (4) insert—
- “(4A) The powers under this paragraph are exercisable only by the Director General acting on behalf of the Office (subject to the power under paragraph 6A(1)).”
- (7) In sub-paragraph (5) for “by the Commission of its” substitute “of the”.

Delegation of functions

11 After paragraph 6 insert—

“Delegation of functions

- 6A (1) The Director General may authorise a person within sub-paragraph (2) to exercise on the Director General’s behalf a function of the Director General.
- (2) The persons within this sub-paragraph are—
- (a) employee members of the Office;
 - (b) employees of the Office appointed under paragraph 6;
 - (c) seconded constables within the meaning of paragraph 8.
- (3) The reference in sub-paragraph (1) to a function of the Director General is to any function that the Director General has under this Act or any other enactment.
- (4) A person (“A”) who is authorised under sub-paragraph (1) to exercise a function may authorise another person within sub-paragraph (2) to exercise that function (but only so far as permitted to do so by the authorisation given to A).
- (5) An authorisation under this paragraph may provide for a function to which it relates to be exercisable—
- (a) either to its full extent or to the extent specified in the authorisation;
 - (b) either generally or in cases, circumstances or areas so specified;
 - (c) either unconditionally or subject to conditions so specified.
- (6) Provision under sub-paragraph (5) may (in particular) include provision for restricted persons not to exercise designated functions.
- (7) For the purposes of sub-paragraph (6)—
- (a) “designated functions” are any functions of the Director General that are designated by the Director General for the purposes of this paragraph (and such functions may in particular be

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

- designated by reference to the position or seniority of members of staff);
- (b) “restricted persons” are, subject to any determination made under sub-paragraph (8), persons who fall within section 9(3).
- (8) The Director General may, in such circumstances as the Director General considers appropriate, determine that persons are not to be treated as restricted persons so far as relating to the exercise of designated functions (whether generally or in respect of particular functions specified in the determination).
- (9) The Director General must publish a statement of policy about how the Director General proposes to exercise the powers conferred by sub-paragraphs (7)(a) and (8).
- (10) The statement must in particular draw attention to any restrictions on the carrying out of functions imposed by virtue of their designation under sub-paragraph (7)(a) and explain the reasons for imposing them.
- (11) The exercise of the powers conferred by sub-paragraphs (7)(a) and (8) is subject to any regulations under section 23(1) of the kind mentioned in section 23(2)(g) (regulations limiting persons who may be appointed to carry out investigations etc).
- (12) An authorisation under this paragraph does not prevent the Director General from exercising the function to which the authorisation relates.
- (13) Anything done or omitted to be done by or in relation to a person authorised under this paragraph in, or in connection with, the exercise or purported exercise of the function to which the authorisation relates is to be treated for all purposes as done or omitted to be done by or in relation to the Director General.
- (14) Sub-paragraph (13) does not apply for the purposes of any criminal proceedings brought in respect of anything done or omitted to be done by the authorised person.”

Protection from personal liability

12 After paragraph 7 insert—

“Liability for acts of the Director General

- 7A (1) A person holding office as the Director General has no personal liability for an act or omission done by the person in the exercise of the Director General’s functions unless it is shown to have been done otherwise than in good faith.
- (2) The Office is liable in respect of unlawful conduct of the Director General in the carrying out, or purported carrying out, of the Director General’s functions in the same way as an employer is liable in respect of any unlawful conduct of employees in the course of their employment.
- (3) Accordingly, the Office is to be treated, in the case of any such unlawful conduct which is a tort, as a joint tortfeasor.”

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

Regional offices

- 13 For paragraph 9 (power of Commission to set up regional offices) substitute—
- “9 (1) The Office may set up regional offices in places in England and Wales.
- (2) But the power under sub-paragraph (1) is exercisable only by the Director General acting on behalf of the Office (subject to the power in paragraph 6A(1)).
- (3) The power under sub-paragraph (1) may be exercised—
- (a) only with the consent of the Secretary of State, and
 - (b) only if it appears to the Director General necessary to do so for the purpose of ensuring that the functions of the Director General, or those of the Office, are carried out efficiently and effectively.”

Proceedings

- 14 In paragraph 10 (proceedings), after sub-paragraph (1) insert—
- “(1A) But the arrangements must include provision for—
- (a) the quorum for meetings to be met only if a majority of members present are non-executive members of the Office, and
 - (b) an audit committee of the Office to be established to perform such monitoring, reviewing and other functions as are appropriate.
- (1B) The arrangements must secure that the audit committee consists only of non-executive members of the Office.”

PART 2

MINOR AND CONSEQUENTIAL AMENDMENTS TO THE POLICE REFORM ACT 2002

- 15 The Police Reform Act 2002 is amended in accordance with this Part of this Schedule.
- 16 For the italic heading before section 9, substitute “The Independent Office for Police Conduct”.
- 17 (1) Section 10 (general functions of the Commission) is amended as follows.
- (2) In subsection (1)(a) omit “itself”.
 - (3) In subsection (1)(e) for “its” substitute “the Director General’s”.
 - (4) In subsection (1)(f) for “it” substitute “the Director General”.
 - (5) In subsection (3) for “it” substitute “the Director General”.
 - (6) In subsection (3A) (as inserted by this Act), for “it” substitute “the Director General”.
 - (7) In subsection (3B) (as inserted by this Act), for “it” substitute “the Director General”.
 - (8) In subsection (4), in paragraph (a)—
 - (a) for “it”, in both places, substitute “the Director General”;
 - (b) for “its” substitute “the Director General’s”.

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

- (9) In subsection (6)—
- (a) for “it” substitute “the Director General”;
 - (b) for “its” substitute “the Director General’s”.
- (10) In subsection (7)—
- (a) for “it”, in both places, substitute “the Director General”;
 - (b) for “its”, in both places, substitute “the Director General’s”.
- 18 (1) Section 11 (reports to the Secretary of State) is amended as follows.
- (2) In subsection (1)—
- (a) for “its”, in the first place it occurs, substitute “the Office’s”;
 - (b) for “Commission shall” substitute “Director General and the Office must jointly”;
 - (c) for “its”, in the second place it occurs, substitute “their”.
- (3) For subsection (2) substitute—
- “(2) The Secretary of State may also require reports to be made (at any time)—
- (a) by the Director General about the carrying out of the Director General’s functions,
 - (b) by the Office about the carrying out of the Office’s functions, or
 - (c) jointly by the Director General and the Office about the carrying out of their functions.”
- (4) After subsection (2) insert—
- “(2A) The Director General may, from time to time, make such other reports to the Secretary of State as the Director General considers appropriate for drawing the Secretary of State’s attention to matters which—
- (a) have come to the Director General’s notice, and
 - (b) are matters which the Director General considers should be drawn to the attention of the Secretary of State by reason of their gravity or of other exceptional circumstances.”
- (5) In subsection (3)—
- (a) for “Commission” substitute “Office”;
 - (b) for “Commission’s” substitute “Office’s”.
- (6) After subsection (3) insert—
- “(3A) The Director General and the Office may jointly make reports under subsections (2A) and (3).”
- (7) In subsection (4)—
- (a) for “Commission” substitute “Director General”;
 - (b) for “it”, in both places, substitute “the Director General”;
 - (c) for “its” substitute “the Director General’s”.
- (8) In subsection (6) for “Commission” substitute “Office”.
- (9) After subsection (6) insert—

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- “(6A) The Director General must send a copy of every report under subsection (2A) —
- (a) to any local policing body that appears to the Director General to be concerned, and
 - (b) to the chief officer of police of any police force that appears to the Director General to be concerned.”
- (10) In subsection (7) for “Commission”, in both places, substitute “Office”.
- (11) In subsection (8)—
- (a) after “subsection” insert “(2A) or”;
 - (b) for “Commission” substitute “Director General or the Office (as the case may be)”.
- (12) In subsection (9)—
- (a) after “subsection” insert “(2A) or”;
 - (b) for “Commission” substitute “Director General or the Office (as the case may be)”.
- (13) In subsection (10) for “Commission” substitute “Director General”.
- (14) In subsection (11)—
- (a) for “Commission”, in each place, substitute “Director General”;
 - (b) for “it” substitute “the Director General”;
 - (c) for “(3)” substitute “(2A)”.
- (15) After subsection (11) insert—
- “(12) The Office must send a copy of every report made or prepared by it under subsection (3) to such of the persons (in addition to those specified in the preceding subsections) who—
- (a) are referred to in the report, or
 - (b) appear to the Office otherwise to have a particular interest in its contents,
- as the Office thinks fit.
- (13) Where a report under subsection (2A) or (3) is prepared jointly by virtue of subsection (3A), a duty under this section to send a copy of the report to any person is met if either the Director General or the Office sends a copy to that person.”
- 19 In section 12 (complaints, matters and persons to which Part 2 applies), in subsection (6)(a) for “Commission” substitute “Director General”.
- 20 (1) Section 13B (power of the Commission to require re-investigation) (as inserted by this Act) is amended as follows.
- (2) For “Commission”, in each place (including the heading), substitute “Director General”.
 - (3) In subsection (1)—
 - (a) for “it”, in both places, substitute “the Director General”;

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- (b) in paragraph (b), before “under” insert “(or, in the case of an investigation carried out under paragraph 19 of Schedule 3 by the Director General personally, is otherwise completed by the Director General)”.
 - (4) In subsection (2) for “it” substitute “the Director General”.
 - (5) In subsection (3) for “it” substitute “the Director General”.
 - (6) In subsection (10)—
 - (a) for “it” substitute “the Director General”;
 - (b) for “its” substitute “the Director General’s”.
 - (7) In subsection (11)—
 - (a) for “it” substitute “the Director General”;
 - (b) for “its” substitute “the Director General’s”.
- 21 (1) Section 15 (general duties of local policing bodies, chief officers and inspectors) is amended as follows.
- (2) In subsection (3), in the words after paragraph (c) after “Director General” insert “of the Agency”.
 - (3) In subsection (4)—
 - (a) for “Commission”, in each place, substitute “Director General”;
 - (b) for “Commission’s” substitute “Office’s”.
- 22 (1) Section 16 (payment for assistance with investigations) is amended as follows.
- (2) For “Commission”, in each place except as mentioned in sub-paragraph (3), substitute “Director General”.
 - (3) In subsection (4), for “the Commission”, in the second place where it occurs, substitute “Office”.
 - (4) In subsection (5)(b), after “Director General” insert “of that Agency”.
- 23 (1) Section 17 (provision of information to the Commission) is amended as follows.
- (2) For “Commission”, in each place (including the heading), substitute “Director General”.
 - (3) In subsection (2)—
 - (a) for “it” substitute “the Director General”;
 - (b) for “its” substitute “the Director General’s”.
- 24 (1) Section 18 (inspections of police premises on behalf of the Commission) is amended as follows.
- (2) For “Commission”, in each place (including the heading and provisions inserted by amendments made by this Act), substitute “Director General”.
 - (3) In subsection (2)(b), for “its” substitute “the Director General’s”.
- 25 (1) Section 19 (use of investigatory powers by or on behalf of the Commission) is amended as follows.
- (2) In the heading, for “Commission” substitute “Director General”.
 - (3) In subsection (1), for “Commission’s” substitute “Director General’s”.

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- 26 (1) Section 20 (duty to keep complainant informed) is amended as follows.
- (2) For “Commission”, in each place (including provisions inserted by amendments made by this Act), substitute “Director General”.
- (3) In subsection (1)(b) for “its” substitute “the Director General’s”.
- (4) In subsection (3) for “it”, where it occurs after “as”, substitute “the Director General”.
- (5) In subsection (8A) (as inserted by this Act)—
- (a) for “its” substitute “their”;
- (b) after “submitted”, in the first place it occurs, insert “(or finalised)”;
- (c) after “submitted”, in the second place it occurs, insert “(or completed)”.
- (6) In subsection (9) for “its” substitute “their”.
- 27 (1) Section 21 (duty to provide information for other persons) is amended as follows.
- (2) For “Commission”, in each place (including provisions inserted by amendments made by this Act), substitute “Director General”.
- (3) In subsection (6)(b) for “its” substitute “the Director General’s”.
- (4) In subsection (8) for “it”, where it occurs after “as”, substitute “the Director General”.
- (5) In subsection (11A) (as inserted by this Act)—
- (a) for “its” substitute “their”;
- (b) after “submitted”, in the first place it occurs, insert “(or finalised)”;
- (c) after “submitted”, in the second place it occurs, insert “(or completed)”.
- 28 In section 21A (restriction on disclosure of sensitive information) (as inserted by this Act), for “Commission”, in each place, substitute “Director General”.
- 29 In section 21B (provision of sensitive information to the Commission and certain investigators) (as inserted by this Act), for “Commission”, in each place (including the heading), substitute “Director General”.
- 30 (1) Section 22 (power of the Commission to issue guidance) is amended as follows.
- (2) For “Commission”, in each place (including the heading), substitute “Director General”.
- (3) In subsection (3)(c) for “it” substitute “the Director General”.
- 31 (1) Section 23 (regulations) is amended as follows.
- (2) For “Commission”, in each place, substitute “Director General”.
- (3) In subsection (2)(i) for “its” substitute “the Director General”.
- (4) In subsection (2)(o) for “it” substitute “the Director General or the Office”.
- 32 In section 24 (consultation on regulations), for paragraph (a) substitute—
- “(a) the Office;
- (aa) the Director General;”.
- 33 In section 26 (forces maintained otherwise than by local policing bodies), for “Commission”, in each place, substitute “Director General”.

- 34 In section 26BA (College of Policing), for “Commission”, in both places, substitute “Director General”.
- 35 (1) Section 26C (the National Crime Agency) is amended as follows.
- (2) In subsection (1)—
- (a) for “Independent Police Complaints Commission” substitute “Director General”;
- (b) before “and other” insert “of the National Crime Agency”.
- (3) In subsection (2) for “Independent Police Complaints Commission” substitute “the Office or in respect of its Director General”.
- (4) In subsection (4) for “Independent Police Complaints Commission”, in both places, substitute “Director General”.
- (5) In subsection (5)—
- (a) for “Independent Police Complaints Commission” substitute “Director General”;
- (b) for “Commission’s”, in both places, substitute “Director General’s”;
- (c) for “Commission” substitute “Director General”.
- (6) In subsection (6) for “Independent Police Complaints Commissioner” substitute “Director General”.
- (7) In subsection (9) after “Director General” insert “of the National Crime Agency”.
- 36 (1) Section 26D (labour abuse prevention officers) is amended as follows.
- (2) For “Commission”, in each place other than in subsection (2), substitute “Director General”.
- (3) In subsection (2)(b) for “Commission” substitute “Office or in respect of the Director General”.
- (4) In subsection (4), for “Commission’s”, in both places, substitute “Director General’s”.
- 37 (1) Section 27 (conduct of the Commission’s staff) is amended as follows.
- (2) For “Commission’s”, in each place (including the heading), substitute “Office’s”.
- (3) In subsection (4) for “Commission” substitute “Office and the Director General”.
- 38 (1) Omit section 28 (transitional arrangements in connection with establishing Commission etc).
- (2) The repeal of section 28 does not affect an order made under that section before its repeal or the power under that section to revoke or amend any such order.
- 39 (1) Section 28A (application of Part 2 to old cases) is amended as follows.
- (2) For “Commission”, in each place other than in subsection (3) of that section, substitute “Director General”.
- (3) In subsection (1), for “it” substitute “the Director General”.
- (4) In subsection (4), for “it” substitute “the Director General”.
- 40 (1) Section 29 (interpretation of Part 2) is amended as follows.

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

- (2) In subsection (1)—
- (a) omit the definition of “the Commission”;
 - (b) after the definition of “death or serious injury matter” insert—
“the Director General” means (unless otherwise specified) the Director General of the Office;”;
 - (c) before the definition of “person complained against” insert—
“the Office” means the Independent Office for Police Conduct;”.
- (3) In subsection (6)—
- (a) for “Commission”, in each place, substitute “Director General”;
 - (b) omit “itself”.
- 41 In section 29C (regulations about super-complaints) (as inserted by this Act), in subsection (3) for “Independent Police Complaints Commission”, in both places, substitute “Director General of the Independent Office for Police Conduct”.
- 42 (1) Section 29D (power to investigate concerns raised by whistle-blowers) (as inserted by this Act) is amended as follows.
- (2) For “Commission”, in each place, substitute “Director General”.
- (3) In subsection (1) for “it” substitute “the Director General”.
- 43 (1) Section 29E (Commission’s powers and duties where it decides not to investigate) (as inserted by this Act) is amended as follows.
- (2) For “Commission”, in each place, substitute “Director General”.
- (3) In the heading—
- (a) for “Commission’s” substitute “Director General’s”;
 - (b) for “where it decides” substitute “on decision”.
- 44 (1) Section 29F (special provision for “conduct matters”) (as inserted by this Act) is amended as follows.
- (2) For “Commission”, in each place, substitute “Director General”.
- (3) In subsection (2)—
- (a) or “it”, in both places, substitute “the Director General”;
 - (b) for “its” substitute “the”.
- 45 (1) Section 29G (special provision for “DSI matters”) (as inserted by this Act) is amended as follows.
- (2) For “Commission”, in each place, substitute “Director General”.
- (3) In subsection (2), for “it”, in both places, substitute “the Director General”.
- 46 (1) Section 29H (Commission’s powers and duties where whistle-blower is deceased) (as inserted by this Act) is amended as follows.
- (2) For “Commission”, in each place, substitute “Director General”.
- (3) In the heading for “Commission’s” substitute “Director General’s”.
- (4) In subsection (1) for “it” substitute “the Director General”.

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- 47 In section 29I (duty to keep whistle-blowers informed) (as inserted by this Act), in subsection (1)—
- (a) for “Commission” substitute “Director General”;
 - (b) for “it” substitute “the Director General”.
- 48 In section 29J (protection of anonymity of whistle-blowers) (as inserted by this Act) for “Commission”, in both places, substitute “Director General”.
- 49 In section 29K (other restrictions on disclosure of information) (as inserted by this Act), for “Commission”, in both places, substitute “Director General”.
- 50 In section 29L (application of provisions of Part 2) (as inserted by this Act), for “Commission”, in each place, substitute “Director General”.
- 51 In section 29M (regulation-making powers: consultation) (as inserted by this Act), for “Commission” substitute “Director General”.
- 52 In section 29N (interpretation) (as inserted by this Act), in subsection (1)—
- (a) omit the definition of “the Commission”;
 - (b) after the definition of “conduct” insert—
““the Director General” means the Director General of the Independent Office for Police Conduct;”.
- 53 In section 36 (conduct of disciplinary proceedings), in subsection (1)(a) for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct”.
- 54 In section 105 (powers of Secretary of State to make orders and regulations), in subsection (5) for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct”.
- 55 (1) Schedule 2 (the Independent Police Complaints Commission) is amended as follows.
- (2) For the title to the Schedule substitute “The Independent Office for Police Conduct”.
 - (3) For the italic heading before paragraph 1 substitute “Director General”.
 - (4) For the italic heading before paragraph 2 substitute “Terms of appointment etc: non-executive members”.
 - (5) In paragraph 7—
 - (a) for “Commission”, in each place, substitute “Office”;
 - (b) for “chairman or as a deputy chairman of the Commission” substitute “Director General”;
 - (c) omit “or as a member of it”.
 - (6) In paragraph 8—
 - (a) for “Commission”, in both places, substitute “Office”;
 - (b) for “Commission’s”, in both places, substitute “Office’s”.
 - (7) In the heading before paragraph 9 omit “of Commission”.
 - (8) In paragraph 10—
 - (a) for “Commission”, in each place, substitute “Office”;
 - (b) for “Commission’s”, in each place, substitute “Office’s”;
 - (c) in sub-paragraph (5)(c) omit “by the chief executive or”.

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- (9) In paragraph 11—
- (a) for “Commission”, in each place, substitute “Office”;
 - (b) in paragraph (a) for “chairman, a deputy chairman” substitute “Director General”;
 - (c) in paragraph (b) for “chairman” substitute “Director General”.
- (10) In the italic heading before paragraph 12, for “Commission’s” substitute “Office’s”.
- (11) In paragraph 12—
- (a) in the words before paragraph (a), for “Commission” substitute “Office”;
 - (b) in paragraph (a) for “Commission” substitute “Office”;
 - (c) in paragraph (b) for “Commission” substitute “Director General”.
- (12) In paragraph 13 for “Commission” substitute “Office”.
- (13) In paragraph 14—
- (a) for “Commission” substitute “Office”;
 - (b) in paragraph (b) for “by it in the carrying out of its functions” substitute “in the carrying out of its or the Director General’s functions”.
- (14) In the italic heading before paragraph 15, for “Commission” substitute “Office”.
- (15) In paragraph 15(1)—
- (a) for “Commission” substitute “Office”;
 - (b) after “its” insert “or the Director General’s”.
- (16) In paragraph 16 for “Commission” substitute “Office”.
- (17) In paragraph 17 for “Commission”, in each place, substitute “Office”.
- (18) In the italic heading before paragraph 18, for “Commission” substitute “Office”.
- (19) In paragraph 18 for “Commission”, in both places, substitute “Office”.
- 56 (1) Schedule 3 is amended as follows.
- (2) For “Commission”, in each place where it occurs, substitute “Director General”.
 - (3) For “Commission’s”, in each place where it occurs, substitute “Director General’s”.
 - (4) For “it”, in each place where it occurs and is used as a pronoun in place of “the Commission”, substitute “the Director General”.
 - (5) For “its”, in each place where it occurs and is used to mean “the Commission’s”, substitute “the Director General’s”.
 - (6) The amendments made by virtue of sub-paragraphs (2) to (5)—
 - (a) include amendments of provisions of Schedule 3 that are inserted, or otherwise amended, by other provisions of this Act (whether or not those other provisions come into force before or after the coming into force of this paragraph);
 - (b) do not apply if otherwise provided by another provision of this paragraph.
 - (7) In paragraph 19 (investigations by the Commission itself)—
 - (a) in the heading omit “itself”;
 - (b) in sub-paragraph (1) omit “itself”;

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- (c) for sub-paragraph (2) substitute—
- “(2) The Director General must designate both—
- (a) a person to take charge of the investigation, and
 - (b) such members of the Office’s staff as are required by the Director General to assist the person designated to take charge of the investigation.
- (2A) The person designated under sub-paragraph (2) to take charge of an investigation must be—
- (a) the Director General acting personally, or
 - (b) a person who is authorised to exercise the function of taking charge of the investigation on behalf of the Director General by virtue of paragraph 6A of Schedule 2 (delegation of Director General’s functions).”;
- (d) in sub-paragraph (4) for “member of the Commission’s staff” substitute “person”;
- (e) in sub-paragraph (5) for “member of the Commission’s staff” substitute “person designated under sub-paragraph (2)”;
- (f) in sub-paragraph (6) for “members of the Commission’s staff” substitute “persons”;
- (g) in sub-paragraph (6A) for “member of the Commission’s staff” substitute “the Director General or a member of the Office’s staff”.
- (8) In paragraph 19ZH (further provision about things retained under paragraph 19ZG) (as inserted by this Act)—
- (a) in sub-paragraph (2) for “Commission’s” substitute “Office’s”;
 - (b) in sub-paragraph (4)(a) for “Commission’s” substitute “Office’s”.
- (9) In paragraph 19A (as substituted by this Act), in sub-paragraphs (2)(b) and (7)(a) after “investigating” insert “or, in the case of an investigation by a designated person under paragraph 19, the Director General,”.
- (10) In paragraph 19F (interview of persons serving with police etc during certain investigations), in sub-paragraph (1)(b) for “the Commission itself” substitute “a person designated under paragraph 19 (investigations by Director General)”.
- (11) In paragraph 20 (restrictions on proceedings pending conclusion of investigation), in sub-paragraph (1)(b) at the end insert “or, where under paragraph 19 the Director General has personally carried out the investigation, a report has been completed by the Director General”.
- (12) In paragraph 20A (as substituted by this Act)—
- (a) in sub-paragraph (1)(a) after “investigating” insert “or, in the case of an investigation by a designated person under paragraph 19, the Director General,”;
 - (b) in sub-paragraph (3) after “and” insert “(where the person investigating is not also the Director General carrying out an investigation under paragraph 19 personally)”;
 - (c) in sub-paragraph (4)(b) after “investigation” insert “or, where the investigation is carried out under paragraph 19 by the Director General personally, finalise one,”.

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- (13) In paragraph 21A (procedure where conduct matter is revealed during investigation of DSI matter)—
- (a) in sub-paragraph (1), omit “or designated under paragraph 19”;
 - (b) after sub-paragraph (2A) (as inserted by this Act), insert—
 - “(2B) If during the course of an investigation of a DSI matter being carried out by a person designated under paragraph 19 the Director General determines 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,
 the Director General must proceed under sub-paragraph (2C).
 - (2C) The Director General must—
 - (a) prepare a record of the determination,
 - (b) 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 the determination, and
 - (c) send to it (or each of them) a copy of the record of the determination prepared under paragraph (a).”;
 - (c) in sub-paragraph (5), after paragraph (a) insert—
 - “(aa) is notified of a determination by the Director General under sub-paragraph (2C).”.
- (14) In paragraph 22 (final reports on investigations: complaints, conduct matters and certain DSI matters)—
- (a) for sub-paragraph (5) substitute—
 - “(5) A person designated under paragraph 19 as the person in charge of an investigation must—
 - (a) submit a report on the investigation to the Director General, or
 - (b) where the person in charge of the investigation is the Director General acting personally, complete a report on the investigation.”;
 - (b) in sub-paragraph (6) after “submitting” insert “or, in the case of an investigation under paragraph 19 by the Director General personally, completing”;
 - (c) in sub-paragraph (8) after “submitted” insert “or, in the case of an investigation under paragraph 19 by the Director General personally, completed”.
- (15) In the italic heading before paragraph 23 (action by the Commission in response to investigation reports), for “response” substitute “relation”.
- (16) In paragraph 23—
- (a) in sub-paragraph (1)(b) before “under” insert “, or is otherwise completed,”;

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- (b) in sub-paragraph (1A) (as inserted by this Act), after “submission” insert “or completion”;
 - (c) in each of the following places, after “receipt of the report” insert “(or on its completion by the Director General)”—
 - (i) sub-paragraph (2);
 - (ii) sub-paragraph (5A) (as inserted by this Act);
 - (iii) sub-paragraph (5F) (as inserted by this Act);
 - (iv) in sub-paragraph (13), before “or (4)” insert “, (2B)”.
- (17) In paragraph 24 (action by appropriate authority in response to an investigation report), in sub-paragraph (11) before “or (4)” insert “, (2B)”.
- (18) In paragraph 24A (final reports on investigations: other DSI matters)—
- (a) in sub-paragraph (1), before “or (4)” insert “, (2B)”;
 - (b) after sub-paragraph (2) insert—
 - “(2A) Sub-paragraph (2)(a) does not apply where the person investigating is the Director General carrying out an investigation personally under paragraph 19, but the Director General must complete a report on the investigation.”;
 - (c) in sub-paragraph (3) for “this paragraph” substitute “sub-paragraph (2) or completing one under sub-paragraph (2A)”;
 - (d) in sub-paragraph (4) after “receipt of the report” insert “(or on its completion by the Director General)”;
 - (e) in sub-paragraph (5) (as inserted by this Act) after “receipt of the report” insert “(or on its completion by the Director General)”;
 - (f) in sub-paragraph (6) (as inserted by this Act)—
 - (i) after “sub-paragraph (2)” insert “or completed under sub-paragraph (2A)”;
 - (ii) after “submission” insert “or completion”.
- (19) In the italic heading before paragraph 24B (action by the Commission in response to an investigation report under paragraph 24A), for “response” substitute “relation”.
- (20) In paragraph 28ZA (recommendations by the Commission or a local policing body) (as inserted by this Act), in sub-paragraph (3)(b), after “submission” insert “or completion”.
- (21) In paragraph 28A (recommendations by the Commission)—
- (a) in sub-paragraph (1)—
 - (i) after “received a report” insert “(or otherwise completed one in relation to an investigation carried out under paragraph 19 by the Director General personally)”;
 - (ii) in paragraph (b) for “Commission itself” substitute “or on behalf of the Director General”;
 - (iii) in paragraph (c) after “24A(2)” insert “or (2A)”;
 - (b) in sub-paragraph (4)(a) after “receipt” insert “or completion”.
- (22) In paragraph 28B (response to recommendation), in sub-paragraph (12) (as inserted by this Act) after “received a report on” insert “(or otherwise completed one on in relation to an investigation carried out under paragraph 19 by the Director General personally)”.

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- 57 (1) Schedule 3 is further amended as follows (but an amendment made by sub-paragraph (2), (3), (4) or (5) applies only if this Schedule comes into force before the coming into force of paragraph 21, 23, 24 or 26 (as the case may be) of Schedule 5 to this Act).
- (2) In paragraph 19B (assessment of seriousness of conduct under investigation), in sub-paragraph (1) after “investigating” insert “or, in the case of an investigation by a designated person under paragraph 19, the Director General,”.
- (3) In paragraph 20A (accelerated procedure in special cases)—
- (a) in sub-paragraph (1)—
 - (i) for “his” substitute “an”;
 - (ii) after “conduct matter” insert “or, in the case of an investigation by a designated person under paragraph 19, the Director General,”;
 - (iii) for “he” substitute “the person investigating”;
 - (b) in sub-paragraph (3) for “his belief” substitute “the belief referred to in sub-paragraph (1)”.
- (4) In paragraph 21 (power to discontinue an investigation), in sub-paragraph (4)(b) omit “itself”.
- (5) In paragraph 23 (action by the Commission in response to an investigation report), in sub-paragraph (6) after “receipt of the report” insert “(or on its completion by the Director General)”.
- 58 (1) Schedule 3A (whistle-blowing investigations: procedure) (as inserted by this Act) is amended as follows.
- (2) For “Commission”, in each place, substitute “Director General”.
- (3) In paragraph 1(1)—
- (a) after “, (2)” insert “, (2A)”;
 - (b) omit “itself”.
- (4) In paragraph 4(1)—
- (a) in the words before paragraph (a), for “it appears to the person in charge” substitute “the Director General determines”;
 - (b) for the words after paragraph (b) substitute “the Director General must proceed under sub-paragraph (2)”.
- (5) For paragraph 4(2) substitute—
- “(2) The Director General must—
- (a) prepare a record of the determination,
 - (b) notify the appropriate authority in relation to the person whose conduct is in question of the determination, and
 - (c) send to it a copy of the record of the determination prepared under paragraph (a).”
- (6) In paragraph 5(1)—
- (a) for “it appears to the person in charge” substitute “the Director General determines”;
 - (b) for “the person must make a submission to that effect to the Commission” substitute “the Director General must proceed under sub-paragraph (2)”.

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

(7) For paragraph 5(2) substitute—

“The Director General must—

- (a) prepare a record of the determination,
- (b) notify the appropriate authority in relation to the DSI matter, and
- (c) send to it a copy of the determination prepared under paragraph (a).”

(8) After paragraph 6(1) insert—

“(1A) Sub-paragraph (1) does not apply where the person in charge of the investigation is the Director General acting personally, but the Director General must complete a report on the investigation.”

(9) In paragraph 6(2)(a) for “the report” substitute “a report submitted under sub-paragraph (1) or completed under sub-paragraph (1A)”.

(10) In paragraph 7(1) after “paragraph 6” insert “(1) or on its completion by the Director General under paragraph 6(1A)”.

PART 3

OTHER MINOR AND CONSEQUENTIAL AMENDMENTS

Superannuation Act 1972 (c. 11)

59 In Schedule 1 to the Superannuation Act 1972—

- (a) in the list of entries under the heading “Royal Commissions and other Commissions”, omit the entry relating to the Independent Police Complaints Commission;
- (b) in the list of entries under the heading “Other Bodies”, insert at the appropriate place—

“The Independent Office for Police Conduct.”;
- (c) in the list of entries under the heading “Offices”, omit the entries relating to—
 - (i) the Chairman of the Independent Police Complaints Commission;
 - (ii) the Commissioners of the Independent Police Complaints Commission;
 - (iii) the Deputy Chairman of the Independent Police Complaints Commission.

House of Commons Disqualification Act 1975 (c. 24)

60 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (bodies of which all members are disqualified), omit the entry relating to the Independent Police Complaints Commission and insert at the appropriate place—

“The Independent Office for Police Conduct.”

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

Northern Ireland Assembly Disqualification Act 1975 (c. 25)

- 61 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified), omit the entry relating to the Independent Police Complaints Commission and insert at the appropriate place—
“The Independent Office for Police Conduct.”

Police Pensions Act 1976 (c. 35)

- 62 In section 11 of the Police Pensions Act 1976 (interpretation), in subsection (2A)(ba) for “Independent Police Complaints Commission” substitute “Independent Office for Police Conduct”.

Ministry of Defence Police Act 1987 (c. 4)

- 63 (1) The Ministry of Defence Police Act 1987 is amended as follows.
- (2) In section 3A (regulations relating to disciplinary matters), in subsections (1B) (a), (1F) and (1G) (as inserted by this Act) for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct”.
- (3) In section 4 (representation etc at disciplinary proceedings), in subsection (5)(a) for “Independent Police Complaints Commission” substitute “Independent Office for Police Conduct”.

Aviation and Maritime Security Act 1990 (c. 31)

- 64 In section 22 of the Aviation and Maritime Security Act 1990 (power to require harbour authorities to promote searches in harbour areas), in subsection (4)(b)(i) for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct”.

Police Act 1996 (c. 16)

- 65 (1) The Police Act 1996 is amended as follows.
- (2) In the following provisions, for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct”—
- (a) section 50(3A)(a), (3E) and (3F) (regulation of police forces) (as inserted by this Act);
- (b) section 51(2B)(a), (2F) and (2G) (regulations for special constables) (as inserted by this Act);
- (c) section 87(1) (guidance concerning disciplinary proceedings etc) (as amended by this Act).
- (3) In the following provisions, for “Independent Police Complaints Commission” substitute “Independent Office for Police Conduct”—
- (a) section 84(5) (representation etc at disciplinary and other proceedings);
- (b) section 88C(5)(d) (effect of inclusion in police barred list) (as inserted by this Act);
- (c) section 88K(3)(d) (effect of inclusion in police advisory list) (as inserted by this Act).

- (4) In section 54(2D) (appointment and functions of inspectors of constabulary)—
- (a) in paragraph (a)—
 - (i) for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct (“the Director General”);
 - (ii) for “that Commission” substitute “the Director General”;
 - (b) in paragraph (b)—
 - (i) for “that Commission”, in both places, substitute “the Director General”;
 - (ii) for “its” substitute “his or her”.

Freedom of Information Act 2000 (c. 36)

- 66 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (other public bodies and offices: general) omit the entry relating to the Independent Police Complaints Commission and insert at the appropriate place—
- “The Director General of the Independent Office for Police Conduct.”
- “The Independent Office for Police Conduct.”

Fire and Rescue Services Act 2004 (c. 21)

- 67 In section 4K of the Fire and Rescue Services Act 2004 (as inserted by this Act), in subsection (5)(b) for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct”.

Commissioners for Revenue and Customs Act 2005 (c. 11)

- 68 (1) The Commissions for Revenue and Customs Act 2005 is amended as follows.
- (2) In section 18 (confidentiality), in subsection (2)(g)—
- (a) for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct”;
 - (b) for “its” substitute “the Director General’s”.
- (3) In section 28 (complaints and misconduct: England and Wales)—
- (a) in subsection (1), for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct (“the Director General”);
 - (b) in subsection (2)—
 - (i) for “Independent Police Complaints Commission”, in both places, substitute “Director General”;
 - (ii) for “its” substitute “the Director General’s”;
 - (c) in subsection (3) for “Independent Police Complaints Commission” substitute “Director General”;
 - (d) in subsection (4) for “Independent Police Complaints Commission”, in both places, substitute “Director General”.
- (4) In section 29 (confidentiality etc), in subsection (3)—

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

- (a) in the words before paragraph (a), for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct”;
- (b) for “its” substitute “the Director General’s”;
- (c) in paragraph (a), for “Commission” substitute “Director General”;
- (d) in paragraph (b), for “Commission” substitute “Director General”.

Police and Justice Act 2006 (c. 48)

- 69 (1) In section 41 of the Police and Justice Act 2006 (immigration and asylum enforcement functions and customs functions: complaints and misconduct)—
- (a) in subsection (1) for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct (“the Director General”)”;
 - (b) in subsection (2A) for “Independent Police Complaints Commission” substitute “Director General”;
 - (c) in subsection (3) for “Independent Police Complaints Commission” substitute “Director General”;
 - (d) in subsection (4)(b), for “Independent Police Complaints Commission” substitute “Director General”;
 - (e) in subsection (5) for “Independent Police Complaints Commission” substitute “Director General”;
 - (f) in subsection (6) for “Independent Police Complaints Commission”, in both places, substitute “Director General”.
- (2) In the italic heading before that section for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct”.

Local Democracy, Economic Development and Construction Act 2009 (c. 20)

- 70 In section 107EE of the Local Democracy, Economic Development and Construction Act 2009 (section 107EA orders: complaints and conduct matters etc) (as inserted by this Act), in subsection (5)(b) for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct”.

Coroners and Justice Act 2009 (c. 25)

- 71 In section 47 of the Coroners and Justice Act 2009 (meaning of “interested person”)—
- (a) in subsection (2)(k) for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct”;
 - (b) in subsection (5) for “Independent Police Complaints Commission” substitute “Director General of the Independent Office for Police Conduct”.

Equality Act 2010 (c. 15)

- 72 In Part 1 of Schedule 19 to the Equality Act 2010 (public authorities: general), under the heading “Police” omit the entry relating to the Independent Police Complaints Commission and insert at the appropriate place—
- “The Director General of the Independent Office for Police Conduct.”

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

“The Independent Office for Police Conduct.”

Police Reform and Social Responsibility Act 2011 (c. 13)

- 73 (1) The Police Reform and Social Responsibility Act 2011 is amended as follows.
- (2) In section 65 (disqualification from election or holding office as police and crime commissioner: police grounds), for “Independent Police Complaints Commission” substitute “Independent Office for Police Conduct”.
- (3) In Schedule 7 (regulations about complaints and conduct matters), for “Independent Police Complaints Commission”, in each place, substitute “Director General of the Independent Office for Police Conduct.”

Investigatory Powers Act 2016

- 74 (1) The Investigatory Powers Act 2016 is amended as follows.
- (2) In section 58 (section 57: meaning of “excepted disclosure”), in subsection (4)(c)—
- (a) for “the Independent Police Complaints Commission” substitute “the Director General of the Independent Office for Police Conduct”;
- (b) for “its functions” substitute “the Director General’s functions”.
- (3) In section 106 (power to issue warrants to law enforcement officers), in subsection (11)—
- (a) for “the chairman, or a deputy chairman, of the Independent Police Complaints Commission” substitute “the Director General of the Independent Office for Police Conduct”;
- (b) omit “by the Commission”.
- (4) In section 107 (restriction on issue of warrants to certain law enforcement officers), in subsection (2), for paragraph (h) substitute—
- “(h) the Director General of the Independent Office for Police Conduct.”.
- (5) In section 133 (section 132: meaning of “excepted disclosure”), in subsection (3)(b)—
- (a) for “the Independent Police Complaints Commission” substitute “the Director General of the Independent Office for Police Conduct”;
- (b) for “its functions” substitute “the Director General’s functions”.
- (6) In Schedule 4 (relevant public authorities and designated senior officers), in Part 1—
- (a) omit the entry relating to the Independent Police Complaints Commission;
- (b) after the entry relating to the Office of Communications insert—
- | | | | |
|---|------------------------------------|-----|--------------|
| “Independent Office for
Police Conduct | Director or an
equivalent grade | All | (b) and (i)” |
|---|------------------------------------|-----|--------------|
- (7) In Schedule 6 (issue of warrants under section 106 etc. table), in the entry relating to the chairman, or a deputy chairman, of the Independent Police Complaints Commission, for the first two columns substitute—

“The Director General of the Independent Office for Police Conduct. | A person falling within paragraph 6A(2) of Schedule 2 to the Police Reform Act 2002 who

| is designated by the Director General for the
 | purpose.”

SCHEDULE 10

Section 38

SCHEDULE TO BE INSERTED AS SCHEDULE 3B TO THE POLICE REFORM ACT 2002

“SCHEDULE 3B

Section 38(6B)(a) and (6D)

DESIGNATIONS UNDER SECTION 38

PART 1

EXCLUDED POWERS AND DUTIES OF CONSTABLES

- 1 Any power or duty of a constable to make an arrest.
- 2 Any power or duty of a constable to stop and search an individual or a vehicle or other thing.
- 3 The power of a constable, under section 36(4) of the Police and Criminal Evidence Act 1984, to perform the functions of a custody officer at a designated police station if a custody officer is not readily available to perform them.
- 4 Any power that is exercisable only by a constable of a particular rank.
- 5 Any power of a constable under—
 - (a) the Terrorism Act 2000;
 - (b) the Terrorism Act 2006;
 - (c) the Counter-Terrorism Act 2008;
 - (d) the Terrorism Prevention and Investigation Measures Act 2011;
 - (e) the Counter-Terrorism and Security Act 2015.
- 6 Any power of a constable under the Official Secrets Acts 1911 to 1989.
- 7 The power of a constable to make an application on behalf of the Commissioner of Police of the Metropolis under section 19 or 21 of the Investigatory Powers Act 2016 (applications for warrants under Chapter 1 of Part 2 of that Act).

PART 2

APPLICATION OF LEGISLATION

- 8 (1) Where a power or duty of a constable is conferred or imposed on a person designated under section 38—
 - (a) a reference to a constable (however expressed) in legislation relating to the power or duty includes a reference to the person designated under section 38;
 - (b) a reference in legislation to anything done in the exercise or purported exercise of the power, or in the performance or purported performance of the duty, includes a reference to anything done in the exercise or purported

exercise of the power, or the performance or purported performance of the duty, by the person designated under section 38.

- (2) The Secretary of State may by regulations make provision for legislation relating to a power or duty of a constable specified in the regulations to apply in relation to a person designated under section 38 in a way that modifies or supplements the effect of sub-paragraph (1).
- (3) In this paragraph, “legislation” means any provision of—
- (a) an Act;
 - (b) subordinate legislation within the meaning of the Interpretation Act 1978;
 - (c) a Measure or Act of the National Assembly for Wales or an instrument made under a Measure or Act of that Assembly.”

SCHEDULE 11

Section 38

SCHEDULE TO BE INSERTED AS SCHEDULE 3C TO THE POLICE REFORM ACT 2002

“SCHEDULE 3C

Section 38(6B)(b)

DESIGNATIONS UNDER SECTION 38: ADDITIONAL POWERS AND DUTIES

Introduction

- 1 (1) The designation of a person under section 38 as a community support officer or a community support volunteer may provide for any of paragraphs 2 to 11 to apply to the community support officer or the community support volunteer.
- (2) The designation may provide for any such paragraph to apply—
- (a) to its full extent, or
 - (b) only in cases or circumstances described in the designation.
- (3) Where the designation provides for any of those paragraphs to apply—
- (a) the community support officer or community support volunteer has any power or duty described in the paragraph as a power or duty of a community support officer or community support volunteer (subject to provision included in the designation under sub-paragraph (2)(b) or section 38(7A)), and
 - (b) any provision made by the paragraph in connection with the exercise of the power or the performance of the duty applies in relation to the exercise of the power or the performance of the duty by the community support officer or community support volunteer.
- (4) In this Schedule—
- “CSO” means a person designated by a chief officer of police as a community support officer under section 38;
- “CSV” means a person designated by a chief officer of police as a community support volunteer under section 38;
- “the relevant police area”, in relation to a CSO or CSV, means the police area for which the police force in question is maintained.

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

- (5) Expressions used in this Schedule and in the 1984 Act have the same meanings in this Schedule as in that Act.

Powers to issue fixed penalty notices

- 2 (1) A CSO or CSV has the power of an authorised officer of a litter authority to give a notice under section 88 of the Environmental Protection Act 1990 (fixed penalty notices in respect of litter) in relation to an individual whom the CSO or CSV has reason to believe has committed an offence under section 87 of that Act at a place within the relevant police area.
- (2) A CSO or CSV has the power of an authorised officer of a local authority to give a notice under section 43(1) of the Anti-social Behaviour Act 2003 (penalty notices in respect of graffiti or fly-posting) in relation to an individual whom the CSO or CSV has reason to believe has committed an offence that is a relevant offence for the purposes of section 43(1) at a place within the relevant police area.
- (3) A CSO or CSV designated under section 38 by the Commissioner of Police of the Metropolis has the power of an authorised officer of a borough council to give a notice under section 15 of the London Local Authorities Act 2004 in relation to an individual whom the CSO or CSV has reason to believe has committed an offence under section 38(1) of the London Local Authorities Act 1990.
- (4) A CSO or CSV designated under section 38 by the Commissioner of Police for the City of London has the power of an authorised officer of a borough council to give a notice under section 15 of the London Local Authorities Act 2004 in relation to an individual whom the CSO or CSV has reason to believe has committed an offence under section 27(1) of the City of Westminster Act 1999 (unlicensed street trading).
- (5) A CSO or CSV has the power of an authorised officer of an authority to give a notice under section 237A of the Local Government Act 1972 or under section 12 of the Local Government Byelaws (Wales) Act 2012 (fixed penalty notices in relation to offences against certain byelaws) in relation to an individual whom the CSO or CSV has reason to believe has committed an offence against a listed byelaw at a place within the relevant police area.
- (6) A byelaw is a “listed byelaw” for the purposes of sub-paragraph (5) if, at the time the CSO or CSV gives the notice—
- (a) it is a byelaw to which section 237A of the Local Government Act 1972 or to which section 12 of the Local Government Byelaws (Wales) Act 2012 (fixed penalty notices in relation to offences against certain byelaws) applies, and
 - (b) the chief officer of police for the relevant police area and the authority that made the byelaw have agreed to include it in a list of byelaws kept for the purposes of sub-paragraph (5).
- (7) The chief officer of police for the relevant police area must publish the list of byelaws kept for the purposes of sub-paragraph (5) in such a way as to bring it to the attention of members of the public in localities where the byelaws in the list apply.
- (8) The list of byelaws kept for the purposes of sub-paragraph (5) may be amended from time to time by agreement between the chief officer of police and the authority, by adding byelaws to it or removing byelaws from it.

- (9) Where the list of byelaws is amended, the amended list must be published by the chief officer as mentioned in sub-paragraph (7).

Powers to require names and addresses

- 3 (1) A CSO or CSV may require a person to give his or her name and address if the CSO or CSV has reason to believe that—
- (a) the person has committed a relevant offence in the relevant police area, or
 - (b) the person has committed a relevant licensing offence (whether or not in the relevant police area).
- (2) A person who fails to comply with a requirement under sub-paragraph (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.
- (3) In this paragraph, “relevant offence” means any of the following offences—
- (a) an offence in respect of which the CSO or CSV is authorised to give a penalty notice (whether in consequence of paragraph 2 of this Schedule or in consequence of provision included in his or her designation in reliance on section 38(6B)(a));
 - (b) an offence under section 3 or 4 of the Vagrancy Act 1824;
 - (c) an offence committed in a specified park which by virtue of section 2 of the Parks Regulation (Amendment) Act 1926 is an offence against the Parks Regulation Act 1872;
 - (d) an offence under section 39 of the Anti-social Behaviour, Crime and Policing Act 2014;
 - (e) an offence under a listed byelaw;
 - (f) an offence the commission of which appears to the CSO or CSV to have caused—
 - (i) injury, alarm or distress to any other person, or
 - (ii) the loss of, or any damage to, any other person’s property.
- (4) In this paragraph, “relevant licensing offence” means an offence under any of the following provisions of the Licensing Act 2003—
- (a) section 141 (otherwise than by virtue of subsection (2)(c) or (3) of that section);
 - (b) section 142;
 - (c) section 146(1);
 - (d) section 149(1)(a), (3)(a) or (4)(a);
 - (e) section 150(1);
 - (f) section 150(2) (otherwise than by virtue of subsection (3)(b) of that section);
 - (g) section 152(1) (excluding paragraph (b)).
- (5) A byelaw is a “listed byelaw” for the purposes of sub-paragraph (3)(e) if, at the time the CSO or CSV requires a person to give his or her name and address—
- (a) it is a byelaw which has been made by a relevant body with authority to make byelaws for any place within the relevant police area, and
 - (b) it is included in the list of byelaws published for the purposes of this paragraph by the chief officer of police for the relevant police area.

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- (6) A byelaw may be included in the list of byelaws published for the purposes of this paragraph only if the chief officer of police and the relevant body which made the byelaw agree that it should be included.
- (7) The chief officer of police for the relevant police area must publish the list in such a way as to bring it to the attention of members of the public in localities where the byelaws in the list apply.
- (8) The list of byelaws published for the purposes of this paragraph may be amended from time to time by agreement between the chief officer of police and the relevant body, by adding byelaws to it or removing byelaws from it.
- (9) Where the list of byelaws is amended, the amended list must be published by the chief officer as mentioned in sub-paragraph (8).
- (10) In sub-paragraphs (5), (6) and (8), “relevant body” means—
 - (a) in England, a county council, a district council, a London borough council or a parish council;
 - (b) in Wales, a county council, a county borough council or a community council;
 - (c) the Greater London Authority;
 - (d) Transport for London;
 - (e) an Integrated Transport Authority for an integrated transport area in England;
 - (f) a combined authority established under section 103 of the Local Democracy, Economic Development and Construction Act 2009;
 - (g) a body specified in regulations made by the Secretary of State.
- (11) Regulations under sub-paragraph (10)(g) may provide, in relation to any body specified in the regulations, that the agreement mentioned in sub-paragraph (6) or (8) is to be made between the chief officer and the Secretary of State (rather than between the chief officer and the relevant body).
- (12) In the case of a relevant offence that is an offence under a listed byelaw (see sub-paragraphs (3)(e) and (5)), the power to impose a requirement under sub-paragraph (1) is exercisable only in a place to which the byelaw relates.
- (13) In its application in relation to an offence in respect of which the CSO or CSV is authorised to give a penalty notice under section 444A of the Education Act 1996 (penalty notice in respect of failure to secure regular attendance at school of registered pupil), sub-paragraph (1)(a) of this paragraph has effect as if the words “in the relevant police area” were omitted.
- (14) In this paragraph, “specified park” has the same meaning as in section 162 of the Serious Organised Crime and Police Act 2005.

Powers to search for and seize alcohol and tobacco

- 4 (1) A CSO or CSV may search a person for alcohol or a container for alcohol if—
 - (a) the CSO or CSV has (in consequence of provision included in his or her designation in reliance on section 38(6B)(a)) imposed a requirement on a person to surrender alcohol or a container for alcohol under section 63(2) of

- the Anti-social Behaviour, Crime and Policing Act 2014 or under section 1 of the Confiscation of Alcohol (Young Persons) Act 1997,
- (b) the person has failed to comply with the requirement, and
 - (c) the CSO or CSV reasonably believes that the person has alcohol or a container for alcohol in his or her possession.
- (2) A CSO or CSV may search a person for tobacco or cigarette papers where—
- (a) the CSO or CSV has (in consequence of provision included in his or her designation in reliance on section 38(6B)(a)) sought to seize the tobacco or cigarette papers under section 7(3) of the Children and Young Persons Act 1933 (seizure of tobacco from young persons),
 - (b) the person from whom the CSO or CSV sought to seize the item has failed to surrender it, and
 - (c) the CSO or CSV reasonably believes that the person has it in his or her possession.
- (3) The power to search under sub-paragraph (1) or (2)—
- (a) is to do so only to the extent that is reasonably required for the purpose of discovering whatever the CSO or CSV is searching for, and
 - (b) does not authorise the CSO or CSV to require a person to remove any of his or her clothing in public other than an outer coat, jacket or gloves.
- (4) A person who without reasonable excuse fails to consent to being searched in the exercise of a power under this paragraph is guilty of an offence and is liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (5) A CSO or CSV who proposes to exercise a power to search a person under sub-paragraph (1) or (2) must inform him or her that failing without reasonable excuse to consent to being searched is an offence.
- (6) If the person in question fails to consent to being searched, the CSO or CSV may require him or her to give the CSO or CSV his or her name and address.
- (7) If on searching the person the CSO or CSV discovers what he or she is searching for, the CSO or CSV may seize it and dispose of it.

Powers to seize and detain: controlled drugs

- 5 (1) A CSO or CSV may exercise the powers conferred by sub-paragraph (2) or (3) in the relevant police area.
- (2) If the CSO or CSV—
- (a) finds a controlled drug in a person's possession (whether or not the CSO or CSV finds it in the course of searching the person in the exercise of a power or duty conferred or imposed by his or her designation under section 38), and
 - (b) reasonably believes that it is unlawful for the person to be in possession of it,
- the CSO or CSV may seize it and retain it.
- (3) If the CSO or CSV—
- (a) either—

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- (i) finds a controlled drug in a person’s possession (as mentioned in sub-paragraph (2)(a)), or
 - (ii) reasonably believes that a person is in possession of a controlled drug, and
 - (b) reasonably believes that it is unlawful for the person to be in possession of it,
- the CSO or CSV may require the person to give the CSO or CSV his or her name and address.
- (4) If, in exercise of the power conferred by sub-paragraph (2), the CSO or CSV seizes and retains a controlled drug, the CSO or CSV must—
 - (a) if the person from whom it was seized maintains that he or she was lawfully in possession of it, tell the person where inquiries about its recovery may be made, and
 - (b) comply with a constable’s instructions about what to do with it.
 - (5) A person who fails to comply with a requirement imposed under sub-paragraph (3) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
 - (6) In this paragraph, “controlled drug” has the same meaning as in the Misuse of Drugs Act 1971.

Powers to seize and detain: psychoactive substances

- 6 (1) A CSO or CSV may exercise the powers conferred by sub-paragraph (2) or (3) in the relevant police area.
- (2) If the CSO or CSV—
 - (a) finds a psychoactive substance in a person’s possession (whether or not the CSO or CSV finds it in the course of searching the person in the exercise of a power or duty conferred or imposed by his or her designation under section 38), and
 - (b) reasonably believes that it is unlawful for the person to be in possession of it,
 the CSO or CSV may seize it and retain it.
- (3) If the CSO or CSV—
 - (a) either—
 - (i) finds a psychoactive substance in a person’s possession (as mentioned in sub-paragraph (2)(a)), or
 - (ii) reasonably believes that a person is in possession of a psychoactive substance, and
 - (b) reasonably believes that it is unlawful for the person to be in possession of it,
 the CSO or CSV may require the person to give the CSO or CSV his or her name and address.
- (4) If, in exercise of the power conferred by sub-paragraph (2), the CSO or CSV seizes and retains a psychoactive substance, the CSO or CSV must—
 - (a) if the person from whom it was seized maintains that he or she was lawfully in possession of it—

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- (i) tell the person where inquiries about its recovery may be made, and
 - (ii) explain the effect of sections 49 to 51 and 53 of the Psychoactive Substances Act 2016 (retention and disposal of items), and
- (b) comply with a constable’s instructions about what to do with it.
- (5) Any substance seized in exercise of the power conferred by sub-paragraph (2) is to be treated for the purposes of sections 49 to 53 of the Psychoactive Substances Act 2016 as if it had been seized by a police or customs officer under section 36 of that Act.
- Section 50 of that Act applies in relation to any such substance as if the reference in subsection (1)(b) to the police or customs officer who seized it were a reference to the CSO or CSV who seized it.
- (6) A person who fails to comply with a requirement imposed under sub-paragraph (3) is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.
- (7) In this paragraph, “police or customs officer” and “psychoactive substance” have the same meaning as in the Psychoactive Substances Act 2016.

Powers to detain pending arrival of a constable etc

- 7 (1) A CSO or CSV may require a person to wait with the CSO or CSV, for a period not exceeding 30 minutes, for the arrival of a constable where—
- (a) the CSO or CSV has required the person to give his or her name and address (whether in consequence of paragraph 3, 4(6), 5(3) or 6(3) or in consequence of provision included in his or her designation in reliance on section 38(6B)(a)), and
 - (b) either—
 - (i) the person has failed to comply with the requirement, or
 - (ii) the CSO or CSV has reasonable grounds for suspecting that the person has given a name or address that is false or inaccurate.
- (2) Sub-paragraph (1) does not apply if the requirement to give a name and address was imposed in connection with a relevant licensing offence mentioned in paragraph 3(4)(a), (c) or (f) which the CSO or CSV believes to have been committed on licensed premises (within the meaning of the Licensing Act 2003).
- (3) A CSO or CSV may require a person to wait with the CSO or CSV, for a period not exceeding 30 minutes, for the arrival of a constable where—
- (a) the CSO or CSV has reason to believe that the person is committing an offence under section 3 or 4 of the Vagrancy Act 1824,
 - (b) the CSO or CSV requires the person to stop doing whatever gives rise to that belief, and
 - (c) the person fails to stop as required.
- (4) A person who has been required under sub-paragraph (1) or (3) to wait with a CSO or CSV may, if requested to do so, elect that (instead of waiting) he or she will accompany the CSO or CSV to a police station in the relevant police area.
- (5) Where the person does not elect to accompany the CSO or CSV to the police station, and the constable arrives within the period of 30 minutes, the CSO or CSV is under

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

a duty to remain with the person and the constable until the CSO or CSV has transferred control of the person to the constable.

- (6) Where the person does elect to accompany the CSO or CSV to the police station—
- (a) the CSO or CSV is under a duty to remain at the police station until the CSO or CSV has transferred control of the person to the custody officer there,
 - (b) until control is transferred, the CSO or CSV is treated for all purposes as having the person in his or her lawful custody, and
 - (c) for so long as the CSO or CSV remains at the police station or in its immediate vicinity (whether before control of the person is transferred or afterwards), the CSO or CSV is under a duty to prevent the person's escape and to assist in keeping the person under control.
- (7) A person who—
- (a) makes off while subject to a requirement under sub-paragraph (1) or (3), or
 - (b) makes off while accompanying a CSO or CSV to a police station in accordance with an election under sub-paragraph (4),
- is guilty of an offence and liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

Powers to search etc individuals detained under paragraph 7

- 8
- (1) A CSO or CSV may exercise the powers set out in sub-paragraphs (2) and (3) in relation to a person whom the CSO or CSV has required to wait for the arrival of a constable under paragraph 7(1) or (3) (whether or not that person makes an election under paragraph 7(4)).
 - (2) If the CSO or CSV has reasonable grounds for believing that the person may present a danger to himself or herself or to others, the CSO or CSV may search the person.
 - (3) If the CSO or CSV has reasonable grounds for believing that the person may have concealed on him or her anything which might be used to assist in escaping from lawful custody, the CSO or CSV may search the person for that thing.
 - (4) The power conferred by sub-paragraph (2) or (3)—
 - (a) does not authorise a CSO or CSV to require a person to remove any of his or her clothing in public other than an outer coat, jacket or gloves;
 - (b) does authorise a search of a person's mouth.
 - (5) A CSO or CSV searching a person under sub-paragraph (2) may seize and retain anything that is found, if the CSO or CSV has reasonable grounds for believing that the person searched might use it to cause physical injury to himself or herself or to any other person.
 - (6) A CSO or CSV searching a person under sub-paragraph (3) may seize and retain anything that is found, other than an item subject to legal privilege, if the CSO or CSV has reasonable grounds for believing that the person might use it to assist in escaping from lawful custody.
 - (7) If a CSO or CSV seizes or retains anything under sub-paragraph (5) or (6), the CSO or CSV must—
 - (a) tell the person from whom it was seized where inquiries about its recovery may be made, and
 - (b) comply with a constable's instructions about what to do with it.

Persons detained under paragraph 7: park trading offences

- 9 (1) If a CSO or CSV reasonably suspects that a person required to wait for the arrival of a constable under paragraph 7(1) has committed a park trading offence, the CSO or CSV may take possession of anything of a non-perishable nature which—
- (a) the person has in his or her possession or under his control, and
 - (b) the CSO or CSV reasonably believes to have been used in the commission of the offence.
- (2) The CSO or CSV may retain possession of the thing in question for a period not exceeding 30 minutes unless the person makes an election under paragraph 7(4), in which case the CSO or CSV may retain possession of the thing in question until he or she is able to transfer control of it to a constable.
- (3) In this paragraph “park trading offence” means an offence committed in a specified park which is a park trading offence for the purposes of the Royal Parks (Trading) Act 2000.
- (4) In sub-paragraph (3), “specified park” has the same meaning as in section 162 of the Serious Organised Crime and Police Act 2005.

Road traffic

- 10 A CSO or CSV has in the relevant police area the powers conferred on persons designated by regulations under section 99 of the Road Traffic Regulation Act 1984 (removal of abandoned vehicles).

Power to use reasonable force

- 11 A CSO or CSV has power to use reasonable force—
- (a) to prevent a person whom the CSO or CSV has required under paragraph 7(1) or (3) to wait for a constable from making off, or to keep the person under control, at any time while the person is subject to the requirement;
 - (b) where such a person elects under paragraph 7(4) to accompany a CSO or CSV to a police station, to prevent the person from making off, or to keep the person under control, while the person is accompanying the CSO or CSV to the police station;
 - (c) where a CSO or CSV is fulfilling a duty imposed under paragraph 7(5) or (6), to prevent the person from making off (or escaping) and to keep him or her under control;
 - (d) where a CSO or CSV is exercising a power conferred by paragraph 8.”

SCHEDULE 12

Section 45

POWERS OF CIVILIAN STAFF AND VOLUNTEERS: FURTHER AMENDMENTS

PART 1

AMENDMENTS OF THE POLICE REFORM ACT 2002

- 1 (1) Section 38B (police powers for civilian employees under collaboration agreements) is amended as follows.
- (2) In subsection (1)(a), after “civilian employee of” insert “, or a police volunteer with,”.
- (3) In subsection (2), for “one or more of the descriptions specified in section 38(2)” substitute “either or both of the descriptions specified in section 38(1) (if C is a civilian employee of the assisting force) or section 38(1A) (if C is a police volunteer with the assisting force)”.
- (4) In subsection (3), for “section 38(2)” substitute “section 38(1) or (as the case may be) section 38(1A)”.
- (5) In subsection (10)—
- (a) for “civilian employees of the assisting force” substitute “persons designated under section 38 by the chief officer of police of the assisting force”;
 - (b) for “section 23B” substitute “section 23AA”.
- 2 (1) Section 42 (supplementary provisions relating to designations and accreditations) is amended as follows.
- (2) Omit subsections (A1) to (C1) and (1A).
- (3) In subsection (2A), for “investigating officer”, in each place where it occurs, substitute “policing support officer or policing support volunteer”.
- (4) In subsection (2B), for ““investigating officer” means a person designated as an investigating officer” substitute ““policing support officer” and “policing support volunteer” mean (respectively) a person designated as a policing support officer or (as the case may be) a policing support volunteer”.
- (5) After subsection (7A) insert—
- “(7B) For the purposes of determining liability for the unlawful conduct of police volunteers designated under section 38, conduct by such a volunteer in reliance or purported reliance on a designation under that section is to be taken to be conduct by that person in the course of employment by the chief officer of police by whom the designation is made; and, in the case of a tort, that chief officer is to be treated as a joint tortfeasor accordingly.
- “(7C) For the purposes of determining liability for the unlawful conduct of police volunteers designated under section 38, conduct by such a volunteer in reliance or purported reliance on a designation under section 38B is to be taken to be conduct by that person in the course of employment by the chief officer of police by whom the designation under section 38 is made; and, in the case of a tort, that chief officer is to be treated as a joint tortfeasor accordingly.”

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

- 3 Omit section 45 (code of practice relating to chief officers' powers under Chapter 1).
- 4 In section 105 (powers of Secretary of State to make orders and regulations), in subsection (3)(b)—
- (a) for “any order that is” substitute “any order or regulations that are”;
 - (b) after “section 19(3),” insert “38(9C),”;
 - (c) omit “, 38A(4)”;
 - (d) omit “or paragraph 15A(2) of Schedule 4”.
- 5 (1) Schedule 4 is amended as follows.
- (2) For the heading to the Schedule substitute “Powers exercisable by contracted-out staff”.
- (3) Omit Parts 1 and 2.
- (4) In Part 5, in paragraph 36—
- (a) in sub-paragraph (1)(a), for “section 38 or 39” substitute “section 39”;
 - (b) omit sub-paragraphs (2) and (2A);
 - (c) in sub-paragraph (3), for “section 38 or 39” substitute “section 39”;
 - (d) omit sub-paragraph (3A).

PART 2

OTHER AMENDMENTS

- 6 (1) Schedule 1 to the Representation of the People Act 1983 (parliamentary election rules) is amended as follows.
- (2) In paragraph 31(2)—
- (a) after “community support officer” insert “or community support volunteer”;
 - (b) in the words in brackets, after “employees” insert “or volunteers”.
- (3) In paragraph 32(5)—
- (a) after “community support officer” insert “or community support volunteer”;
 - (b) in the words in brackets, after “employees” insert “or volunteers”.
- 7 (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 55 (intimate searches), in subsection (17), in the definition of “appropriate officer”, omit paragraph (b).
- (3) In section 64A (photographing of suspects etc), in subsection (1B)—
- (a) in paragraph (c), for “with a community support officer under paragraph 2(3) or (3B) of Schedule 4” substitute “with a community support officer or a community support volunteer under paragraph 7 of Schedule 3B”;
 - (b) for paragraph (e) substitute—
 - “(e) given a fixed penalty notice by a community support officer or community support volunteer who is authorised to give the notice by virtue of his or her designation under section 38 of the Police Reform Act 2002.”.

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

- (4) In section 67 (codes of practice - supplementary), in subsection (9A)(a), in the words in brackets, after “civilian staff” insert “and volunteers”.
- 8 In the Road Traffic Act 1988, in section 144 (exceptions from requirement of third-party insurance or security), in subsection (2)(b), after “in its capacity as a police authority,” insert “by a police volunteer designated under section 38 of the Police Reform Act 2002,”.
- 9 In the Road Traffic Offenders Act 1988, in section 79 (statements by constables), in subsection (2), after “civilian police employee” insert “, or by a police volunteer designated under section 38 of the Police Reform Act 2002,”.
- 10 (1) The Police Act 1996 is amended as follows.
- (2) In section 23AA (force collaboration provision about civilian employees)—
- (a) in subsection (1), for “designated civilian employees of one police force” substitute “persons designated under section 38 of the Police Reform Act 2002 (“designated persons”) by the chief officer of one police force”;
- (b) in subsection (2), for “designated civilian employees” (in both places where it occurs) substitute “designated persons”;
- (c) in subsection (3)—
- (i) for “designated civilian employees” substitute “designated persons”;
- (ii) for “those employees” substitute “those persons”;
- (d) in subsection (4), for “designated civilian employees” substitute “designated persons”;
- (e) in subsection (5) —
- (i) in the opening words, for “civilian employees of the assisting force” substitute “persons designated under section 38 of the Police Reform Act 2002 by the chief officer of the assisting force”;
- (ii) in each of paragraphs (a) to (c), for “civilian employees” substitute “designated persons”;
- (f) in subsection (6), omit the definition of “designated”;
- (g) in that subsection, in the definition of “relevant section 38 designation”—
- (i) for “designated civilian employee” substitute “designated person”;
- (ii) for “the employee” substitute “the person”.
- (3) In section 23I(7) (collaboration agreements: definition)—
- (a) omit the “and” at the end of paragraph (a);
- (b) at the end of paragraph (b), insert “and
- (c) references to persons who are under the direction and control of the chief officer of police by virtue of being volunteers with the force;”.
- 11 In the Crime and Disorder Act 1998, in section 66H (interpretation of Chapter 1), in paragraph (c), for “an investigating officer” substitute “a policing support officer or a policing support volunteer”.
- 12 In the Representation of the People Act 2000, in Schedule 4 (absent voters in Great Britain), in paragraph 2(5ZA)—
- (a) after “community support officer” insert “or community support volunteer”;

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

- (b) in the words in brackets, after “employees” insert “or volunteers”.
- 13 In the Terrorism Act 2000, in section 47AE (effect of code), in subsection (5), omit “paragraph 15 of Schedule 4 to the Police Reform Act 2002 or”.
- 14 In the Private Security Industry Act 2001, in Schedule 2 (activities liable to control under the Act), in paragraph 2, for sub-paragraph (7)(f) substitute—
“*(f)* activities of a person designated under section 38 of the Police Reform Act 2002 (police powers for civilian staff and volunteers) which are carried out by virtue of the designation;”.
- 15 In the Anti-social Behaviour Act 2003 omit the following—
(a) section 23(3) and (4);
(b) section 46(1);
(c) section 89(3) and (4).
- 16 (1) The Criminal Justice Act 2003 is amended as follows.
(2) In section 27 (interpretation), in the definition of “investigating officer”, for “an investigating officer” substitute “a policing support officer or a policing support volunteer”.
(3) In Schedule 1, omit paragraphs 17 to 19.
- 17 (1) Section 28 of the Railways and Transport Safety Act 2003 (exercise of powers by civilians) is amended as follows.
(2) In subsection (1)—
(a) in paragraph (a), in the words in brackets, at the end insert “and volunteers”;
(b) omit paragraph (aa);
(c) omit paragraph (d);
(d) omit the “and” after paragraph (f);
(e) after paragraph (f) insert—
“*(fa)* Schedule 3B (designations under section 38),
 (fb) Schedule 3C (designations under section 38: additional powers and duties), and”;
(f) in paragraph (g), in the words in brackets, for “civilians” substitute “contracted-out staff”.
(3) In subsection (2)—
(a) omit paragraph (e);
(b) in paragraph (f), for “Schedule 4” substitute “Schedules 3C and 4”.
- 18 In the Serious Organised Crime and Police Act 2005—
(a) omit section 122(3);
(b) in Schedule 8, omit paragraphs 1 to 15;
(c) in Schedule 9, omit paragraphs 2 to 6;
(d) in Schedule 13, omit paragraph 13.
- 19 In the Violent Crime Reduction Act 2006, omit section 24(6).
- 20 In the Education and Inspections Act 2006, omit the following—
(a) section 107(2) and (3);
(b) section 108(7).

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

- 21 (1) The Police and Justice Act 2006 is amended as follows.
- (2) Omit sections 7 and 8.
- (3) In section 9, omit “makes amendments consequential on section 7 (standard powers and duties of community support officers), and”.
- (4) In Schedule 5, omit paragraphs 2(3) and (4), 3 and 5(2) to (9).
- (5) In Schedule 14, omit paragraph 48.
- 22 In the Local Government and Public Involvement in Health Act 2007—
- (a) omit section 133(2);
- (b) in Schedule 6, omit paragraph 4(1).
- 23 In the UK Borders Act 2007, omit section 47.
- 24 In the Local Transport Act 2008, in Schedule 4, omit paragraph 65.
- 25 In the Local Democracy, Economic Development and Construction Act 2009, in Schedule 6, omit paragraph 116.
- 26 In the Policing and Crime Act 2009, in Schedule 7, omit paragraph 125(3)(b).
- 27 In the Police Reform and Social Responsibility Act 2011, in Schedule 16, omit paragraphs 292(3), 293, 298 and 303.
- 28 In the Protection of Freedoms Act 2012, in Schedule 9, omit paragraph 30.
- 29 In the Legal Aid, Sentencing and Punishment of Offenders Act 2012, in Schedule 23, omit paragraph 14(3).
- 30 In the [Local Government Byelaws \(Wales\) Act 2012 \(anaw 2\)](#), omit section 17(2).
- 31 In the Anti-social Behaviour, Crime and Policing Act 2014, omit the following—
- (a) section 40;
- (b) section 53(5) and (6);
- (c) section 69;
- (d) section 152 and Schedule 10;
- (e) in Schedule 11, paragraph 32.
- 32 In the Psychoactive Substances Act 2016, in Schedule 5, omit paragraph 3.

PART 3

MINOR CORRECTING AMENDMENTS

- 33 (1) The Police Reform Act 2002 is amended as follows.
- (2) In section 50 (persons acting in an anti-social manner), in subsection (1), for “has been acting, or is acting, in an anti-social manner” substitute “has engaged, or is engaging, in anti-social behaviour”.
- (3) In consequence of the amendment made by sub-paragraph (2), in the heading of the section, for “acting in an anti-social manner” substitute “engaging in anti-social behaviour”.
- (4) In Schedule 5, in paragraph 3, the existing text becomes sub-paragraph (1).

- (5) In that sub-paragraph, for the words from “to have been acting” to “(anti-social behaviour orders)” substitute “to have been engaging, or to be engaging, in anti-social behaviour”.
- (6) After that sub-paragraph insert—
- “(2) In sub-paragraph (1), “anti-social behaviour” has the meaning given by section 2 of the Anti-social Behaviour, Crime and Policing Act 2014 (ignoring subsection (2) of that section).”
- (7) In consequence of the amendment made by sub-paragraph (5), in the italic heading before paragraph 3, for “acting in an anti-social manner” substitute “engaging in anti-social behaviour”.

SCHEDULE 13

Section 46

ABOLITION OF OFFICE OF TRAFFIC WARDEN

Chronically Sick and Disabled Persons Act 1970 (c.44)

- 1 In section 21 of the Chronically Sick and Disabled Persons Act 1970 (badges for display on motor vehicles used by disabled persons), in subsection (4BB), omit paragraph (a).

Aviation Security Act 1982 (c.36)

- 2 In section 29 of the Aviation Security Act 1982 (control of road traffic at relevant aerodromes), in subsection (2)—
- (a) at the beginning insert “In the application of this Part to Scotland and Northern Ireland,”;
- (b) in paragraph (a), for the words from “the chief officer of police” to “(in any other case)” substitute “the police authority”.

Road Traffic Offenders Act 1988 (c.53)

- 3 In Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences), in Part 1, in the fifth column of the entry relating to section 35 of the Road Traffic Act 1988, for “traffic officer or traffic warden” substitute “or traffic officer”.

Greater London Authority Act 1999 (c.29)

- 4 In the Greater London Authority Act 1999, omit section 290 (exercise by traffic wardens of functions of parking attendants).

Police Reform Act 2002 (c.30)

- 5 In the Police Reform Act 2002, omit section 44 (removal of restriction on powers conferred on traffic wardens).

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

Police Reform and Social Responsibility Act 2011 (c.13)

- 6 In Schedule 16 to the Police Reform and Social Responsibility Act 2011 (minor and consequential amendments), omit paragraphs 166(2) and 167(3).

SCHEDULE 14

Section 51

REMOVAL OF REFERENCES TO ACPO

Replacement of definition of ACPO with definition of NPCC

- 1 (1) Section 101(1) of the Police Act 1996 is amended as follows.
- (2) Omit the definition of “the Association of Chief Police Officers”.
- (3) After the definition of “national or international functions” insert—
- ““the National Police Chiefs’ Council” means the body called the National Police Chiefs’ Council which was established in accordance with a collaboration agreement under section 22A above entered into on 1 April 2015;”.

Repeal of references to ACPO

- 2 (1) The Police Reform Act 2002 is amended as follows.
- (2) Omit section 96.
- (3) In section 106 omit the definition of “the Association of Chief Police Officers”.
- 3 (1) The Police and Justice Act 2006 is amended as follows.
- (2) In the heading of section 6 for “and ACPO” substitute “and body representing chief officers of police”.
- (3) Schedule 4 is amended as follows—
- (a) omit paragraph 2;
 - (b) omit paragraph 6;
 - (c) omit paragraph 8;
 - (d) omit paragraph 17;
 - (e) omit paragraph 18.

Substitution of references to NPCC for references to ACPO

- 4 In each of the provisions listed in paragraph 5 for “the Association of Chief Police Officers of England, Wales and Northern Ireland” substitute “the National Police Chiefs’ Council”.
- 5 The provisions mentioned in paragraph 4 are—
- (a) section 67(4)(b) of the Police and Criminal Evidence Act 1984;
 - (b) section 21A(4)(za) of the Criminal Procedure and Investigations Act 1996;
 - (c) section 6(2)(b) of the Police and Justice Act 2006.

- 6 In each of the provisions listed in paragraph 7 for “the Association of Chief Police Officers” substitute “the National Police Chiefs’ Council”.
- 7 The provisions mentioned in paragraph 6 are—
- (a) section 42B(2)(b) of the Firearms Act 1968;
 - (b) section 18B(2)(b) of the Firearms (Amendment) Act 1988;
 - (c) sections 40B(2)(b), 42A(2)(b), 53(2)(b), 53B(3)(c), 53B(6)(b) and 57(4)(b) of the Police Act 1996;
 - (d) section 35A(2)(b) of the Firearms (Amendment) Act 1997;
 - (e) sections 22(3)(b), 24(c), 38A(3)(b), 43(9)(a), 45(3)(f) and 51(7)(b) of the Police Reform Act 2002;
 - (f) section 70(2)(j) of the Courts Act 2003;
 - (g) section 31(3)(a) of the Crime and Security Act 2010;
 - (h) sections 29(5)(b) and 33(8)(b) of the Protection of Freedoms Act 2012.

SCHEDULE 15

Section 116(2)

SCHEDULE TO BE INSERTED AS SCHEDULE 7A TO THE
CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994

“SCHEDULE 7A

Section 137B

OFFENCES SPECIFIED FOR THE PURPOSES OF SECTION 137A

PART 1

OFFENCES UNDER THE LAW OF ENGLAND AND WALES

- 1 Any of the following offences at common law—
- (a) false imprisonment;
 - (b) kidnapping;
 - (c) indecent exposure;
 - (d) cheating in relation to the public revenue.
- 2 An offence under any of the following provisions of the Offences against the Person Act 1861—
- (a) section 20 (inflicting bodily injury);
 - (b) section 24 (administering poison etc with intent);
 - (c) section 27 (exposing child whereby life is endangered etc);
 - (d) section 31 (setting spring-guns etc with intent);
 - (e) section 37 (assaulting an officer etc on account of his preserving wreck);
 - (f) section 47 (assault occasioning actual bodily harm).
- 3 (1) An offence under any of the following provisions of the Sexual Offences Act 1956—
- (a) section 10 (incest by a man);
 - (b) section 11 (incest by a woman);
 - (c) section 30 (man living on the earnings of prostitution);

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- (d) section 31 (woman exercising control over a prostitute);
 - (e) section 33A (keeping a brothel used for prostitution).
- (2) An offence under section 12 of that Act (buggery), other than an offence committed by a person where the other person involved in the conduct constituting the offence consented to it and was aged 16 or over.
- (3) An offence under section 13 of that Act (indecenty between men), where the offence was committed by a man aged 21 or over and the other person involved in the conduct constituting the offence was under the age of 16.
- 4 An offence under section 4 of the Criminal Law Act 1967 (assisting offenders).
- 5 An offence under section 5 of the Sexual Offences Act 1967 (living on the earnings of male prostitution).
- 6 An offence under any of the following provisions of the Firearms Act 1968—
- (a) section 1(1) (possession etc of firearms or ammunition without certificate);
 - (b) section 2(1) (possession etc of shot gun without certificate);
 - (c) section 3(1) (manufacturing, selling etc firearms or ammunition by way of trade or business without being registered as a firearms dealer).
- 7 An offence under section 106A of the Taxes Management Act 1970 (fraudulent evasion of income tax).
- 8 (1) An offence under section 50(2) or (3) of the Customs and Excise Management Act 1979 (improper importation of goods), other than an offence mentioned in subsection (5B) of that section.
- (2) An offence under section 68(2) of that Act (exportation of prohibited or restricted goods).
- (3) An offence under section 170 of that Act (fraudulent evasion of duty etc), other than an offence mentioned in subsection (4B) of that section.
- 9 An offence under section 4 of the Aviation Security Act 1982 (offences in relation to certain dangerous articles).
- 10 An offence under section 127 of the Mental Health Act 1983 (ill-treatment of patients).
- 11 An offence under either of the following provisions of the Child Abduction Act 1984—
- (a) section 1 (abduction of child by parent etc);
 - (b) section 2 (abduction of child by other persons).
- 12 An offence under section 1 of the Prohibition of Female Circumcision Act 1985 (prohibition of female circumcision).
- 13 An offence under either of the following provisions of the Public Order Act 1986—
- (a) section 2 (violent disorder);
 - (b) section 3 (affray).
- 14 An offence under section 160 of the Criminal Justice Act 1988 (possession of indecent photograph of a child).
- 15 An offence under section 2 of the Computer Misuse Act 1990 (unauthorised access with intent to commit or facilitate commission of further offences).

- 16 An offence under section 72(1), (3) or (8) of the Value Added Tax Act 1994 (fraudulent evasion of VAT etc).
- 17 An offence under either of the following provisions of the Protection from Harassment Act 1997—
- (a) section 4 (putting people in fear of violence);
 - (b) section 4A (stalking involving fear of violence or serious alarm or distress).
- 18 An offence under section 29(1)(a) or (b) of the Crime and Disorder Act 1998 (certain racially or religiously aggravated assaults).
- 19 An offence under section 38B of the Terrorism Act 2000 (information about acts of terrorism).
- 20 An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (sexual activity with a person aged under 18 in abuse of a position of trust).
- 21 An offence under section 35 of the Tax Credits Act 2002 (tax credit fraud).
- 22 (1) An offence under any of the following provisions of the Sexual Offences Act 2003—
- (a) section 13 (child sex offences committed by children or young persons);
 - (b) section 16 (abuse of position of trust: sexual activity with a child);
 - (c) section 17 (abuse of position of trust: causing or inciting a child to engage in sexual activity);
 - (d) section 18 (abuse of position of trust: sexual activity in the presence of a child);
 - (e) section 19 (abuse of position of trust: causing a child to watch a sexual act);
 - (f) section 40 (care workers: sexual activity in the presence of a person with a mental disorder);
 - (g) section 41 (care workers: causing a person with a mental disorder to watch a sexual act);
 - (h) section 52 (causing or inciting prostitution for gain);
 - (i) section 53 (controlling prostitution for gain).
- (2) An offence under section 25 or 26 of that Act (family child sex offences) where the offence is committed by a person under the age of 18.
- (3) An offence under section 47 of that Act (paying for sexual services of a child), where the offence is committed against a person aged 16 or over.
- 23 An offence under either of the following provisions of the Terrorism Act 2006—
- (a) section 1 (encouragement of terrorism);
 - (b) section 2 (dissemination of terrorist publications).
- 24 An offence under section 45 of the Serious Crime Act 2015 (participating in activities of organised crime group).
- 25 An offence under section 68 of the Policing and Crime Act 2017 (breach of pre-charge bail conditions relating to travel).

PART 2

OFFENCES UNDER THE LAW OF SCOTLAND

- 26 Any of the following offences at common law—
- (a) culpable homicide;
 - (b) treason;
 - (c) rape;
 - (d) assault, where the assault results in serious injury or endangers life;
 - (e) assault with intent to rape or ravish;
 - (f) indecent assault;
 - (g) abduction with intent to rape;
 - (h) public indecency;
 - (i) clandestine injury to women;
 - (j) lewd, indecent or libidinous behaviour or practices;
 - (k) sodomy, other than an offence committed by a person where the other person involved in the conduct constituting the offence consented to it and was aged 16 or over;
 - (l) abduction;
 - (m) mobbing;
 - (n) fire-raising;
 - (o) robbery;
 - (p) fraud;
 - (q) extortion;
 - (r) embezzlement;
 - (s) theft;
 - (t) threats;
 - (u) attempting to pervert the course of justice.
- 27 An offence under any of the following provisions of the Firearms Act 1968—
- (a) section 1(1) (possession etc of firearms or ammunition without certificate);
 - (b) section 2(1) (possession etc of shot gun without certificate);
 - (c) section 3(1) (manufacturing, selling etc firearms or ammunition by way of trade or business without being registered as a firearms dealer).
- 28 An offence under section 106A of the Taxes Management Act 1970 (fraudulent evasion of income tax).
- 29
- (1) An offence under section 50(2) or (3) of the Customs and Excise Management Act 1979 (improper importation of goods), other than an offence mentioned in subsection (5B) of that section.
 - (2) An offence under section 68(2) of that Act (exportation of prohibited or restricted goods).
 - (3) An offence under section 170 of that Act (fraudulent evasion of duty etc), other than an offence mentioned in subsection (4B) of that section.
- 30 An offence under section 4 of the Aviation Security Act 1982 (offences in relation to certain dangerous articles).

- 31 An offence under either of the following provisions of the Civic Government (Scotland) Act 1982—
- (a) section 51(2) (publication etc of obscene material);
 - (b) section 52 (taking, distributing etc indecent photographs of children).
- 32 An offence under section 6 of the Child Abduction Act 1984 (parent etc. taking or sending a child out of the United Kingdom).
- 33 An offence under section 1 of the Prohibition of Female Circumcision Act 1985 (prohibition of female circumcision).
- 34 An offence under section 2 of the Computer Misuse Act 1990 (unauthorised access with intent to commit or facilitate commission of further offences).
- 35 An offence under section 72(1), (3) or (8) of the Value Added Tax Act 1994 (fraudulent evasion of VAT etc).
- 36 An offence under any of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995—
- (a) section 7 (procuring prostitution etc);
 - (b) section 8(3) (unlawful detention of women and girls);
 - (c) section 10 (parents etc encouraging girls under 16 to engage in prostitution etc);
 - (d) section 11(1)(b) (males soliciting etc for immoral purposes).
- 37 An offence under section 38B of the Terrorism Act 2000 (information about acts of terrorism).
- 38 An offence under section 35 of the Tax Credits Act 2002 (tax credit fraud).
- 39 An offence under section 313 of the Mental Health (Care and Treatment) (Scotland) Act 2003 (persons providing care services: sexual offences).
- 40 An offence under either of the following provisions of the Terrorism Act 2006—
- (a) section 1 (encouragement of terrorism);
 - (b) section 2 (dissemination of terrorist publications).
- 41 Any of the following offences under the Sexual Offences (Scotland) Act 2009—
- (a) section 8 (sexual exposure);
 - (b) section 9 (voyeurism);
 - (c) section 11 (administering a substance for sexual purposes);
 - (d) section 32 (causing an older child to be present during a sexual activity);
 - (e) section 33 (causing an older child to look at a sexual image);
 - (f) section 34(1) (communicating indecently with an older child);
 - (g) section 34(2) (causing an older child to see or hear an indecent communication);
 - (h) section 35 (sexual exposure to an older child);
 - (i) section 36 (voyeurism towards an older child);
 - (j) section 42 (sexual abuse of trust);
 - (k) section 46 (sexual abuse of trust of a mentally disordered person).
- 42 An offence under either of the following provisions of the Criminal Justice and Licensing (Scotland) Act 2010—
- (a) section 38 (threatening or abusive behaviour);
 - (b) section 39 (stalking).

- 43 An offence under section 2 of the Abusive Behaviour and Sexual Harm (Scotland) Act 2016 (disclosing etc an intimate photograph or film).

PART 3

OFFENCES UNDER THE LAW OF NORTHERN IRELAND

- 44 Any of the following offences at common law—
- (a) false imprisonment;
 - (b) kidnapping;
 - (c) riot;
 - (d) affray;
 - (e) indecent exposure;
 - (f) cheating in relation to the public revenue.
- 45 An offence under any of the following provisions of the Offences against the Person Act 1861—
- (a) section 20 (inflicting bodily injury);
 - (b) section 24 (administering poison etc with intent);
 - (c) section 27 (exposing child whereby life is endangered etc);
 - (d) section 31 (setting spring-guns etc with intent);
 - (e) section 37 (assaulting an officer etc on account of his preserving wreck);
 - (f) section 47 (assault occasioning actual bodily harm).
- 46 An offence under section 11 of the Criminal Law Amendment Act 1885 (indecency between men), where the offence was committed by a man aged 21 or over and the other person involved in the conduct constituting the offence was under the age of 16.
- 47 An offence under either of the following provisions of the Punishment of Incest Act 1908—
- (a) section 1 (incest by a man);
 - (b) section 2 (incest by a woman).
- 48 An offence under section 4 of the Criminal Law Act (Northern Ireland) 1967 (assisting offenders).
- 49 An offence under section 106A of the Taxes Management Act 1970 (fraudulent evasion of income tax).
- 50
- (1) An offence under section 50(2) or (3) of the Customs and Excise Management Act 1979 (improper importation of goods), other than an offence mentioned in subsection (5B) of that section.
 - (2) An offence under section 68(2) of that Act (exportation of prohibited or restricted goods).
 - (3) An offence under section 170 of that Act (fraudulent evasion of duty etc), other than an offence mentioned in subsection (4B) of that section.
- 51 An offence under section 4 of the Aviation Security Act 1982 (offences in relation to certain dangerous articles).
- 52 An offence under Article 8 of the Homosexual Offences (Northern Ireland) Order 1982 (S.I. 1982/1536 (N.I. 19)) (living on the earnings of male prostitution).

- 53 An offence under section 1 of the Prohibition of Female Circumcision Act 1985 (prohibition of female circumcision).
- 54 An offence under either of the following provisions of the Child Abduction (Northern Ireland) Order 1985 (S.I. 1985/1638 (N.I. 17))—
- (a) Article 3 (abduction of child by parent etc);
 - (b) Article 4 (abduction of child by other persons).
- 55 An offence under Article 121 of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)) (ill-treatment of patients).
- 56 An offence under Article 15 of the Criminal Justice (Evidence, Etc.) (Northern Ireland) Order 1988 (S.I. 1988/1847 (N.I. 17)) (possession of indecent photograph of a child).
- 57 An offence under section 2 of the Computer Misuse Act 1990 (unauthorised access with intent to commit or facilitate commission of further offences).
- 58 An offence under section 72(1), (3) or (8) of the Value Added Tax Act 1994 (fraudulent evasion of VAT etc).
- 59 An offence under Article 6 of the Protection from Harassment (Northern Ireland) Order 1997 (S.I. 1997/1180 (N.I. 9)) (putting people in fear of violence).
- 60 An offence under section 38B of the Terrorism Act 2000 (information about acts of terrorism).
- 61 An offence under section 3 of the Sexual Offences (Amendment) Act 2000 (sexual activity with a person aged under 18 in abuse of a position of trust).
- 62 An offence under section 35 of the Tax Credits Act 2002 (tax credit fraud).
- 63 An offence under section 53 of the Sexual Offences Act 2003 (controlling prostitution for gain).
- 64 An offence under any of the following provisions of the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3))—
- (a) Article 3(1)(b) (possession etc of firearms other than handguns without certificate);
 - (b) Article 3(2) (possession etc of ammunition without certificate);
 - (c) Article 24(1) (manufacturing, selling etc firearms or ammunition by way of trade or business without being registered as a firearms dealer).
- 65 An offence under either of the following provisions of the Terrorism Act 2006—
- (a) section 1 (encouragement of terrorism);
 - (b) section 2 (dissemination of terrorist publications).
- 66 (1) An offence under any of the following provisions of the Sexual Offences (Northern Ireland) Order 2008 (S.I. 2008/1769 (N.I. 2))—
- (a) Article 20 (child sex offences committed by children or young persons);
 - (b) Article 23 (abuse of position of trust: sexual activity with a child);
 - (c) Article 24 (abuse of position of trust: causing or inciting a child to engage in sexual activity);
 - (d) Article 25 (abuse of position of trust: sexual activity in the presence of a child);
 - (e) Article 51 (care workers: sexual activity with a person with a mental disorder);

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

- (f) Article 53 (care workers: sexual activity in the presence of a person with a mental disorder);
 - (g) Article 62 (causing or inciting prostitution for gain);
 - (h) Article 63 (controlling prostitution for gain);
 - (i) Article 64 (keeping a brothel used for prostitution).
- (2) An offence under Article 32 or 33 of that Order (family child sex offences) where the offence is committed by a person under the age of 18.
- (3) An offence under Article 37 of that Order (paying for sexual services of a child), where the offence is committed against a person aged 16 or over.
- 67 An offence under section 68 of the Policing and Crime Act 2017 (breach of pre-charge bail conditions relating to travel).”

SCHEDULE 16

Section 116(3)

SCHEDULE TO BE INSERTED AS SCHEDULE 7B TO THE CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994

“SCHEDULE 7B

Section 137D

RIGHTS OF PERSONS ARRESTED UNDER SECTION 137A: MODIFICATIONS

PART 1

ARRESTS IN RESPECT OF OFFENCES COMMITTED IN ENGLAND AND WALES

- 1 (1) This Part sets out the modifications mentioned in section 137D(2), that is, modifications of the provisions which apply in relation to persons arrested under section 137A in respect of a specified offence committed in England and Wales.
- (2) Except as expressly provided by this Part, a reference to a constable in any of those provisions is to be read as a reference to a constable of the arresting force.
- (3) In this Part, references to the arresting force and the investigating force have the same meaning as in section 137C (see subsection (8) of that section).
- 2 (1) Section 56 of the Police and Criminal Evidence Act 1984 (right to have someone informed when arrested) is modified as follows.
- (2) Subsection (1) is to be read as if (instead of referring to the case where a person has been arrested and is being held in custody in a police station or other premises) it referred to the case where a person has been arrested under section 137A and is being detained under section 137C.
- (3) Subsection (2)(a) does not apply.
- (4) Subsection (2)(b) is to be read as if (instead of referring to an officer of at least the rank of inspector) it referred—
- (a) in relation to delay during the period of 24 hours beginning with the time of the arrest under section 137A, to an officer of the investigating force of at least the rank of inspector;

- (b) in relation to delay during any remaining period for which the person may be detained under section 137C, to an officer of the investigating force of a rank above that of inspector.
- (5) Subsection (3) does not apply.
- (6) The reference in subsection (5)(a) to an indictable offence is to be read as a reference to an offence that is an indictable offence under the law of England and Wales.
- (7) Subsection (5A)(a) is to be read as if (instead of referring to the person detained for the indictable offence) it referred to the person detained under section 137C.
- (8) Subsection (6)(b) is to be read as if (instead of referring to a person's custody record) it referred to the record made by the arresting force in relation to the person's arrest under section 137A and detention under section 137C.
- (9) Subsection (8) is to be read as if (instead of referring to a person detained at a police station or other premises) it referred to a person detained under section 137C.
- 3 (1) Section 58 of the Police and Criminal Evidence Act 1984 (access to legal advice) is modified as follows.
- (2) Subsection (1) is to be read as if (instead of referring to a person held in custody in a police station or other premises) it referred to a person detained under section 137C.
- (3) Subsections (2) and (9)(b) are to be read as if (instead of referring to a person's custody record) they referred to the record made by the arresting force in relation to the person's arrest under section 137A and detention under section 137C.
- (4) Subsections (3) and (5) do not apply.
- (5) Subsection (6)(a) does not apply.
- (6) The reference in subsection (6)(b) to an officer of at least the rank of superintendent is to be read as a reference to an officer of at least that rank in the investigating force.
- (7) The reference in subsection (8)(a) to an indictable offence is to be read as a reference to an indictable offence under the law of England and Wales.
- (8) Subsection (8A)(a) is to be read as if (instead of referring to the person detained for the indictable offence) it referred to the person detained under section 137C.
- 4 (1) Section 34 of the Children and Young Persons Act 1933 (attendance at court of parent of child or young person charged with an offence, etc) is modified as follows.
- (2) Subsection (2) is to be read as if (instead of referring to the case where a child or young person is in police detention) it referred to the case where a child or young person is being detained under section 137C.
- (3) Subsection (3) is to be read as if (in addition to the information mentioned in paragraphs (a) to (c)) it also mentioned the information set out in section 137D(1) (a) and (b).
- (4) The reference in subsection (9) to a child's or young person's rights under section 56 of the Police and Criminal Evidence Act 1984 is to be read as a reference to that section as modified by this Schedule.

PART 2

ARRESTS IN RESPECT OF OFFENCES COMMITTED IN SCOTLAND

- 5 (1) This Part sets out the modifications mentioned in section 137D(3), that is, modifications of the provisions which apply in relation to persons arrested under section 137A in respect of a specified offence committed in Scotland.
- (2) Except as expressly provided by this Part, a reference to a constable in any of those provisions is to be read as a reference to a constable of the arresting force.
- (3) A reference to a person in police custody in any of those provisions is to be read as a reference to a person detained under section 137C.
- (4) In this Part, references to the arresting force and the investigating force have the same meaning as in section 137C (see subsection (8) of that section).
- 6 (1) Section 38 of the Criminal Justice (Scotland) Act 2016 (right to have intimation sent to other person) is modified as follows.
- (2) Subsection (6) applies as if (instead of the provision made by that subsection) it defined “an appropriate constable” as being—
- (a) in relation to delay during the period of 24 hours beginning with the time of the arrest under section 137A, an officer of the investigating force of at least the rank of inspector who has not been involved in the investigation in connection with which the arrest was made;
- (b) in relation to delay during any remaining period for which a person may be detained under section 137C, an officer of the investigating force of a rank above that of inspector who has not been involved in the investigation in connection with which the arrest was made.
- 7 (1) Section 40 of that Act (right of under 18s to have access to another person) is modified as follows.
- (2) Subsection (5) applies as if (instead of the provision made by that subsection) it provided for a decision to refuse or restrict access to a person under subsection (1) or (2) to be taken only by—
- (a) in the case of a decision to refuse or restrict access during the period of 24 hours beginning with the time of the arrest under section 137A, an officer of the investigating force of at least the rank of inspector who has not been involved in the investigation in connection with which the arrest was made;
- (b) in the case of a decision to refuse or restrict access during any remaining period for which a person may be detained under section 137C, an officer of the investigating force of a rank above that of inspector who has not been involved in the investigation in connection with which the arrest was made.
- 8 (1) Section 41 of that Act (social work involvement in relation to under 18s) is modified as follows.
- (2) Subsection (6) applies as if (instead of the provision made by that subsection) it provided for a decision to refuse or restrict access to a person under subsection (4) (b) to be taken only by—
- (a) in the case of a decision to refuse or restrict access during the period of 24 hours beginning with the time of the arrest under section 137A, an officer of the investigating force of at least the rank of inspector who has not been involved in the investigation in connection with which the arrest was made;

- (b) in the case of a decision to refuse or restrict access during any remaining period for which a person may be detained under section 137C, an officer of the investigating force of a rank above that of inspector who has not been involved in the investigation in connection with which the arrest was made.
- 9 (1) Section 42 of that Act (support for vulnerable persons) is modified as follows.
- (2) Subsection (5)(b)(ii) is to be read as if (instead of referring to a person appointed as a member of police staff under section 26(1) of the Police and Fire Reform (Scotland) Act 2012) it referred to a person who performs a function which is equivalent to a function performed at a police station in Scotland by a person appointed as a member of police staff under section 26(1) of that Act.
- 10 (1) Section 43 of that Act (right to have intimation sent to solicitor) is modified as follows.
- (2) Subsection (1) is to be read as if the list of matters of which a person has a right to have intimation sent to a solicitor—
- (a) did not include paragraph (d), but
- (b) did include the matters mentioned in section 137D(1)(a) and (b).
- 11 (1) Section 44 of that Act (right to consultation with solicitor) is modified as follows.
- (2) Subsection (3) applies as if (instead of the provision made by that subsection) it provided for a decision to delay the exercise of the right under subsection (1) to be taken only by—
- (a) in the case of a delay during the period of 24 hours beginning with the time of the arrest under section 137A, an officer of the investigating force of at least the rank of inspector who has not been involved in the investigation in connection with which the arrest was made;
- (b) in the case of a delay during any remaining period for which a person may be detained under section 137C, an officer of the investigating force of a rank above that of inspector who has not been involved in the investigation in connection with which the arrest was made.
- 12 (1) Section 51 of that Act (duty to consider child’s wellbeing) is modified as follows.
- (2) Subsection (1) is to be read as if it did not include paragraphs (a), (c) and (d).

PART 3

ARRESTS IN RESPECT OF OFFENCES COMMITTED IN NORTHERN IRELAND

- 13 (1) This Part sets out the modifications mentioned in section 137D(4), that is, modifications of the provisions which apply in relation to persons arrested under section 137A in respect of a specified offence committed in Northern Ireland.
- (2) Except as expressly provided by this Part, a reference to a constable in any of those provisions is to be read as a reference to a constable of the arresting force.
- (3) In this Part, references to the arresting force and the investigating force have the same meaning as in section 137C (see subsection (8) of that section).
- 14 (1) Article 57 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (right to have someone informed when arrested) is modified as follows.

- (2) Paragraph (1) is to be read as if (instead of referring to the case where a person has been arrested and is being held in custody in a police station or other premises) it referred to the case where a person has been arrested under section 137A and is being detained under section 137C.
 - (3) Paragraph (2)(a) does not apply.
 - (4) Paragraph (2)(b) is to be read as if (instead of referring to an officer of at least the rank of inspector) it referred—
 - (a) in relation to delay during the period of 24 hours beginning with the time of the arrest under section 137A, to an officer of the investigating force of at least the rank of inspector;
 - (b) in relation to delay during any remaining period for which the person may be detained under section 137C, to an officer of the investigating force of a rank above that of inspector.
 - (5) Paragraph (3) does not apply.
 - (6) The reference in paragraph (5)(a) to an indictable offence is to be read as a reference to an offence that is an indictable offence under the law of Northern Ireland.
 - (7) Paragraph (5A)(a) is to be read as if (instead of referring to the person detained for the indictable offence) it referred to the person detained under section 137C.
 - (8) Paragraph (6)(b) is to be read as if (instead of referring to a person’s custody record) it referred to the record made by the arresting force in relation to the person’s arrest under section 137A and detention under section 137C.
 - (9) Paragraph (8) is to be read as if (instead of referring to a person detained at a police station or other premises) it referred to a person detained under section 137C.
- 15 (1) Article 59 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (access to legal advice) is modified as follows.
- (2) Paragraph (1) is to be read as if (instead of referring to a person held in custody in a police station or other premises) it referred to a person detained under section 137C.
 - (3) Paragraphs (2) and (9)(b) are to be read as if (instead of referring to a person’s custody record) they referred to the record made by the arresting force in relation to the person’s arrest under section 137A and detention under section 137C.
 - (4) Paragraphs (3) and (5) do not apply.
 - (5) Paragraph (6)(a) does not apply.
 - (6) The reference in paragraph (6)(b) to an officer of at least the rank of superintendent is to be read as a reference to an officer of at least that rank in the investigating force.
 - (7) The reference in paragraph (8)(a) to an indictable offence is to be read as a reference to an indictable offence under the law of Northern Ireland.
 - (8) Paragraph (8A)(a) is to be read as if (instead of referring to the person detained for the indictable offence) it referred to the person detained under section 137C.
- 16 (1) Article 10 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (duty to inform person responsible for welfare of child in police detention) is modified as follows.

- (2) Paragraph (1) is to be read as if (instead of referring to the case where a child is in police detention) it referred to the case where a child is being detained under section 137C.
- (3) That paragraph is also to be read as if (in addition to the information mentioned in sub-paragraphs (a) to (c)) it also mentioned the information set out in section 137D(1)(a) and (b).
- (4) The reference in paragraph (6) to a child’s rights under Article 57 of the Police and Criminal Evidence (Northern Ireland) Order 1989 is to be read as a reference to that Article as modified by this Schedule.”

SCHEDULE 17

Section 119

CROSS-BORDER ENFORCEMENT: MINOR AND CONSEQUENTIAL AMENDMENTS

PART 1

AMENDMENTS OF PART 10 OF THE CRIMINAL JUSTICE AND PUBLIC ORDER ACT 1994

- 1 Part 10 of the Criminal Justice and Public Order Act 1994 (cross-border enforcement) is amended in accordance with paragraphs 2 to 8.

Powers of constables of PSNI etc under section 137

- 2 (1) Section 137 (cross-border powers of arrest etc.) is amended as follows.
 - (2) In subsection (3), for “the conditions applicable to this subsection are satisfied” substitute “the condition applicable to this subsection is satisfied”.
 - (3) For subsection (6) substitute—

“(6) The condition applicable to subsection (3) above is that it appears to the constable that it would have been lawful for him to have exercised the powers had the suspected person been in Northern Ireland.”
 - (4) In subsection (9), omit the definition of “arrestable offence”.
- 3 In section 138 (powers of arrest: supplementary provisions), omit subsections (3) to (5).

Powers to search premises under section 139

- 4 (1) Section 139 (search powers available on arrests under sections 136 and 137) is amended as follows.
 - (2) In the heading, for “sections 136 and 137” substitute “sections 136, 137 and 137A”.
 - (3) For subsection (1) substitute—

“(1) The powers conferred by subsections (2) and (3) are available to a constable in relation to—

 - (a) a person arrested under section 136(1), (2)(b) or (3)(a);

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

- (b) a person arrested under section 137(1) or (3);
 - (c) a person arrested under section 137A in respect of a specified offence committed in England and Wales or Northern Ireland.”
- (4) Omit subsection (3)(b).
- (5) After subsection (3) insert—
- “(3A) The powers conferred by subsection (3B) are available to a constable in relation to—
- (a) a person arrested under section 136(1) or (3)(a) in the execution of a warrant issued in England and Wales in respect of an offence that is an indictable offence in England and Wales;
 - (b) a person arrested under section 136(1) or (2)(b) in the execution of a warrant issued in Northern Ireland in respect of an offence that is an indictable offence in Northern Ireland;
 - (c) a person arrested under section 137(1) in respect of an offence that is an indictable offence in England and Wales;
 - (d) a person arrested under section 137(3) in respect of an offence that is an indictable offence in Northern Ireland;
 - (e) a person arrested under section 137A(2) or (4) in respect of a specified offence committed in England and Wales;
 - (f) a person arrested under section 137A(1) or (2) in respect of a specified offence committed in Northern Ireland.
- (3B) The constable may enter and search any premises in which the person was when arrested or immediately before he was arrested for evidence relating to the offence.”
- (6) In subsection (4), after “subsection (3)” insert “or (3B)”.
- (7) In subsection (7)—
- (a) for “subsection (3)(b)” substitute “subsection (3B)”;
 - (b) for “that paragraph” substitute “that subsection”.
- (8) In subsection (8), for “subsection (3)(b)” substitute “subsection (3B)”.
- (9) After subsection (10) insert—
- “(10A) Where a constable of a police force in England and Wales searches premises in the exercise of the power conferred by subsection (3B) or where a constable of the British Transport Police searches premises in England and Wales in the exercise of that power—
- (a) the constable has the same powers as the constable would have under section 19 of the Police and Criminal Evidence Act 1984 if the search had taken place under section 32(2)(b) of that Act, and
 - (b) sections 21 and 22 of that Act apply in relation to anything seized in the exercise of the powers conferred by paragraph (a) above.
- (10B) Where a constable of a police force in Northern Ireland searches premises in the exercise of the power conferred by subsection (3B)—
- (a) the constable has the same powers as the constable would have under Article 21 of the Police and Criminal Evidence (Northern Ireland)

Order 1989 (S.I. 1989/1341 (N.I.12)) if the search had taken place under Article 34(2)(b) of that Order, and

- (b) Articles 23 and 24 of that Order apply in relation to anything seized in the exercise of the powers conferred by paragraph (a) above.

(10C) Where a constable of a police force in Scotland searches premises in the exercise of the power conferred by subsection (3B), or where a constable of the British Transport Police searches premises in Scotland in the exercise of that power, the constable has the same powers of seizure and retention as the constable would have if the search had taken place in the exercise of a power of the constable (by virtue of any rule of law) in relation to a person arrested and charged with an offence by the constable in Scotland.”

(10) In subsection (12)—

- (a) in the definition of “premises”, at the end of paragraph (b) (before the “and”) insert—
“(ba) any renewable energy installation;”;
- (b) omit the “and” after that definition;
- (c) in the definition of “offshore installation” for “section 1 of the Mineral Workings (Offshore Installations) Act 1971” substitute “section 44 of the Petroleum Act 1998”;
- (d) at the end of the subsection insert “; and
renewable energy installation” has the same meaning as in Chapter 2 of Part 2 of the Energy Act 2004 (see section 104 of that Act).”

Reciprocal powers of arrest - minor correction

5 In section 140 (reciprocal powers of arrest)—

- (a) in subsection (1), for the words in brackets substitute “(arrest without warrant)”;
- (b) in subsection (5), for the words in the second set of brackets substitute “(arrest without warrant)”.

References to the British Transport Commission Act 1949 - updating

6 In each of the following places, for references to “section 53 of the British Transport Commission Act 1949” substitute “section 24 of the Railways and Transport Safety Act 2003”—

- (a) section 136(1) and (2);
- (b) section 137(2A);
- (c) section 140(6A).

Other amendments

7 (1) Section 136 (execution of warrants) is amended as follows.

(2) After subsection (4) insert—

“(4A) The following provisions apply in relation to the execution under this section by a constable of a warrant issued in England and Wales or Northern Ireland—

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

- (a) where the warrant is executed under subsection (1), the constable has the same powers of entry and search for the purpose of executing the warrant as a constable of a police force in Scotland would have if the warrant had been issued in Scotland;
 - (b) where the warrant is executed under subsection (2)(b) or (3)(a), the constable has the powers of entry and search conferred by section 137E;
 - (c) where the warrant is executed under subsection (1), (2)(b) or (3)(a), the constable has the powers conferred by section 139 in relation to the arrested person;
 - (d) the constable may use reasonable force, if necessary, in arresting the person or in exercising the powers conferred by sections 137E and 139.”
- (3) In subsection (5), omit paragraph (a).
- 8 (1) Section 137 (cross-border powers of arrest etc.) is amended as follows.
- (2) After subsection (7) insert—
- “(7A) The following provisions apply in relation to an arrest under this section by a constable under subsection (1) or (3)—
- (a) where the arrest is under subsection (1) in Northern Ireland or under subsection (3) in England and Wales, the constable has the powers of entry and search conferred by section 137E;
 - (b) where the arrest is under subsection (1) or (3) in Scotland, the constable has the same powers of entry and search for the purpose of the arrest as a constable of a police force in Scotland would have if there were reasonable grounds for suspecting that the offence had been committed or attempted in Scotland;
 - (c) the constable has the powers conferred by section 139 in relation to the arrested person;
 - (d) the constable may use reasonable force, if necessary, in arresting the person or in exercising the powers conferred by sections 137E and 139.”
- (3) In subsection (8), omit paragraph (a).

PART 2

AMENDMENTS OF OTHER LEGISLATION

Finance Act 2007 (c.11)

- 9 (1) Section 87 of the Finance Act 2007 (cross-border exercise of powers) is amended as follows.
- (2) After subsection (2) insert—
- “(2A) In the application of section 137C where a person is arrested under section 137A by an officer of Revenue and Customs in respect of a specified offence that is being investigated by an officer of Revenue and Customs—

- (a) subsection (2)(b) is to be read as if (instead of requiring the detention to be authorised by both an officer of at least the rank of inspector in the arresting force and an officer of at least the rank of inspector in the investigating force) it required the detention to be authorised by an officer of Revenue and Customs of at least the grade equivalent to the rank of inspector;
 - (b) subsection (2)(c) is to be read as if (instead of requiring the detention to be authorised by both an officer of a rank above that of inspector in the arresting force and an officer of a rank above that of inspector in the investigating force) it required the detention to be authorised by an officer of Revenue and Customs of a grade above that equivalent to the rank of inspector;
 - (c) subsection (3) is omitted;
 - (d) in subsections (4) and (5), the reference to an officer of the investigating force is to be read as a reference to an officer of Revenue and Customs;
 - (e) in subsection (6), the reference to an appropriate officer in the investigating force is to be read as a reference to an appropriate officer of Revenue and Customs (as defined by subsection (7));
 - (f) subsection (6)(a) is omitted;
 - (g) in subsection (7)(b), the reference to an officer of at least the rank of inspector is to be read as a reference to an officer of Revenue and Customs of at least the equivalent grade;
 - (h) in subsection (7)(c), the reference to an officer of a rank above that of inspector is to be read as a reference to an officer of Revenue and Customs of above the equivalent grade;
 - (i) subsections (8) to (10) are omitted.
- (2B) Where section 137C applies in accordance with subsection (2A), Schedule 7B applies with the following modifications—
- (a) any reference to a constable in the arresting force is to be read as a reference to an officer of Revenue and Customs;
 - (b) any reference to an officer of at least, or above, a particular rank in the investigating force is to be read as a reference to an officer of Revenue and Customs of at least, or above, the equivalent grade;
 - (c) any reference to the arresting force or to the investigating force (otherwise than in relation to a description of officer in the force) is to be read as a reference to officers of Revenue and Customs;
 - (d) instead of the modification made by paragraph 9, section 42 of the Criminal Justice (Scotland) Act 2016 is to be read as if the references in subsections (1)(c)(ii) and (3)(b) to the police were references to officers of Revenue and Customs;
 - (e) the Schedule is to be read as if it also provided for references in the provisions applied by section 137D(2)(d), (3)(d) and (4)(d) to a police station to include references to an office of Revenue and Customs.
- (2C) In the application of section 137C where a person is arrested under section 137A by an officer of Revenue and Customs in respect of a specified offence other than one that is being investigated by an officer of Revenue and Customs—

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

- (a) any reference to an officer of at least, or above, the rank of inspector in the arresting force is to be read as a reference to an officer of Revenue and Customs of at least, or above, the equivalent grade;
 - (b) the reference in subsection (6)(a) to the arresting force is to be read as a reference to any officer of Revenue and Customs.
- (2D) Where section 137C applies in accordance with subsection (2C), Schedule 7B applies with the following modifications—
- (a) any reference to a constable in the arresting force is to be read as a reference to an officer of Revenue and Customs;
 - (b) any reference to the arresting force (otherwise than in relation to a description of officer in the force) is to be read as a reference to officers of Revenue and Customs;
 - (c) instead of the modification made by paragraph 9, section 42 of the Criminal Justice (Scotland) Act 2016 is to be read as if the references in subsections (1)(c)(ii) and (3)(b) to the police were references to officers of Revenue and Customs;
 - (d) the Schedule is to be read as if it also provided for references in the provisions applied by section 137D(2)(d), (3)(d) and (4)(d) to a police station to include references to an office of Revenue and Customs.”

Crime and Courts Act 2013 (c.22)

- 10 (1) In Schedule 21 to the Crime and Courts Act 2013 (powers of immigration officers), Part 2 (modification of applied enactments) is amended as follows.
- (2) In paragraph 41, for “Paragraphs 42 and 43” substitute “Paragraphs 42 to 43”.
- (3) After paragraph 42 insert—
- “42A (1) This paragraph has effect in relation to the application of section 137C of the 1994 Act where a person is arrested under section 137A by an immigration officer in respect of a specified offence that is being investigated by an immigration officer.
- (2) Subsection (2)(b) is to be read as if (instead of requiring the detention to be authorised by both an officer of at least the rank of inspector in the arresting force and an officer of at least the rank of inspector in the investigating force) it required the detention to be authorised by an immigration officer of at least the grade equivalent to the rank of inspector.
- (3) Subsection (2)(c) is to be read as if (instead of requiring the detention to be authorised by both an officer of a rank above that of inspector in the arresting force and an officer of a rank above that of inspector in the investigating force) it required the detention to be authorised by an immigration officer of a grade above that equivalent to the rank of inspector.
- (4) Subsection (3) is omitted.
- (5) In subsections (4) and (5), the reference to an officer of the investigating force is to be read as a reference to an officer of Revenue and Customs.

- (6) In subsection (6), the reference to an appropriate officer in the investigating force is to be read as a reference to an appropriate immigration officer (as defined by subsection (7)).
- (7) Subsection (6)(a) is omitted.
- (8) In subsection (7)—
- (a) in paragraph (b), the reference to an officer of at least the rank of inspector is a reference to an immigration officer of at least the equivalent grade;
 - (b) in paragraph (c), the reference to an officer of a rank above that of inspector is to be read as a reference to an immigration officer of above the equivalent grade.
- (9) Subsections (8) to (10) are omitted.
- 42B (1) Where section 137C applies in accordance with paragraph 42A, Schedule 7B applies with the following modifications.
- (2) Any reference to a constable in the arresting force is to be read as a reference to an immigration officer.
- (3) Any reference to an officer of at least, or above, the rank of inspector in the investigating force is to be read as a reference to an immigration officer who is at least, or above, the equivalent grade.
- (4) Any reference to the arresting force or to the investigating force (otherwise than in relation to a description of officer in the force) is to be read as a reference to immigration officers.
- (5) Instead of the modification made by paragraph 9, section 42 of the Criminal Justice (Scotland) Act 2016 is to be read as if the references in subsections (1)(c)(ii) and (3)(b) to the police were references to immigration officers.
- 42C (1) This paragraph has effect in relation to the application of section 137C of the 1994 Act where a person is arrested under section 137A by an immigration officer in respect of a specified offence other than one that is being investigated by an immigration officer.
- (2) Any reference to an officer of at least, or above, the rank of inspector in the arresting force is to be read as a reference to an immigration officer of at least, or above, the equivalent grade.
- (3) The reference in subsection (6)(a) to the arresting force is to be read as a reference to any immigration officer.
- 42D (1) Where section 137C applies in accordance with paragraph 42C, Schedule 7B applies with the following modifications.
- (2) Any reference to a constable in the arresting force is to be read as a reference to an immigration officer.
- (3) Any reference to the arresting force (otherwise than in relation to a description of officer in the force) is to be read as a reference to immigration officers.

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

- (4) Instead of the modification made by paragraph 9, section 42 of the Criminal Justice (Scotland) Act 2016 is to be read as if the references in subsections (1)(c)(ii) and (3)(b) to the police were references to immigration officers.”

SCHEDULE 18

Section 142

LATE NIGHT LEVY REQUIREMENTS

- 1 Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (late
night levy) is amended as follows.
- 2 (1) Section 126 (“relevant late night authorisation” and related definitions) is amended
as follows.
- (2) In subsection (2)—
- (a) for ““Relevant late night authorisation”” substitute ““Relevant late night
alcohol authorisation””;
 - (b) after “licensing authority” insert “, a late night levy requirement”;
 - (c) at the end of paragraph (b) insert “(whether or not it also authorises the
provision of late night refreshment at a time or times during such a period)”.
- (3) After subsection (2) insert—
- “(2A) Relevant late night refreshment authorisation”, in relation to a licensing
authority, a late night levy requirement and a levy year, means a premises
licence which—
- (a) is granted by the authority,
 - (b) authorises the provision of late night refreshment at a time or times
during the late night supply period on one or more days in the related
payment year, and
 - (c) does not also authorise the supply of alcohol at a time or times during
any such period.”
- (4) After subsection (3) insert—
- “(3A) Where a licensing authority decides under section 125(2) to apply a late night
levy requirement in respect of both relevant late night alcohol authorisations
and relevant late night refreshment authorisations, the licensing authority
may determine under section 132(1)—
- (a) a single late night levy period that is to apply in respect of both kinds
of authorisations, or
 - (b) two late night levy periods, one of which is to apply in respect of
relevant late night alcohol authorisations and the other of which is to
apply in respect of relevant late night refreshment authorisations.”
- (5) In subsection (5), for “The late night supply period” substitute “A late night supply
period”.
- (6) In subsection (8)—
- (a) for “the late night levy requirement” substitute “a late night levy
requirement”;

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

- (b) omit “in its area”.
- 3 (1) Section 127 (liability to pay late night levy) is amended as follows.
- (2) In subsection (1)—
- (a) for “the late night levy requirement” substitute “a late night levy requirement”;
- (b) after “the area” insert “or part of the area”;
- (c) for “a relevant late night authorisation” substitute “a late night authorisation to which the requirement relates”.
- (3) In subsection (2), for “a relevant late night authorisation” substitute “a late night authorisation to which the requirement relates”.
- (4) After subsection (2) insert—
- “(2A) In addition, if the requirement relates to a late night authorisation that is a relevant late night refreshment authorisation, the holder of the authorisation is not liable to pay the late night levy for a levy year if only hot drinks are supplied (or held out for supply) in reliance on the authorisation during the levy year.”
- (5) In subsection (3), for “in its area” substitute “in relation to the late night levy requirement”.
- 4 (1) Section 128 (amount of late night levy) is amended as follows.
- (2) In subsection (1) after “For” insert “any levy requirement and”.
- (3) In subsection (2), for “a relevant late night authorisation” substitute “a late night authorisation to which a late night levy requirement relates”.
- (4) In subsection (3)—
- (a) after “in relation to” insert “a late night levy requirement and”;
- (b) for “in its area” substitute “in relation to the late night levy requirement”.
- (5) In subsection (4)—
- (a) for “the late night levy” substitute “a late night levy”;
- (b) after “the same” insert “, in respect of all late night levy requirements”;
- (c) for “the levy” substitute “a levy”;
- (d) omit “for the levy year”.
- 5 (1) Section 129 (payment and administration of the levy) is amended as follows.
- (2) In subsection (1), in the closing words, for “the late night levy” substitute “a late night levy”.
- (3) In subsection (2)—
- (a) for “the levy” substitute “a levy”;
- (b) for “relevant late night authorisations” substitute “a late night authorisation to which a late night levy requirement relates”.
- (4) In subsection (4)—
- (a) in paragraph (a), for “a relevant late night authorisation” substitute “a late night authorisation to which a late night levy requirement relates”;

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

- (b) in paragraph (b), for “a relevant late night authorisation” substitute “a late night authorisation to which a late night levy requirement relates”;
 - (c) in paragraph (c), for “the relevant late night authorisation” substitute “a relevant late night alcohol authorisation to which a late night levy requirement relates”;
 - (d) in the closing words, for “the levy year” substitute “the levy year in question”.
- (5) In subsection (5), for “the late night levy” substitute “a late night levy”.
- (6) In subsection (6), in the closing words, for “the late night levy” (in both places where it occurs) substitute “a late night levy”.
- 6 (1) Section 130 (net amount of levy payments) is amended as follows.
- (2) In subsection (1), after “In this Chapter” insert “, in relation to a late night levy requirement,”.
 - (3) In subsection (3), for “the late night levy requirement” substitute “a late night levy requirement”.
 - (4) In subsection (5), in the opening words, at the beginning insert “In relation to a late night levy requirement,”.
- 7 (1) Section 131 (application of net amount of levy payments) is amended as follows.
- (2) In subsection (1), at the beginning insert “In relation to a late night levy requirement,”.
 - (3) After subsection (4) insert—
 - “(4A) The licensing authority must publish information as to how it applies the remainder of the net amount mentioned in subsection (2)(b).
 - (4B) The information must be published at least once in each calendar year during which any part of the remainder is applied.
 - (4C) It is for the licensing authority to determine the manner in which the information is published.”
 - (4) In subsection (6)(b), for “in respect of the levy” substitute “in respect of a levy”.
- 8 (1) Section 132 (introduction of late night levy requirement) is amended as follows.
- (2) In subsection (1)—
 - (a) in the opening words, for “the late night levy requirement” substitute “a late night levy requirement”;
 - (b) in those words, omit “in its area”;
 - (c) in paragraph (b)—
 - (i) in sub-paragraph (i), after “period” insert “or periods (as to which see section 126(3A))”;
 - (ii) in sub-paragraph (ii), omit “in its area”;
 - (iii) in sub-paragraph (iii), omit “in its area”.
- 9 (1) Section 133 (amendment of late night levy requirement) is amended as follows.
- (2) In subsection (1)—

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

- (a) in the opening words, for the words from the beginning to “section 125,” substitute “Where, in consequence of a decision by a licensing authority under section 125, a late night levy requirement applies,”
 - (b) in paragraph (a), omit “in the area”;
 - (c) in paragraph (c), for “in the area” substitute “in relation to the late night levy requirement”.
- (3) After subsection (1) insert—
- “(1A) Where the late night levy requirement is in respect of both relevant late night alcohol authorisations and relevant late night refreshment authorisations, the power conferred by subsection (1)(b) includes—
- (a) where a single late night levy period applies, power to decide that two late night levy periods are to apply instead;
 - (b) where two late night levy periods apply, power to decide that a single late night levy period is to apply instead.”
- (4) In subsection (4)—
- (a) in paragraph (b), omit “in the area of a licensing authority”;
 - (b) in that paragraph, after “relevant decision” insert “by a licensing authority”;
 - (c) in the closing words, omit “in its area”.
- 10 (1) Section 134 (introduction or variation of late night levy requirement: procedure) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for “the late night levy requirement” substitute “a late night levy requirement”;
 - (b) in that paragraph, omit “in the area of the licensing authority”;
 - (c) in paragraph (b), for “the late night levy requirement” substitute “a late night levy requirement”;
 - (d) in that paragraph omit “in the area of the licensing authority”.
- (3) In subsection (2)—
- (a) in paragraph (a)(iii), for “relevant late night authorisations” substitute “late night authorisations to which the levy requirement in question relates or would relate”;
 - (b) in paragraph (c)(i), for “so as to cease to be a relevant late night authorisation before the beginning of the first levy year” substitute “so that it is not a late night authorisation to which the levy requirement relates at the beginning of the first levy year”.
- (4) In subsection (3)—
- (a) for “the late night levy requirement” substitute “a late night levy requirement”;
 - (b) omit “to the area of a licensing authority”.
- (5) In subsection (4)—
- (a) for “the late night levy requirement” substitute “a late night levy requirement”;
 - (b) omit “in its area”.
- (6) Omit subsection (5).

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

- 11 (1) Section 135 (permitted exemption and reduction categories) is amended as follows.
- (2) In subsection (1)—
- (a) in paragraph (a), for “relevant late night authorisations” substitute “relevant late night alcohol authorisations or relevant late night refreshment authorisations”;
 - (b) in that paragraph, for “the requirement to pay the late night levy is not to apply” substitute “no requirement to pay a late night levy is to apply”;
 - (c) in paragraph (b), for “relevant late night authorisations” substitute “relevant late night alcohol authorisations or relevant late night refreshment authorisations”;
 - (d) in that paragraph, for “the levy” substitute “a levy”.
- (3) In subsection (2), omit “in its area”.
- (4) In subsection (4)—
- (a) in paragraph (a), for “the levy” substitute “a levy”;
 - (b) in paragraph (b), for “the levy” substitute “a levy”;
 - (c) in the closing words—
 - (i) for “the late night levy” substitute “a late night levy”;
 - (ii) after “the same” insert “, in respect of all late night levy requirements,”;
 - (iii) for “relevant late night authorisations” substitute “relevant late night alcohol authorisations or relevant late night refreshment authorisations”;
 - (iv) omit “for a levy year”.
- 12 After section 136 insert—

“136A Late night levy: requests by relevant local policing bodies

- (1) The relevant local policing body in relation to a licensing authority may request the licensing authority to make a proposal for a decision under section 125(2) that a late night levy requirement of a kind described in the request is to apply.
- (2) In deciding whether to make a request, the relevant local policing body must consider the matters mentioned in section 125(3).
- (3) A request must be accompanied by any evidence the relevant local policing body has in support of its request.
- (4) In deciding how to respond to the request, the licensing authority must consider the matters mentioned in section 125(3).
- (5) The licensing authority must publish—
 - (a) the request, including the evidence accompanying it, and
 - (b) its response to the request.
- (6) The response must include reasons, including an explanation of the outcome of the authority’s consideration of the matters mentioned in section 125(3).
- (7) It is for the licensing authority to determine the manner in which it publishes the request and its response under subsection (4).”

- 13 (1) Section 137 (interpretation) is amended as follows.
- (2) For ““the late night levy requirement”” substitute ““a late night levy requirement””.
- (3) At the appropriate place insert—
 ““late night refreshment” has the same meaning as in the Licensing Act 2003 (see Schedule 2 to that Act);”.
- (4) In the definition of “levy year”—
 (a) for “the late night levy requirement” substitute “a late night levy requirement”;
 (b) omit “in the area of the authority”.
- (5) In the definition of “payment year”, for “a relevant late night authorisation” substitute “a late night authorisation to which a late night levy requirement relates”.

SCHEDULE 19

Section 157(5)

AMENDMENTS WHERE NCA IS PARTY TO POLICE COLLABORATION AGREEMENT

Police Act 1997 (c. 50)

- 1 (1) Section 93 of the Police Act 1997 (authorisations to interfere with property etc) is amended as follows.
- (2) In subsection (1B), after “National Crime Agency officer” insert “giving an authorisation on an application made by virtue of subsection (3)(b)(i)”.
- (3) In subsection (3)—
 (a) omit “or” at the end of paragraph (za)(i);
 (b) in paragraph (za)(ii) for “section 23(1)” substitute “section 22A”;
 (c) at the end of paragraph (za)(ii) insert “or
 (iii) in a case where the chief officer of police of the authorising force has made an agreement under that section with the Director General of the National Crime Agency, by a National Crime Agency officer (but see subsection (3AA));”;
- (d) in paragraph (b)—
 (i) for “subsection (5)(f), by” substitute “subsection (5)(f)—
 (i) by”;
 (ii) at the end insert “or
 (ii) in a case where the Director General of the National Crime Agency has made an agreement under section 22A of the Police Act 1996 with the chief officer of police of one or more police forces, by a member of a collaborative force;”.
- (4) After subsection (3A) insert—

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

“(3AA) A National Crime Agency officer may make an application by virtue of subsection (3)(za)(iii) only if permitted by the terms of the agreement mentioned in that provision to make applications for authorisations under this section to the authorising officer of the authorising force.

(3AB) For the purposes of subsection (3)(b), a police force is a collaborative force if—

- (a) its chief officer of police is a party to the agreement mentioned in that provision, and
- (b) its members are permitted by the terms of the agreement to make applications for authorisations under this section to the authorising officer mentioned in that provision.

Paragraph (b) of subsection (3A) applies for the purposes of this subsection.”

(5) In subsection (6)—

(a) after paragraph (aa) insert—

“(ab) in relation to a person within any of those paragraphs to whom an application is made by virtue of subsection (3)(za)(iii), means the area in England and Wales for which—

- (i) the person’s police force is maintained, or
- (ii) any other police force whose chief officer of police is a party to the agreement mentioned in subsection (3)(za)(iii) is maintained,

and which is specified in relation to NCA officers in the agreement mentioned in that provision;”;

(b) after paragraph (cb) insert—

“(cba) in relation to a person within subsection (5)(f) to whom an application is made by virtue of subsection (3)(b)(ii), means the area in England and Wales—

- (i) for which any collaborative force (within the meaning of subsection (3AB)) is maintained, and
- (ii) which is specified in relation to members of that force in the agreement mentioned in subsection (3)(b)(ii);”.

Regulation of Investigatory Powers Act 2000 (c. 23)

2 The Regulation of Investigatory Powers Act 2000 is amended as follows.

3 (1) Section 29 (authorisation of covert human intelligence sources) is amended as follows.

(2) For subsection (2A) substitute—

“(2A) For the meaning of “relevant collaborative unit” in subsection (2)(c)(i), see section 29A.”

(3) In subsection (4A), at the end of paragraph (a) insert “(see section 29A for the meaning of “qualifying person”)”.

(4) Omit subsection (7A).

(5) Omit subsection (10).

4 After section 29 insert—

“29A Section 29: supplementary provision in relation to relevant collaborative units

- (1) For the purposes of section 29(2)(c)(i), a “relevant collaborative unit” is a unit that falls within subsection (2) or (3).
- (2) A unit falls within this subsection if—
 - (a) it consists of two or more police forces whose chief officers of police have made an agreement under section 22A of the Police Act 1996, and
 - (b) the agreement relates to the discharge by persons holding offices, ranks or positions with any of the forces of functions in connection with the conduct or use of the covert human intelligence source concerned.
- (3) A unit falls within this subsection if—
 - (a) it consists of one or more police forces and the National Crime Agency,
 - (b) it is in place by virtue of an agreement made under section 22A of the Police Act 1996, and
 - (c) the agreement relates to the discharge by persons holding offices, ranks or positions within any such force, or by persons who are National Crime Agency officers, of functions in connection with the conduct or use of the covert human intelligence source concerned.
- (4) In the case of a relevant collaborative unit that falls within subsection (2), a person is a “qualifying person” for the purposes of section 29(4A) if—
 - (a) the person holds an office, rank or position with a police force whose chief officer of police is a party to the agreement mentioned in subsection (2)(a) above, and
 - (b) the person is permitted by the terms of the agreement to have the responsibility mentioned in section 29(4A)(a) or (c) or the general oversight mentioned in section 29(4A)(b).
- (5) In the case of a relevant collaborative unit that falls within subsection (3), a person is a qualifying person for the purposes of section 29(4A) if—
 - (a) the person—
 - (i) is a National Crime Agency officer, or
 - (ii) holds an office, rank or position with a police force whose chief officer of police is a party to the agreement mentioned in subsection (3)(b) above, and
 - (b) the person is permitted by the terms of the agreement to have the responsibility mentioned in section 29(4A)(a) or (c) or the general oversight mentioned in section 29(4A)(b).
- (6) For the purposes of this section references to a police force are to the following—

- (a) any police force maintained under section 2 of the Police Act 1996 (police forces in England and Wales outside London),
 - (b) the metropolitan police force, and
 - (c) the City of London police force.”
- 5 (1) Section 33 (rules for grant of authorisations) is amended as follows.
- (2) In subsection (1), after “(1ZB)” insert “and section 33A”.
- (3) In subsection (1ZA), for “23(1)” substitute “22A”.
- (4) In subsection (1A), at the end insert “(subject to section 33A)”.
- (5) In subsection (3), after “(3ZB)” insert “and section 33A”.
- (6) In subsection (3ZA), in paragraph (a) for “23(1)” substitute “22A”.
- (7) In subsection (3A), at the end insert “(subject to section 33A)”.
- 6 After section 33 insert—

“33A Section 33: further provision in cases where NCA is party to collaboration agreement

- (1) This section applies where the Director General of the National Crime Agency has made a collaboration agreement with the chief officer of police of one or more police forces (a “collaborative police force”).
- (2) A person who is a designated person for the purposes of section 28 or 29 by reference to an office, rank or position with a collaborative police force may grant an authorisation under that section on an application made by a National Crime Agency officer.
- (3) A person who is a designated person for the purposes of section 28 or 29 by reference to their position as a National Crime Agency officer may grant an authorisation under that section on an application made by a member of a collaborative police force.
- (4) Authorisations may be granted to persons by virtue of subsection (2) or (3) only if such persons are permitted under the terms of the collaboration agreement to make applications for authorisations under section 28 or 29 to a person who is a designated person for the purposes of that section—
 - (a) in the case of authorisations granted by virtue of subsection (2), by reference to an office, rank or position with the collaborative police force concerned, or
 - (b) in the case of authorisations granted by virtue of subsection (3), by reference to the person’s position as a National Crime Agency officer.
- (5) A person who is a senior authorising officer by reference to a collaborative police force may grant an authorisation for the carrying out of intrusive surveillance on an application made by a National Crime Agency officer.
- (6) The Director General of the National Crime Agency, or a person designated for the purposes of section 32(6)(k) by that Director General, may grant an authorisation for the carrying out of intrusive surveillance on an application made by a member of a collaborative police force.

- (7) Authorisations may be granted to persons by virtue of subsection (5) or (6) only if such persons are permitted under the terms of the collaboration agreement to make applications for authorisations for the carrying out of intrusive surveillance to a person who—
- (a) in the case of authorisations granted by virtue of subsection (5), is a senior authorising officer by reference to the collaborative police force concerned, or
 - (b) in the case of authorisations granted by virtue of subsection (6), is the Director General of the National Crime Agency or a person designated for the purposes of section 32(6)(k) by that Director General.
- (8) In the case of an application made by virtue of subsection (5) or (6) for the carrying out of intrusive surveillance in relation to any residential premises, authorisation may be granted only in relation to premises in the area which is—
- (a) the area of operation of a collaborative police force, and
 - (b) specified in relation to members of that force in the collaboration agreement.
- (9) For the purposes of this section the area of operation of a collaborative police force is the area for which that force is maintained.
- (10) In this section—
- “collaboration agreement” means an agreement made under section 22A of the Police Act 1996;
 - “collaborative police force” has the meaning given by subsection (1);
 - “police force” has the meaning given by section 33(5A).”