

SCHEDULE 3

Article 27

TRANSITIONAL AND SAVINGS PROVISIONS

Transitional provisions: firearms

1.—(1) Any authorisation, certificate or permit granted, or approval given, by a Scottish chief officer in exercise of powers conferred by the 1968 Act⁽¹⁾ or the 1988 Act⁽²⁾ is to be treated on and after the relevant day as if it had been granted or given by the chief constable of the Police Service of Scotland.

(2) Paragraph (3) applies to an application made under the 1968 Act or the 1988 Act to a Scottish chief officer—

- (a) for the grant or renewal of a firearm certificate or a shot gun certificate, but in respect of which no decision has been taken before the relevant day either to grant or refuse to grant a certificate or (as the case may be) a renewal;
- (b) for the variation of a firearm certificate, but in respect of which no decision has been taken before the relevant day either to vary or refuse to vary the certificate;
- (c) for a visitor's firearm permit or a visitor's shot gun permit, but in respect of which no decision has been taken before the relevant day either to grant or refuse to grant a permit;
- (d) for the issue or renewal of a European firearms pass, but in respect of which no decision has been taken before the relevant day either to issue or refuse to issue a pass or (as the case may be) renew or refuse to renew a pass;
- (e) for registration as a firearms dealer, but which has not been determined before the relevant day;
- (f) for registration by a registered firearms dealer of a new place of business, but which has not been determined before the relevant day;

(3) Where this paragraph applies an application is to be treated on and after the relevant day as if it had been made to the chief constable of the Police Service of Scotland (and is to be determined accordingly).

(4) Where a Scottish chief officer has, by virtue of section 30D(1) or (2)(b)⁽³⁾ or section 52(2) of the 1968 Act, by notice in writing ordered the holder of a firearms certificate to surrender or (as the case may be) deliver up that certificate and that certificate has not been surrendered or delivered up before the relevant day that notice is to be treated on and after the relevant day as having been given by the chief constable of the Police Service of Scotland.

(5) Where a Scottish chief officer has, by virtue of section 12(1) of the 1988 Act⁽⁴⁾, by notice in writing required the holder of a firearms certificate to surrender that certificate, any firearms or any ammunition which are in the holder's possession by virtue of that certificate and that certificate, those firearms or that ammunition has not before the relevant day been surrendered or delivered up, that notice is to be treated on and after the relevant day as having been given by the chief constable of the Police Service of Scotland.

(1) 1968 c.27.

(2) 1988 c.45.

(3) Section 30D was inserted by the Firearms (Amendment) Act 1997 (c.5), section 40.

(4) 1988 c.45. Section 12(1) was amended by the Firearms (Amendment) Act 1997 (c.5), Schedule 2, paragraph 18.

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Savings provision: data protection

2. Despite paragraph 28 of Schedule 2 to this Order, paragraph (b) in the first entry in the first column in the Table in section 56(6) of the Data Protection Act 1998⁽⁵⁾ continues to have effect in relation to records obtained before the relevant day.

Transitional provisions: regulation of investigatory powers

3.—(1) Anything done under the 2000 Act⁽⁶⁾ before the relevant day by or in relation to the chief constable of a police force maintained under the 1967 Act⁽⁷⁾ or the Director General of the Scottish Crime and Drug Enforcement Agency is, on and after that day, to be treated as having been done by or in relation to the chief constable of the Police Service of Scotland.

(2) Anything else done under the 2000 Act before the relevant day by or in relation to a constable serving with a police force maintained under the 1967 Act or as a member of the Scottish Crime and Drug Enforcement Agency is, on and after that day, to be treated as having been done by or in relation to the constable while serving as a constable of the Police Service of Scotland.

Transitional provision: agreements with Police Complaints Commissioner for Scotland

4. Any reference in an agreement made under article 4 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007⁽⁸⁾ to the Police Complaints Commissioner for Scotland is to be read as a reference to the Commissioner.

Transitional provision: officers engaged on service outwith their force

5. Section 97 of the 1996 Act (police officers engaged on service outside their force)⁽⁹⁾ applies in relation to a member of a police force (within the meaning of section 101 of that Act)⁽¹⁰⁾ transferred to be on temporary service to the Police Service of Scotland, on the relevant day, by the 2012 Act⁽¹¹⁾ as if such service were relevant service for the purposes of section 97 of the 1996 Act.

Transitional provisions: declarations

6. A member of the Ministry of Defence Police who, before the relevant day has made a declaration in pursuance of section 1(2)(b) of the 1987 Act⁽¹²⁾ is, on and after that day, to be treated as having made the declaration required by section 10 of the 2012 Act.

7. A constable or special constable of the British Transport Police Force who, before the relevant day has made a declaration in pursuance of section 24(4) or, as the case may be, 25(4) of the Railways and Transport Safety Act 2003⁽¹³⁾ is, on and after that day, to be treated as having made the declaration required by section 10 of the 2012 Act.

Transitional provision: bail

8. Any direction given under section 8(6) of the Bail Act 1976 (bail with sureties)⁽¹⁴⁾ before the day on which paragraph 13 of Schedule 2 to this Order comes into force is, on or after that day, to

(5) 1998 c.29. Section 56(6) is amended by this Order, Schedule 1, paragraph 28. There are amendments to section 56(6) not relevant to this Order.

(6) 2000 c.23.

(7) 1967 c.77.

(8) S.I. 2007/1098.

(9) 1996 c.16. There are amendments to section 97 not relevant to this Order.

(10) Section 101 is relevantly amended by the Police Reform and Social Responsibility Act 2011 (c.13), section 96(2)(c).

(11) 2012 asp 8.

(12) 1987 c.4.

(13) 2003 c.20.

(14) 1976 c.63.

be treated as a direction that arrangements be made for the recognizance of a surety to be entered into in Scotland before a constable of the Police Service of Scotland.

Transitional provisions: armed forces

9.—(1) Any warrant existing immediately before the relevant day which was issued under the Armed Forces Act 2006(**15**) and addressed to an officer or officers of a police force maintained under the 1967 Act is to be regarded on and after that day as if it had been issued and addressed to an officer of the Police Service of Scotland and may be executed accordingly.

(2) For the purposes of sections 116(**16**) and 119 of the Armed Forces Act 2006 (referral of case following investigation by service or civilian police and circumstances in which CO has power to charge etc), any investigation by a police force maintained under the 1967 Act before the relevant day may, on or after that day, be continued and, where appropriate, referred by the Police Service of Scotland.

Pensions: savings

10.—(1) Despite the repeal of sections 26(**17**) and 27 of the 1967 Act(**18**), those sections continue to have effect in relation to pensions payable to or in respect of special constables and police cadets appointed under the 1967 Act.

(2) The amendments made by paragraphs 3, 7(3) and 8(2) of Schedule 2 to this Order do not affect the operation of the Acts modified by those paragraphs in relation to special constables or police cadets appointed under the 1967 Act.

(3) The amendments made by paragraph 7(2) of Schedule 2 to this Order do not affect the operation of the Pensions (Increase) Act 1971(**19**) in relation to service of any of the following kinds by any person—

- (a) temporary service in accordance with section 12A(2) of the 1967 Act(**20**);
- (b) service as an inspector or assistant inspector of constabulary under the 1967 Act;
- (c) central service pursuant to section 38 of the 1967 Act;
- (d) service in respect of which section 38A of the 1967 Act(**21**) had effect.

(4) The amendment made by paragraph 8(3) of Schedule 2 to this Order does not affect the operation of the Superannuation Act 1972(**22**) in relation to employment by the Police Complaints Commissioner for Scotland.

(5) The amendment made by paragraph 9 of Schedule 2 to this Order does not affect the operation of the Overseas Pensions Act 1973(**23**) in relation to a constable engaged on relevant service within the meaning of section 38A(1)(a), (c), (e) or (f)(**24**) of the 1967 Act.

(6) The amendments made by paragraph 12 of Schedule 2 to this Order (other than the amendments made by sub-paragraph (3)(b) and (c)(iv) of that paragraph) do not affect the operation

(15) 2006 c.52.

(16) 2006 c.52. Sections 116(4) and (4A) were inserted by the Armed Forces Act 2011 (c.18), Schedule 3, paragraph 5(1).

(17) There are amendments to section 26 not relevant to this Order.

(18) Section 27(3) is amended by the Police Act 1969 (c.63), section 4(8) and the Police Act 1997 (c.50), Schedule 9, paragraph 9. See the 2012 Act and this Order, Schedule 1, paragraph 4 for repeals of sections 26 and 27.

(19) 1971 c.56.

(20) Section 12A(2) was inserted by the Police and Magistrates' Courts Act 1994 (c.29), section 50.

(21) Section 38A was inserted by the Police and Magistrates' Courts Act 1994 (c.29), section 60. There are amendments to section 38A not relevant to this Order.

(22) 1972 c.11.

(23) 1973 c.21.

(24) Section 38A(1)(f) was inserted by the International Development Act 2002 (c.7), Schedule 4, paragraph 1 and amended by the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), Schedule 6, paragraph 1(5)(a)(iv).

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of the Police Pensions Act 1976(25) in relation to service of any of the following kinds by any person—

- (a) temporary service in accordance with section 12A(2) of the 1967 Act;
- (b) central service pursuant to section 38 of the 1967 Act;
- (c) relevant service within the meaning of section 38A(1)(ab)(26), (bb)(27), (bc)(28) or (d)(29) of the 1967 Act;
- (d) service with the Scottish Police Services Authority;
- (e) service as the Director General or Deputy Director General of, or as a police member of, the Scottish Crime and Drug Enforcement Agency.

Transitional and saving provision: transfer of functions

11.—(1) The revocation, by virtue of paragraph 78(2) and paragraph 89 of Schedule 2 to this Order of the transfer to the Scottish Ministers of the functions conferred by section 32A(30) of the 1967 Act and section 5 of the 2000 Act does not affect the validity of anything done (or having effect as if done) by or in relation to the Scottish Ministers, for the purposes of or in connection with any such function, at any time before the date on which the revocation takes effect.

(2) Anything (including legal proceedings) which, at the time the modifications in paragraph 78(3) and paragraph 83 of Schedule 2 to this Order take effect, is in the process of being done by or in relation to the Scottish Ministers may, so far as it relates to any function the transfer of which is modified by those paragraphs, be continued on the date of the modification by or in relation to them.

(3) Anything done (or having effect as if done) by or in relation to the Scottish Ministers for the purposes of or in connection with any function the transfer of which is modified by paragraph 78(3) or paragraph 83 of Schedule 2 to this Order has effect, if in force at the time when the modification takes effect, as if done by or in relation to the Scottish Ministers in so far as that is required for continuing its effect on and after the date of the modification.

Transitional provisions: criminal offences

12.—(1) Any criminal offence committed before the relevant day by an office-holder or body mentioned in column 1 of the Table below is, on and after that day, to be regarded for all purposes as if it had been committed by the office-holder or body mentioned in column 2 of the Table and criminal proceedings may be instituted or continued against the office-holder or body accordingly.

<i>Column 1</i>	<i>Column 2</i>
Chief constable of a police force maintained under the 1967 Act	Chief constable of the Police Service of Scotland
Police force maintained under the 1967 Act	Police Service of Scotland
Police authority or joint police board established under the 1967 Act	Scottish Police Authority

(25) 1976 c.35.

(26) Section 38A(1)(ab) was inserted by the Police Reform Act 2002 (c.30), Schedule 7, paragraph 1(1).

(27) Section 38A(1)(bb) was inserted by the Police Act 1997 (c.50), Schedule 9, paragraph 14 and repealed by the Police and Justice Act 2006 (c.48), Schedule 15, paragraph 1.

(28) Section 38A(1)(bc) was inserted by the Serious Organised Crime and Police Act 2005 (c.15), Schedule 4, paragraph 14(2)(b).

(29) Section 38A(1)(d) was amended by the International Development Act 2002 (c.1), Schedule 4, paragraph 1 and the Police, Public Order and Criminal Justice (Scotland) Act 2006 (asp 10), Schedule 6, paragraph 1(5)(a)(iii).

(30) Section 32A was inserted by the Police and Magistrates' Courts Act 1994 (c.29), section 56 and was amended by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 71(14) and S.I. 1999/1750, Schedule 5, paragraph 2(2).

<i>Column 1</i>	<i>Column 2</i>
Relevant authority (within the meaning of the 2005 Act)(31)	Scottish Fire and Rescue Service
Scottish Police Services Authority	Scottish Police Authority
Director General of the Scottish Crime and Drug Enforcement Agency established and maintained under the 2006 Act(32)	Chief constable of the Police Service of Scotland

(2) Paragraph (1) does not apply in relation to any offence committed by an office-holder in a personal capacity.

Transitional provisions: arrangements with Ministry of Defence Police

13.—(1) Sub-paragraphs (2) and (3) apply to any arrangement—

- (a) made under section 2A of the 1987 Act(**33**) between the chief constable of the Ministry of Defence Police and a Scottish chief officer; and
- (b) subsisting immediately before the relevant day.

(2) An arrangement to which this sub-paragraph applies is to be treated, on and after the relevant day, as an arrangement made under section 2A of the 1987 Act between the chief constable of the Police Service of Scotland and the chief constable of the Ministry of Defence Police.

(3) Any member of the Ministry of Defence Police provided for the assistance of a police force in pursuance of an arrangement to which this sub-paragraph applies—

- (a) is, on and after the relevant day, provided for the assistance of the Police Service of Scotland; and
- (b) while providing such assistance—
 - (i) is under the direction and control of the chief constable of that Service; and
 - (ii) has all the powers and privileges of a constable of that Service.

Transitional provisions: arrangements with British Transport Police Force

14.—(1) Sub-paragraphs (2) and (3) apply to any arrangement—

- (a) made under section 11 of the 1967 Act(**34**) between the chief constable of the British Transport Police Force and the chief constable of a police force;
- (b) subsisting immediately before the relevant day; and
- (c) by virtue of which assistance is given from the resources of the British Transport Police Force to that police force.

(2) An arrangement to which this sub-paragraph applies is to be treated, on and after the relevant day, as an arrangement made under article 5 of this Order between the chief constable of the British Transport Police Force and the chief constable of the Police Service of Scotland.

(3) Any constable of the British Transport Police Force provided for the assistance of a police force in pursuance of an arrangement to which this sub-paragraph applies—

(31) 2005 asp 5.

(32) 2006 asp 10.

(33) Section 2A was inserted by the Anti-terrorism, Crime and Security Act 2001 (c.24), section 99. There are amendments to section 2A not relevant to this Order.

(34) Section 11 was amended by the Anti-terrorism, Crime and Security Act 2001 (c.24), Schedule 7, paragraph 2, and S.I. 2004/1573, article 12(1)(a).

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- (a) is, on and after the relevant day, provided for the assistance of the Police Service of Scotland; and
 - (b) while providing such assistance—
 - (i) is under the direction and control of the chief constable of that Service; and
 - (ii) has all the powers and privileges of a constable of that Service.
- (4) Sub-paragraphs (5) and (6) apply to any arrangement—
- (a) made under section 11 of the 1967 Act between the chief constable of a police force and the chief constable of the British Transport Police Force;
 - (b) subsisting immediately before the relevant day; and
 - (c) by virtue of which assistance is given from the resources of that police force to the British Transport Police Force.
- (5) An arrangement to which this sub-paragraph applies is to be treated, on and after the relevant day, as an arrangement made under article 6 of this Order between the chief constable of the Police Service of Scotland and the chief constable of the British Transport Police Force.
- (6) Any constable of a police force provided for the assistance of the British Transport Police Force in pursuance of an arrangement to which this sub-paragraph applies continues, on and after the relevant day—
- (a) to be provided for the assistance of the British Transport Police Force;
 - (b) to be under the direction and control of the chief constable of that Force while providing such assistance; and
 - (c) to have all the powers and privileges of a constable of that Force for that purpose.
- 15.** Where a constable of the British Transport Police Force is, immediately before the relevant day, assisting a constable of a police force in pursuance of a request made under section 100 of the Anti-terrorism, Crime and Security Act 2001⁽³⁵⁾—
- (a) that request is to be treated, on and after the relevant day, as having been made by a constable of the Police Service of Scotland; and
 - (b) the constable of the British Transport Police Force has all the powers and privileges of a constable of the Police Service of Scotland for the purposes of the incident, investigation or operation in relation to which the constable of the British Transport Police Force is providing assistance.
- 16.**—(1) Sub-paragraph (2) applies to any agreement—
- (a) made under section 12 of the 1967 Act⁽³⁶⁾ between the chief constable of a police force and the chief constable of the British Transport Police Force; and
 - (b) subsisting immediately before the relevant day.
- (2) An agreement to which this sub-paragraph applies is, on and after the relevant day, to be treated as an agreement made under article 8 of this Order between the chief constable of the Police Service of Scotland and the chief constable of the British Transport Police Force.
- (3) Sub-paragraph (4) applies to any agreement—
- (a) made under section 12 of the 1967 Act between a police authority and the British Transport Police Authority; and

(35) 2001 c.24. Section 100 was amended by the Energy Act 2004 (c.20), Schedule 14, paragraph 10(3) and Schedule 23, paragraph 1.

(36) Section 12 was amended by the Anti-terrorism, Crime and Security Act 2001, (c.24), Schedule 7, paragraph 3, the Energy Act 2004 (c.20), Schedule 14, paragraph 2 and S.I. 2004/1573, article 12(2).

(b) subsisting immediately before the relevant day.

(4) An agreement to which this sub-paragraph applies is, on and after the relevant day, to be treated as an agreement made under article 8 of this Order between the Scottish Police Authority and the British Transport Police Authority.

Transitional provision: arrangements with Civil Nuclear Constabulary

17.—(1) Sub-paragraph (2) applies to any agreement—

(a) made under section 12 of the 1967 Act between the chief constable of a police force and the chief constable of the Civil Nuclear Constabulary; and

(b) subsisting immediately before the relevant day.

(2) An agreement to which this sub-paragraph applies is, on and after the relevant day, to be treated as an agreement made under article 8 of this Order between the chief constable of the Police Service of Scotland and the chief constable of the Civil Nuclear constabulary.

(3) Sub-paragraph (4) applies to any agreement—

(a) made under section 12 of the 1967 Act between a police authority and the Civil Nuclear Police Authority; and

(b) subsisting immediately before the relevant day.

(4) An agreement to which this sub-paragraph applies is, on and after the relevant day, to be treated as an agreement made under article 8 of this Order between the Scottish Police Authority and the Civil Nuclear Police Authority.

(5) In this paragraph and paragraphs 14 to 16—

(a) “police authority” means a police authority established under section 2(1)(37) or section 19(1) of the 1967 Act(38); and

(b) “police force” means a police force maintained by a police authority.

Transitional provisions: arrangements with police forces in England and Wales and the Police Service of Northern Ireland

18.—(1) Sub-paragraphs (2) to (4) apply to any arrangement—

(a) made under section 98 of the 1996 Act(39) between a Scottish chief officer and an England and Wales chief officer; and

(b) subsisting immediately before the relevant day.

(2) An arrangement to which this sub-paragraph applies is to be treated, on and after the relevant day, as an arrangement made under section 98 of the 1996 Act between the chief constable of the Police Service of Scotland and the England and Wales chief officer with whom the arrangement was made.

(3) Any constable of a police force in Scotland provided for the assistance of a police force in England and Wales in pursuance of an arrangement to which this sub-paragraph applies continues, on and after the relevant day—

(a) to be provided for the assistance of that force;

(b) to be under the direction and control of the chief officer of that force while providing such assistance; and

(37) Section 2(1) was amended by the Local Government etc. (Scotland) Act 1994 (c.39), Schedule 13, paragraph 71(3) and the Local Government (Miscellaneous Provisions) (Scotland) Act 1981 (c.23), Schedule 2, paragraph 12.

(38) There are amendments to section 19 which are not relevant to this Order.

(39) There are amendments to section 98 not relevant to this Order.

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- (c) to have all the powers and privileges of a constable of that force for that purpose.
- (4) Any constable of a police force in England and Wales provided for the assistance of a police force in Scotland in pursuance of an arrangement to which this sub-paragraph applies—
 - (a) is, on and after the relevant day, provided for the assistance of the Police Service of Scotland; and
 - (b) while providing such assistance—
 - (i) is under the direction and control of the chief constable of that Service; and
 - (ii) has all the powers and privileges of a constable of that Service.
- (5) Sub-paragraphs (6) to (8) apply to any arrangement—
 - (a) made under section 98 of the 1996 Act between a Scottish chief officer and the chief constable of the Police Service of Northern Ireland; and
 - (b) subsisting immediately before the relevant day.
- (6) An arrangement to which this sub-paragraph applies is to be treated, on and after the relevant day, as an arrangement made under section 98 of the 1996 Act between the chief constable of the Police Service of Scotland and the chief constable of the Police Service of Northern Ireland.
- (7) Any constable of a police force in Scotland provided for the assistance of the Police Service of Northern Ireland in pursuance of an arrangement to which this sub-paragraph applies continues, on and after the relevant day—
 - (a) to be provided for the assistance of that Service;
 - (b) to be under the direction and control of the chief constable of that Service while providing such assistance; and
 - (c) to have all the powers and privileges of a constable of that Service for that purpose.
- (8) Any constable of the Police Service for Northern Ireland provided for the assistance of a police force in Scotland in pursuance of an arrangement to which this sub-paragraph applies—
 - (a) is, on and after the relevant day, provided for the assistance of the Police Service of Scotland; and
 - (b) while providing such assistance—
 - (i) is under the direction and control of the chief constable of that Service; and
 - (ii) has all the powers and privileges of a constable of that Service.
- (9) In this paragraph “England and Wales chief officer” means a chief officer of a police force maintained under the 1996 Act.

Transitional and saving provision: costs of policing at gas facilities

19.—(1) Any agreement made under section 13 of the 1967 Act⁽⁴⁰⁾ in relation to the provision of extra police services subsisting immediately before the date this Order comes into force is, on and after that date, to continue to subsist subject to sub-paragraph (2).

(2) On the date this Order comes into force any interest of the police authority or joint police board in any such agreement transfers to the Scottish Police Authority and any interest of the chief constable of the police force in any such agreement transfers to the chief constable of the Police Service of Scotland.

⁽⁴⁰⁾ Section 13 was amended by the Civic Government (Scotland) Act 1982 (c.45), section 77(1) and extended by section 85(1) of that Act.

(3) Despite paragraph 60(6) of Schedule 2 to this Order, on and after the date this Order comes into force, section 88 of the Counter-Terrorism Act 2008⁽⁴¹⁾ continues to have effect, in relation to any agreement made under section 13 of the 1967 Act, as it had effect immediately before that date.

(4) In this paragraph—

“police force” means a police force maintained under the 1967 Act;

“extra police services” has the meaning given by section 86(2)(b) of the Counter-Terrorism Act 2008; and

“joint police board” and “police authority” mean a joint police board or police authority established under section 2(1) or 19(1) of the 1967 Act respectively.

⁽⁴¹⁾ 2008 c.28.