

**POLICE REFORM ACT 2002**  
2002 CHAPTER 30

CONTENTS

PART 1

POWERS OF THE SECRETARY OF STATE

Section

- 1 National Policing Plan
- 2 Codes of practice for chief officers
- 3 Powers to require inspection and report
- 4 Directions to police authorities
- 5 Directions as to action plans
- 6 Regulation of equipment
- 7 Regulation of procedures and practices
- 8 Equivalent provision for NCIS and NCS

PART 2

COMPLAINTS AND MISCONDUCT

*The Independent Police Complaints Commission*

- 9 The Independent Police Complaints Commission
- 10 General functions of the Commission
- 11 Reports to the Secretary of State

*Application of Part 2*

- 12 Complaints, matters and persons to which Part 2 applies

*Handling of complaints and conduct matters etc.*

- 13 Handling of complaints and conduct matters etc.
- 14 Direction and control matters

*Co-operation, assistance and information*

- 15 General duties of police authorities, chief officers and inspectors
- 16 Payment for assistance with investigations
- 17 Provision of information to the Commission
- 18 Inspections of police premises on behalf of the Commission
- 19 Use of investigatory powers by or on behalf of the Commission
- 20 Duty to keep the complainant informed
- 21 Duty to provide information for other persons

*Guidance and regulations*

- 22 Power of the Commission to issue guidance
- 23 Regulations
- 24 Consultation on regulations

*Conduct of persons in other forms of police service*

- 25 NCIS and NCS
- 26 Forces maintained otherwise than by police authorities
- 27 Conduct of the Commission's staff

*Transitional provisions*

- 28 Transitional arrangements connected with establishing the Commission etc.

*Interpretation of Part 2*

- 29 Interpretation of Part 2

PART 3

REMOVAL, SUSPENSION AND DISCIPLINING OF POLICE OFFICERS

*Removal and suspension of senior officers*

- 30 Resignation in the interests of efficiency and effectiveness
- 31 Procedural requirements for removal of senior officers
- 32 Suspension of senior officers
- 33 Removal etc. of senior officers at the instance of the Secretary of State
- 34 Regulations concerning procedure for removal of senior officers

*Disciplinary proceedings and protected disclosures*

- 35 Disciplinary regulations for special constables
- 36 Conduct of disciplinary proceedings
- 37 Protected disclosures by police officers

PART 4

POLICE POWERS ETC.

CHAPTER 1

EXERCISE OF POLICE POWERS ETC. BY CIVILIANS

- 38 Police powers for police authority employees
- 39 Police powers for contracted-out staff

- 40 Community safety accreditation schemes
- 41 Accreditation under community safety accreditation schemes
- 42 Supplementary provisions relating to designations and accreditations
- 43 Railway safety accreditation scheme
- 44 Removal of restriction on powers conferred on traffic wardens
- 45 Code of practice relating to chief officers' powers under Chapter 1
- 46 Offences against designated and accredited persons etc.
- 47 Interpretation of Chapter 1

## CHAPTER 2

### PROVISIONS MODIFYING AND SUPPLEMENTING POLICE POWERS

#### *Powers of arrest*

- 48 Offences for which a person may be arrested without a warrant
- 49 Power of arrest in relation to failure to stop a vehicle

#### *Power to require name and address*

- 50 Persons acting in an anti-social manner

#### *Persons in police detention*

- 51 Independent custody visitors for places of detention
- 52 Detention reviews for detained persons who are asleep
- 53 Persons suspected of offences connected with transport systems

#### *Blood specimens*

- 54 Persons authorised to take intimate samples from persons in police detention
- 55 Extension of role of health care professionals
- 56 Specimens taken from persons incapable of consenting
- 57 Use of specimens taken from persons incapable of consenting
- 58 Equivalent provision for offences connected with transport systems

#### *Seizure of motor vehicles*

- 59 Vehicles used in manner causing alarm, distress or annoyance
- 60 Retention etc. of vehicles seized under section 59

#### *Anti-social behaviour*

- 61 Anti-social behaviour orders
- 62 Power of Secretary of State to add to relevant authorities
- 63 Orders in county court proceedings

- 64 Orders on conviction in criminal proceedings
- 65 Interim orders
- 66 Consultation requirements

*Sex offenders*

- 67 Sex offenders: England and Wales
- 68 Interim orders for sex offenders: England and Wales
- 69 Sex offender orders made in Scotland or Northern Ireland
- 70 Sex offenders: Scotland
- 71 Sex offender orders made in England and Wales or Northern Ireland
- 72 Sex offenders: Northern Ireland
- 73 Interim orders for sex offenders: Northern Ireland
- 74 Sex offender orders made in England and Wales or Scotland

*The British Transport Police*

- 75 Removal of truants to designated places
- 76 Amendments to Part 3 of the Road Traffic Offenders Act 1988

*Property in possession of NCS*

- 77 Application of the Police (Property) Act 1897 to NCS

PART 5

THE MINISTRY OF DEFENCE POLICE

- 78 Ministry of Defence police serving with other forces
- 79 Disciplinary matters
- 80 Functions of inspectors of constabulary
- 81 Exemptions from firearms legislation

PART 6

MISCELLANEOUS

*Appointment and attestation of police officers etc.*

- 82 Nationality requirements applicable to police officers etc.
- 83 Attestation of constables
- 84 Delegation of functions in relation to senior appointments
- 85 Director General of NCIS
- 86 Police members of NCIS
- 87 Police members of NCS
- 88 Regulations for NCIS
- 89 Regulations for NCS

- 90 Supplementary provisions about police membership of NCIS
- 91 Supplementary provisions about police membership of NCS

*Bodies with functions in relation to the police*

- 92 Police authorities to produce three-year strategy plans
- 93 Quorum for the Service Authorities under the 1997 Act
- 94 Expenses of members of police authorities etc.
- 95 Duties under the Health and Safety at Work etc. Act 1974
- 96 President of ACPO
- 97 Crime and disorder reduction partnerships
- 98 Secretary of State's functions in relation to strategies
- 99 Power to modify functions and structure of PITO
- 100 Metropolitan Police Authority housing
- 101 Provision of goods and services by police authorities

*Liability for unlawful acts of constables etc.*

- 102 Liability for wrongful acts of constables etc.

*International joint investigation teams*

- 103 Liability in respect of members of teams
- 104 Assaults on members of teams

PART 7

SUPPLEMENTAL

- 105 Powers of Secretary of State to make orders and regulations
- 106 General interpretation
- 107 Consequential amendments and repeals
- 108 Short title, commencement and extent

Schedule - Powers of the Secretary of State in relation to NCIS and  
1 NCS

Schedule - The Independent Police Complaints Commission  
2

Schedule - Handling of Complaints and Conduct matters etc.  
3

Part 1 - Handling of complaints

Part 2 - Handling of conduct matters

Part 3 - Investigations and subsequent proceedings	
Schedule - Powers exercisable by police civilians	
4	
Part 1 - Community Support Officers	
Part 2 - Investigating Officers	
Part 3 - Detention Officers	
Part 4 - Escort Officers	
Part 5 - Interpretation of Schedule	
Schedule - Powers exercisable by accredited persons	
5	
Schedule - Specific offences which are arrestable offences	
6	
Schedule - Minor and Consequential Amendments	
7	
Schedule - Repeals	
8	

PART

1

POWERS OF THE SECRETARY OF STATE

**1 National Policing Plan**

After section 36 of the 1996 Act there shall be inserted-

**"36A National Policing Plan**

(1) It shall be the duty of the Secretary of State, before the beginning of each financial year, to prepare a National Policing Plan for that year.

(2) The Secretary of State shall lay the National Policing Plan for a financial year before Parliament.

(3) Subject to subsection (4), any such plan must be laid before Parliament not later than 30th November in the preceding financial year.

(4) If there are exceptional circumstances, any such plan may be laid before Parliament after the date mentioned in subsection (3); but it must be so laid before the beginning of the financial year to which it relates.

(5) If a plan is laid before Parliament after the date mentioned in subsection (3), the plan must contain a statement of the exceptional circumstances that gave rise to its being so laid.

(6) The National Policing Plan for a financial year-

(a) must set out whatever the Secretary of State considers to be the strategic policing priorities generally for the police forces maintained for police areas in England and Wales for the period of three years beginning with that year;

(b) must describe what, in relation to that period, the Secretary of State is intending or proposing so far as each of the following is concerned-

(i) the setting of objectives under section 37 and the giving of general directions in relation to any objective so set;

- (ii) the specification, under section 4 of the Local Government Act 1999 (c. 27) (performance indicators), of performance indicators (within the meaning of that section) for police authorities;
- (iii) the making of regulations under the powers conferred by this Act, by Part 4 of the Criminal Justice and Police Act 2001 (c. 16) (police training) and by Part 2 of the Police Reform Act 2002 (c. 30) (complaints etc.);
- (iv) the issuing of guidance under any provision of this Act or of Part 2 of the Police Reform Act 2002 (c. 00); and
- (v) the issuing and revision of codes of practice under this Act and under Chapter 1 of Part 4 of the Police Reform Act 2002 (powers exercisable by civilians);

(c) may contain such other information, plans and advice as the Secretary of State considers relevant to the priorities set out in the plan.

(7) Before laying the National Policing Plan for a financial year before Parliament, the Secretary of State shall consult with-

- (a) persons whom he considers to represent the interests of police authorities;
- (b) persons whom he considers to represent the interests of chief officers of police; and
- (c) such other persons as he thinks fit.

(8) In this section-

"financial year" means the period of twelve months ending with 31st March; and

"general direction" means a direction under section 38 establishing performance targets for all police authorities to which section 37 applies."

## **2 Codes of practice for chief officers**

After section 39 of the 1996 Act (codes of practice for police authorities) there shall be inserted-

### **"39A Codes of practice for chief officers**



(1) If the Secretary of State considers it necessary to do so for the purpose of promoting the efficiency and effectiveness generally of the police forces maintained for police areas in England and Wales, he may issue codes of practice relating to the discharge of their functions by the chief officers of police of those forces.

(2) The Secretary of State may from time to time revise the whole or any part of a code of practice issued under this section.

(3) Where the Secretary of State proposes to issue or revise a code of practice under this section, he shall first require the Central Police Training and Development Authority to prepare a draft of the code or of the revisions; and the draft prepared by that Authority must contain all such matters as the Secretary of State may specify in the requirement.

(4) Before preparing a draft code of practice under this section or any draft revisions of such a code, the Central Police Training and Development Authority shall consult with-

- (a) persons whom it considers to represent the interests of police authorities;
- (b) persons whom it considers to represent the interests of chief officers of police; and
- (c) such other persons as it thinks fit.

(5) The Secretary of State shall lay any code of practice issued by him under this section, and any revision of any such code, before Parliament.

(6) The Secretary of State shall not be required by subsection (5) to lay before Parliament, or may exclude from what he does so lay, anything the publication of which, in his opinion-

- (a) would be against the interests of national security;
- (b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders; or
- (c) could jeopardise the safety of any person.

(7) In discharging any function to which a code of practice under this section relates, a chief officer of police shall have regard to the code."

### **3 Powers to require inspection and report**

(1) In section 54 of the 1996 Act (appointment and functions of inspectors of constabulary), after subsection (2A) there shall be inserted-

"(2B) The Secretary of State may at any time require the inspectors of constabulary to carry out an inspection under this section of-

- (a) a police force maintained for any police area;
- (b) the National Criminal Intelligence Service; or
- (c) the National Crime Squad;

and a requirement under this subsection may include a requirement for the inspection to be confined to a particular part of the force, Service or Squad in question, to particular matters or to particular activities of that force, Service or Squad.

(2C) Where the inspectors carry out an inspection under subsection (2B), they shall send a report on that inspection to the Secretary of State.";

and in section 55(1) of that Act (publication of reports) for "or (2A)" there shall be substituted ", (2A) or (2C)".

(2) In section 41 of the Police (Northern Ireland) Act 1998 (c. 32) (appointment and functions of inspectors), after subsection (3) there shall be inserted-

"(3A) The Secretary of State may at any time require the inspectors to carry out an inspection under this section of

- (a) the Police Service of Northern Ireland; or
- (b) the National Criminal Intelligence Service;

and a requirement under this subsection may include a requirement for the inspection to be confined to a particular part of the Service in question, to particular matters or to particular activities of that Service.

(3B) Where the inspectors carry out an inspection under subsection (3A), they shall send a report on that inspection to the Secretary of State.";

and in section 42(1) of that Act (publication of reports) for "or (3)" there shall be substituted ", (3) or (3B)".

#### **4 Directions to police authorities**

For section 40 of the 1996 Act (power to give directions in response to report on an inspection of a police force carried out for the purposes of that section) there shall be substituted-

**"40 Power to give directions to a police authority**

(1) Where a report made to the Secretary of State on an inspection under section 54 states, in relation to any police force maintained under section 2, or in relation to the metropolitan police force-

(a) that, in the opinion of the person making the report, the whole or any part of the force inspected is, whether generally or in particular respects, not efficient or not effective, or

(b) that, in that person's opinion, the whole or a part of the force will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken,

the Secretary of State may direct the police authority responsible for maintaining that force to take such remedial measures as may be specified in the direction.

(2) Those remedial measures must not relate to any matter other than-

(a) a matter by reference to which the report contains a statement of opinion falling within subsection (1)(a) or (b); or

(b) a matter that the Secretary of State considers relevant to any matter falling within paragraph (a).

(3) If the Secretary of State exercises his power to give a direction under this section in relation to a police force-

(a) he shall prepare a report on his exercise of that power in relation to that force; and

(b) he shall lay that report before Parliament.

(4) A report under subsection (3)-

(a) shall be prepared at such time as the Secretary of State considers appropriate; and

(b) may relate to more than one exercise of the power mentioned in that subsection.

(5) The Secretary of State shall not give a direction under this section in relation to any police force unless-

(a) the police authority maintaining that force and the chief

officer of that force have each been given such information about the Secretary of State's grounds for proposing to give that direction as he considers appropriate for enabling them to make representations or proposals under the following paragraphs of this subsection;

(b) that police authority and chief officer have each been given an opportunity of making representations about those grounds;

(c) that police authority has had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and

(d) the Secretary of State has considered any such representations and any such proposals.

(6) The Secretary of State may by regulations make further provision as to the procedure to be followed in cases where a proposal is made for the giving of a direction under this section.

(7) Before making any regulations under this section, the Secretary of State shall consult with-

(a) persons whom he considers to represent the interests of police authorities;

(b) persons whom he considers to represent the interests of chief officers of police; and

(c) such other persons as he thinks fit.

(8) Regulations under this section may make different provision for different cases and circumstances.

(9) A statutory instrument containing regulations under this section shall not be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House."

## **5 Directions as to action plans**

After section 41 of the 1996 Act there shall be inserted-

### **"41A Power to give directions as to action plans**

(1) This section applies where a report made to the Secretary of State on an inspection under section 54 states, in relation to a police force for a police area-

(a) that, in the opinion of the person making the report, the whole or any part of the force is, whether generally or in particular respects, not efficient or not effective; or

(b) that, in that person's opinion, the whole or a part of the force will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken.

(2) If the Secretary of State considers that remedial measures are required in relation to any matter identified by the report, he may direct the police authority responsible for maintaining the force to submit an action plan to him.

(3) An action plan is a plan setting out the remedial measures which the police authority proposes to take in relation to the matters in respect of which the direction is given.

(4) If a police authority is directed to submit an action plan, that authority shall direct the chief officer of police of the force in question to prepare a draft of it and to submit it to the police authority for that authority to consider.

(5) The police authority, on considering a draft action plan submitted to it under subsection (4) may submit the plan to the Secretary of State, with or without modifications.

(6) If the police authority proposes to make modifications to the draft of the action plan submitted under subsection (4), it must consult with the chief officer of police.

(7) On considering an action plan submitted to him in accordance with a direction under this section, the Secretary of State may, if he is of the opinion that the remedial measures contained in the action plan submitted to him are inadequate, notify the police authority and the

chief officer of the force in question of that opinion and of his reasons for it.

(8) If a police authority is notified under subsection (7) -

(a) it shall consider, after consultation with the chief officer of the police force in question about the matters notified, whether to revise the action plan in the light of those matters; and

(b) if it does revise that plan, it shall send a copy of the revised plan to the Secretary of State.

(9) On giving a direction under this section to the police authority responsible for maintaining a police force, the Secretary of State shall notify the chief officer of police of that force that he has given that direction.

(10) The period within which a direction to submit an action plan must be complied with is such period of not less than four weeks and not more than twelve weeks after it is given as may be specified in the direction.

(11) The provision that a direction under this section may require to be included in an action plan to be submitted to the Secretary of State includes-

(a) provision setting out the steps that the police authority proposes should be taken in respect of the matters to which the direction relates and the performance targets the authority proposes should be met;

(b) provision setting out the authority's proposals as to the times within which those steps are to be taken and those targets to be met and the means by which the success of the plan's implementation is to be measured;

(c) provision for the making of progress reports to the Secretary of State about the implementation of the action plan;

(d) provision as to the times at which, and the manner in which, any progress report is to be made; and

(e) provision for the duration of the plan and for it to cease to apply in the circumstances determined by the Secretary of State.

(12) Nothing in this section shall authorise the Secretary of State or a police authority to direct the inclusion in an action plan or draft action plan of any requirement to do or not to do anything in a particular case identified for the purposes of the requirement, or in

relation to a particular person so identified.

(13) In this section references, in relation to a case in which there is already an action plan in force, to the submission of a plan to the Secretary of State include references to the submission of revisions of the existing plan; and the preceding provisions of this section shall have effect accordingly.

(14) A police authority shall comply with any direction given to it under this section.

(15) A chief officer of police of any police force shall comply with any direction given to him under this section.

(16) Nothing in this section or in section 40 prevents the Secretary of State in the case of the same report under section 54 from exercising (whether in relation to the same matter or different matters or at the same time or at different times) both his powers under this section and his powers under section 40.

#### **41B Procedure for directions under section 41A**

(1) The Secretary of State shall not give a direction under section 41A in relation to any police force unless-

- (a) the police authority maintaining that force and the chief officer of that force have each been given such information about the Secretary of State's grounds for proposing to give that direction as he considers appropriate for enabling them to make representations or proposals under the following paragraphs of this subsection;
- (b) that police authority and chief officer have each been given an opportunity of making representations about those grounds;
- (c) that police authority has had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and
- (d) the Secretary of State has considered any such representations and any such proposals.

(2) The Secretary of State may by regulations make further provision as to the procedure to be followed in cases where a proposal is made for the giving of a direction under section 41A.

(3) Before making any regulations under this section, the Secretary

of State shall consult with-

- (a) persons whom he considers to represent the interests of police authorities;
- (b) persons whom he considers to represent the interests of chief officers of police; and
- (c) such other persons as he thinks fit.

(4) Regulations under this section may make different provision for different cases and circumstances.

(5) A statutory instrument containing regulations under this section shall not be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.

(6) If the Secretary of State exercises his power to give a direction under section 41A in relation to a police force-

- (a) he shall prepare a report on his exercise of that power in relation to that force; and
- (b) he shall lay that report before Parliament.

(7) A report under subsection (6)-

- (a) shall be prepared at such time as the Secretary of State considers appropriate; and
- (b) may relate to more than one exercise of the power mentioned in that subsection."

## **6 Regulation of equipment**

For subsections (2) and (3) of section 53 of the 1996 Act (regulations as to standard of equipment), there shall be substituted-

"(1A) The Secretary of State may by regulations make any or all of the following provisions-

- (a) provision requiring all police forces in England and Wales, when using equipment for the purposes specified in the regulations to use only-
  - (i) the equipment which is specified in the regulations;
  - (ii) equipment which is of a description so specified; or
  - (iii) equipment which is of a type approved by the Secretary of State in accordance with the regulations;



(b) provision requiring all police forces in England and Wales to keep available for use the equipment falling within paragraph (a)(i) to (iii) which is specified or described in, or approved in accordance with, the regulations;

(c) provision prohibiting all police forces in England and Wales from using equipment of a type approved as mentioned in paragraph (a)(iii) except-

(i) where the conditions subject to which the approval was given are satisfied; and

(ii) in accordance with the other terms of that approval;

(d) provision requiring equipment used by police forces in England and Wales to comply, in the case of all police forces, with such conditions as may be specified in the regulations, or as may be approved by the Secretary of State in accordance with the regulations;

(e) provision prohibiting all police forces in England and Wales from using equipment specified in the regulations, or any equipment of a description so specified.

(1B) The Secretary of State shall not make any regulations under subsection (1A) unless he considers it necessary to do so for the purpose of promoting the efficiency and effectiveness generally of the police forces maintained for police areas in England and Wales.

(2) Before making any regulations under this section, the Secretary of State shall consult with-

(a) persons whom he considers to represent the interests of police authorities;

(b) persons whom he considers to represent the interests of chief officers of police; and

(c) such other persons as he thinks fit.

(2A) Regulations under this section may make different provision for different cases and circumstances.

(2B) A statutory instrument containing any regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(2C) In this section "equipment" includes-

(a) vehicles; and

(b) headgear and protective and other clothing."

## **7 Regulation of procedures and practices**

After section 53 of the 1996 Act there shall be inserted-

### **"53A Regulation of procedures and practices**

(1) The Secretary of State may by regulations make provision requiring all police forces in England and Wales-

- (a) to adopt particular procedures or practices; or
- (b) to adopt procedures or practices of a particular description.

(2) Before making any regulations under this section, the Secretary of State shall seek advice from-

- (a) the chief inspector of constabulary; and
- (b) the Central Police Training and Development Authority.

(3) Before seeking advice under subsection (2) the Secretary of State shall consult about his proposal to do so with-

- (a) persons whom he considers to represent the interests of police authorities; and
- (b) persons whom he considers to represent the interests of chief officers of police.

(4) A request for the purposes of subsection (2) may specify a period within which the requested advice is to be provided; and, if a period is so specified, the requested advice must be provided within it.

(5) Before giving any advice in response to a request for the purposes of subsection (2), the Central Police Training and Development Authority shall consult with-

- (a) persons whom it considers to represent the interests of police authorities;
- (b) persons whom it considers to represent the interests of chief officers of police; and
- (c) such other persons as it thinks fit.

(6) The Secretary of State shall not make any regulations under this section requiring the adoption of any procedure or practice unless-

- (a) he has, as respects that procedure or practice, received advice from the Central Police Training and Development Authority and has considered that advice;

(b) the advice of the chief inspector of constabulary states that that inspector is satisfied as to the matters mentioned in subsection (7); and

(c) the Secretary of State himself is satisfied as to those matters.

(7) Those matters are-

(a) that the adoption of that procedure or practice is necessary in order to facilitate the carrying out by members of any two or more police forces of joint or co-ordinated operations;

(b) that the making of regulations is necessary for securing the adoption of that procedure or practice; and

(c) that securing the adoption of that procedure or practice is in the national interest.

(8) Regulations under this section may make different provision for different cases and circumstances.

(9) A statutory instrument containing the first regulations to be made under this section shall not be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.

(10) A statutory instrument containing any other regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament."

## **8 Equivalent provision for NCIS and NCS**

Schedule 1 (which makes provision in relation to NCIS and NCS which corresponds to the provision made in relation to police forces by provisions contained in the preceding provisions of this Part) shall have effect.

### PART

#### 2

### COMPLAINTS AND MISCONDUCT

#### *The Independent Police Complaints Commission*

## **9 The Independent Police Complaints Commission**

(1) There shall be a body corporate to be known as the Independent Police Complaints Commission (in this Part referred to as "the Commission").

(2) The Commission shall consist of-

(a) a chairman appointed by Her Majesty; and

(b) not less than ten other members appointed by the Secretary of State.

(3) A person shall not be appointed as the chairman of the Commission, or as another member of the Commission, if-

(a) he holds or has held office as a constable in any part of the United Kingdom;

(b) he is or has been under the direction and control of a chief officer or of any person holding an equivalent office in Scotland or Northern Ireland;

(c) he is a person in relation to whom a designation under section 39 is or has been in force;

(d) he is a person in relation to whom an accreditation under section 41 is or has been in force;

(e) he is or has been a member of the National Criminal Intelligence Service or the National Crime Squad; or

(f) he is or has at any time been a member of a body of constables which at the time of his membership is or was a body of constables in

relation to which any procedures are or were in force by virtue of an agreement or order under-

- (i) section 26 of this Act; or
- (ii) section 78 of the 1996 Act or section 96 of the 1984 Act (which made provision corresponding to that made by section 26 of this Act).

(4) An appointment made in contravention of subsection (3) shall have no effect.

(5) The Commission shall not-

- (a) be regarded as the servant or agent of the Crown; or
- (b) enjoy any status, privilege or immunity of the Crown;

and the Commission's property shall not be regarded as property of, or property held on behalf of, the Crown.

(6) Schedule 2 (which makes further provision in relation to the Commission) shall have effect.

(7) The Police Complaints Authority shall cease to exist on such day as the Secretary of State may by order appoint.

## **10 General functions of the Commission**

(1) The functions of the Commission shall be-

- (a) to secure the maintenance by the Commission itself, and by police authorities and chief officers, of suitable arrangements with respect to the matters mentioned in subsection (2);
- (b) to keep under review all arrangements maintained with respect to those matters;
- (c) to secure that arrangements maintained with respect to those matters comply with the requirements of the following provisions of this Part, are efficient and effective and contain and manifest an appropriate degree of independence;
- (d) to secure that public confidence is established and maintained in the existence of suitable arrangements with respect to those matters and with the operation of the arrangements that are in fact maintained with respect to those matters;
- (e) to make such recommendations, and to give such advice, for the modification of the arrangements maintained with respect to those

matters, and also of police practice in relation to other matters, as appear, from the carrying out by the Commission of its other functions, to be necessary or desirable; and

(f) to such extent as it may be required to do so by regulations made by the Secretary of State, to carry out functions in relation to the National Criminal Intelligence Service, the National Crime Squad and bodies of constables maintained otherwise than by police authorities which broadly correspond to those conferred on the Commission in relation to police forces by the preceding paragraphs of this subsection.

(2) Those matters are-

(a) the handling of complaints made about the conduct of persons serving with the police;

(b) the recording of matters from which it appears that there may have been conduct by such persons which constitutes or involves the commission of a criminal offence or behaviour justifying disciplinary proceedings;

(c) the manner in which any such complaints or any such matters as are mentioned in paragraph (b) are investigated or otherwise handled and dealt with.

(3) The Commission shall also have the functions which are conferred on it by-

(a) any regulations under section 39 or 83 of the 1997 Act (complaints etc. against members of NCIS and NCS);

(b) any agreement or order under section 26 of this Act (other bodies of constables);

(c) any regulations under section 39 of this Act (police powers for contracted-out staff); or

(d) any regulations or arrangements relating to disciplinary or similar proceedings against persons serving with the police, or against members of the National Criminal Intelligence Service, the National Crime Squad or any body of constables maintained otherwise than by a police authority.

(4) It shall be the duty of the Commission-

(a) to exercise the powers and perform the duties conferred on it by the following provisions of this Part in the manner that it considers best calculated for the purpose of securing the proper carrying out of its functions under subsections (1) and (3); and

(b) to secure that arrangements exist which are conducive to, and

facilitate, the reporting of misconduct by persons in relation to whose conduct the Commission has functions.

(5) It shall also be the duty of the Commission-

(a) to enter into arrangements with the chief inspector of constabulary for the purpose of securing co-operation, in the carrying out of their respective functions, between the Commission and the inspectors of constabulary; and

(b) to provide those inspectors with all such assistance and co-operation as may be required by those arrangements, or as otherwise appears to the Commission to be appropriate, for facilitating the carrying out by those inspectors of their functions.

(6) Subject to the other provisions of this Part, the Commission may do anything which appears to it to be calculated to facilitate, or is incidental or conducive to, the carrying out of its functions.

(7) The Commission may, in connection with the making of any recommendation or the giving of any advice to any person for the purpose of carrying out-

(a) its function under subsection (1)(e), or

(b) any corresponding function conferred on it by virtue of subsection (1)(f),

impose any such charge on that person for anything done by the Commission for the purposes of, or in connection with, the carrying out of that function as it thinks fit.

(8) Nothing in this Part shall confer any function on the Commission in relation to so much of any complaint or conduct matter as relates to the direction and control of a police force by-

(a) the chief officer of police of that force; or

(b) a person for the time being carrying out the functions of the chief officer of police of that force.

## **11 Reports to the Secretary of State**

(1) As soon as practicable after the end of each of its financial years, the Commission shall make a report to the Secretary of State on the carrying out of its functions during that year.

(2) The Commission shall also make such reports to the Secretary of State about matters relating generally to the carrying out of its functions as he may,

from time to time, require.

(3) The Commission may, from time to time, make such other reports to the Secretary of State as it considers appropriate for drawing his attention to matters which

(a) have come to the Commission's notice; and

(b) are matters that it considers should be drawn to his attention by reason of their gravity or of other exceptional circumstances.

(4) The Commission shall prepare such reports containing advice and recommendations as it thinks appropriate for the purpose of carrying out-

(a) its function under subsection (1)(e) of section 10; or

(b) any corresponding function conferred on it by virtue of subsection (1)(f) of that section.

(5) Where the Secretary of State receives any report under this section, he shall-

(a) in the case of every annual report under subsection (1), and

(b) in the case of any other report, if and to the extent that he considers it appropriate to do so,

lay a copy of the report before Parliament and cause the report to be published.

(6) The Commission shall send a copy of every annual report under subsection (1)-

(a) to every police authority;

(b) to the Service Authority for the National Criminal Intelligence Service;

(c) to the Service Authority for the National Crime Squad;

(d) to every authority that is maintaining a body of constables in relation to which any procedures are for the time being in force by virtue of any agreement or order under section 26 or by virtue of subsection (9) of that section.

(7) The Commission shall send a copy of every report under subsection (3)-

(a) to any police authority that appears to the Commission to be concerned; and

(b) to the chief officer of police of any police force that appears to it to



be concerned.

(8) Where a report under subsection (3) relates to the National Criminal Intelligence Service or the National Crime Squad, the Commission shall send a copy of that report-

- (a) to the Service Authority for that Service or Squad; and
- (b) to its Director General.

(9) Where a report under subsection (3) relates to a body of constables maintained by an authority other than a police authority, the Commission shall send a copy of that report-

- (a) to that authority; and
- (b) to the person having the direction and control of that body of constables.

(10) The Commission shall send a copy of every report under subsection (4) to-

- (a) the Secretary of State;
- (b) every police authority;
- (c) every chief officer;
- (d) the Service Authority for the National Criminal Intelligence Service and the Director General of that Service;
- (e) the Service Authority for the National Crime Squad and the Director General of that Squad;
- (f) every authority that is maintaining a body of constables in relation to which any procedures are for the time being in force by virtue of any agreement or order under section 26 or by virtue of subsection (9) of that section; and
- (g) every person who has the direction and control of such a body of constables.

(11) The Commission shall send a copy of every report made or prepared by it under subsection (3) or (4) 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 Commission otherwise to have a particular interest in its contents,

as the Commission thinks fit.

*Application of Part 2*

**12 Complaints, matters and persons to which Part 2 applies**

(1) In this Part references to a complaint are references (subject to the following provisions of this section) to any complaint about the conduct of a person serving with the police which is made (whether in writing or otherwise) by-

- (a) a member of the public who claims to be the person in relation to whom the conduct took place;
- (b) a member of the public not falling within paragraph (a) who claims to have been adversely affected by the conduct;
- (c) a member of the public who claims to have witnessed the conduct;
- (d) a person acting on behalf of a person falling within any of paragraphs (a) to (c).

(2) In this Part "conduct matter" means (subject to the following provisions of this section, paragraph 2(4) of Schedule 3 and any regulations made by virtue of section 23(2)(d)) any matter which is not and has not been the subject of a complaint but in the case of which there is an indication (whether from the circumstances or otherwise) that a person serving with the police may have-

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

(3) The complaints that are complaints for the purposes of this Part by virtue of subsection (1)(b) do not, except in a case falling within subsection (4), include any made by or on behalf of a person who claims to have been adversely affected as a consequence only of having seen or heard the conduct, or any of the alleged effects of the conduct.

(4) A case falls within this subsection if-

- (a) it was only because the person in question was physically present, or sufficiently nearby, when the conduct took place or the effects occurred that he was able to see or hear the conduct or its effects; or
- (b) the adverse effect is attributable to, or was aggravated by, the fact that the person in relation to whom the conduct took place was already known to the person claiming to have suffered the adverse effect.

(5) For the purposes of this section a person shall be taken to have witnessed conduct if, and only if-

(a) he acquired his knowledge of that conduct in a manner which would make him a competent witness capable of giving admissible evidence of that conduct in criminal proceedings; or

(b) he has in his possession or under his control anything which would in any such proceedings constitute admissible evidence of that conduct.

(6) For the purposes of this Part a person falling within subsection 1(a) to (c) shall not be taken to have authorised another person to act on his behalf unless-

(a) that other person is for the time being designated for the purposes of this Part by the Commission as a person through whom complaints may be made, or he is of a description of persons so designated; or

(b) the other person has been given, and is able to produce, the written consent to his so acting of the person on whose behalf he acts.

(7) For the purposes of this Part, a person is serving with the police if-

(a) he is a member of a police force;

(b) he is an employee of a police authority who is under the direction and control of a chief officer; or

(c) he is a special constable who is under the direction and control of a chief officer.

*Handling of complaints and conduct matters etc.*

**13 Handling of complaints and conduct matters etc.**

Schedule 3 (which makes provision for the handling of complaints and conduct matters and for the carrying out of investigations) shall have effect subject to section 14(1).

**14 Direction and control matters**

(1) Nothing in Schedule 3 shall have effect with respect to so much of any complaint as relates to the direction and control of a police force by-

(a) the chief officer of police of that force; or

(b) a person for the time being carrying out the functions of the chief officer of police of that force.

(2) The Secretary of State may issue guidance to chief officers and to police authorities about the handling of so much of any complaint as relates to the direction and control of a police force by such a person as is mentioned in

subsection (1).

(3) It shall be the duty of a chief officer and of a police authority when handling any complaint relating to such a matter to have regard to any guidance issued under subsection (2).

*Co-operation, assistance and information*

**15 General duties of police authorities, chief officers and inspectors**

(1) It shall be the duty of-

- (a) every police authority maintaining a police force,
- (b) the chief officer of police of every police force, and
- (c) every inspector of constabulary carrying out any of his functions in relation to a police force,

to ensure that it or he is kept informed, in relation to that force, about all matters falling within subsection (2).

(2) Those matters are-

- (a) matters with respect to which any provision of this Part has effect;
- (b) anything which is done under or for the purposes of any such provision; and
- (c) any obligations to act or refrain from acting that have arisen by or under this Part but have not yet been complied with, or have been contravened.

(3) Where-

- (a) a police authority maintaining any police force requires the chief officer of that force or of any other force to provide a member of his force for appointment under paragraph 16, 17 or 18 of Schedule 3,
- (b) the chief officer of police of any police force requires the chief officer of police of any other police force to provide a member of that other force for appointment under any of those paragraphs, or
- (c) a police authority or chief officer requires the Director General of the National Criminal Intelligence Service or the Director General of the National Crime Squad to provide a member of that Service or Squad for appointment under any of those paragraphs,

it shall be the duty of the chief officer or Director General to whom the requirement is addressed to comply with it.

(4) It shall be the duty of

- (a) every police authority maintaining a police force,
- (b) the chief officer of police of every police force,
- (c) the Service Authority for the National Criminal Intelligence Service and the Service Authority for the National Crime Squad, and
- (d) the Directors General of that Service and of that Squad,

to provide the Commission and every member of the Commission's staff with all such assistance as the Commission or that member of staff may reasonably require for the purposes of, or in connection with, the carrying out of any investigation by the Commission under this Part.

(5) It shall be the duty of

- (a) every police authority maintaining a police force,
- (b) the chief officer of every police force,
- (c) the Service Authorities for the National Criminal Intelligence Service and of the National Crime Squad, and
- (d) the Directors General of that Service and of that Squad,

to ensure that a person appointed under paragraph 16, 17 or 18 of Schedule 3 to carry out an investigation is given all such assistance and co-operation in the carrying out of that investigation as that person may reasonably require

(6) The duties imposed by subsections (4) and (5) on a police authority maintaining a police force and on the chief officer of such a force and on the Directors General of the National Criminal Intelligence Service and of the National Crime Squad have effect

- (a) irrespective of whether the investigation relates to the conduct of a person who is or has been a member of that force or of that Service or Squad; and
- (b) irrespective of who has the person appointed to carry out the investigation under his direction and control;

but a chief officer of a third force may be required to give assistance and co-operation under subsection (5) only with the approval of the chief officer of the force to which the person who requires it belongs or, as the case may be, of the Director General of the Service or Squad to which that person belongs.

(7) In subsection (6) "third force", in relation to an investigation, means a police force other than

- (a) the force to which the person carrying out the investigation belongs; or
- (b) the force to which the person whose conduct is under investigation belonged at the time of the conduct;

and in this subsection references to a police force include references to the National Criminal Intelligence Service and the National Crime Squad.

## **16 Payment for assistance with investigations**

(1) This section applies where-

- (a) one police force is required to provide assistance to another in connection with an investigation under this Part; or
- (b) a police force is required to provide assistance in such a connection to the Commission.

(2) For the purposes of this section-

- (a) assistance is required to be provided by one police force to another in connection with an investigation under this Part if the chief officer of the first force ("the assisting force") complies with a requirement under section 15 (3) or (5) that is made in connection with an investigation relating to the conduct of a person who, at the time of the conduct, was a member of the other force; and
- (b) assistance is required to be provided in such a connection by a police force ("the assisting force") to the Commission if the chief officer of that force complies with a requirement under section 15(4) that is made in connection with an investigation relating to the conduct of a person who, at the time of the conduct, was not a member of that force.

(3) Where the assistance is required to be provided by one police force to another, the police authority maintaining that other police force shall pay to the police authority maintaining the assisting force such contribution (if any) towards the costs of the assistance-

- (a) as may be agreed between them; or
- (b) in the absence of an agreement, as may be determined in accordance with any arrangements which
  - (i) have been agreed to by police authorities generally; and
  - (ii) are for the time being in force with respect to the making of contributions towards the costs of assistance provided, in

connection with investigations under this Part, by one police force to another; or

(c) in the absence of any such arrangements, as may be determined by the Secretary of State.

(4) Where the assistance is required to be provided by a police force to the Commission, the Commission shall pay to the police authority maintaining the assisting force such contribution (if any) towards the costs of the assistance-

(a) as may be agreed between the Commission and that authority; or

(b) in the absence of an agreement, as may be determined in accordance with any arrangements which

(i) have been agreed to by police authorities generally and by the Commission; and

(ii) are for the time being in force with respect to the making of contributions towards the costs of assistance provided, in connection with investigations under this Part, to the Commission; or

(c) in the absence of any such arrangements, as may be determined by the Secretary of State.

(5) In this section (subject to subsection (6))-

(a) references to a police force include references to the National Criminal Intelligence Service and to the National Crime Squad; and

(b) in relation to that Service or Squad, references to the police authority maintaining it and to the chief officer are references, respectively, to the Service Authority and to the Director General.

(6) This section shall have effect in relation to cases in which assistance is required to be provided by the National Criminal Intelligence Service or National Crime Squad as if-

(a) the reference in subsection (3)(b) to police authorities generally included a reference to the Service Authority for that Service or, as the case may be, for that Squad; and

(b) the reference in subsection (4)(b) to police authorities generally were a reference to the Service Authority for that Service or, as the case may be, for that Squad.

(7) This section is without prejudice to the application of section 24 of the 1996 Act (assistance given voluntarily by one force to another) in a case in which assistance is provided, otherwise than in pursuance of any duty imposed by section 15 of this Act, in connection with an investigation under this Part.

## 17 Provision of information to the Commission

(1) It shall be the duty of

- (a) every police authority, and
- (b) every chief officer,

at such times, in such circumstances and in accordance with such other requirements as may be set out in regulations made by the Secretary of State, to provide the Commission with all such information and documents as may be specified or described in regulations so made.

(2) It shall also be the duty of every police authority and of every chief officer-

- (a) to provide the Commission with all such other information and documents specified or described in a notification given by the Commission to that authority or chief officer, and
- (b) to produce or deliver up to the Commission all such evidence and other things so specified or described,

as appear to the Commission to be required by it for the purposes of the carrying out of any of its functions.

(3) Anything falling to be provided, produced or delivered up by any person in pursuance of a requirement imposed under subsection (2) must be provided, produced or delivered up in such form, in such manner and within such period as may be specified in-

- (a) the notification imposing the requirement; or
- (b) in any subsequent notification given by the Commission to that person for the purposes of this subsection.

(4) Nothing in this section shall require a police authority or chief officer-

- (a) to provide the Commission with any information or document, or to produce or deliver up any other thing, before the earliest time at which it is practicable for that authority or chief officer to do so; or
- (b) to provide, produce or deliver up anything at all in a case in which it never becomes practicable for that authority or chief officer to do so.

(5) A requirement imposed by any regulations or notification under this section may authorise or require information or documents to which it relates to be provided to the Commission electronically.



## **18 Inspections of police premises on behalf of the Commission**

(1) Where-

(a) the Commission requires-

(i) a police authority maintaining any police force, or

(ii) the chief officer of police of any such force,

to allow a person nominated for the purpose by the Commission to have access to any premises occupied for the purposes of that force and to documents and other things on those premises, and

(b) the requirement is imposed for any of the purposes mentioned in subsection (2),

it shall be the duty of the authority or, as the case may be, of the chief officer to secure that the required access is allowed to the nominated person.

(2) Those purposes are-

(a) the purposes of any examination by the Commission of the efficiency and effectiveness of the arrangements made by the force in question for handling complaints or dealing with recordable conduct matters;

(b) the purposes of any investigation by the Commission under this Part or of any investigation carried out under its supervision or management.

(3) A requirement imposed under this section for the purposes mentioned in subsection (2)(a) must be notified to the authority or chief officer at least 48 hours before the time at which access is required.

(4) Where-

(a) a requirement imposed under this section for the purposes mentioned in subsection (2)(a) requires access to any premises, document or thing to be allowed to any person, but

(b) there are reasonable grounds for not allowing that person to have the required access at the time at which he seeks to have it,

the obligation to secure that the required access is allowed shall have effect as an obligation to secure that the access is allowed to that person at the earliest practicable time after there cease to be any such grounds as that person may specify.

(5) The provisions of this section are in addition to, and without prejudice to-

(a) the rights of entry, search and seizure that are or may be conferred on-

(i) a person designated for the purposes of paragraph 19 of Schedule 3, or

(ii) any person who otherwise acts on behalf of the Commission,

in his capacity as a constable or as a person with the powers and privileges of a constable; or

(b) the obligations of police authorities and chief officers under sections 15 and 17.

## **19 Use of investigatory powers by or on behalf of the Commission**

(1) The Secretary of State may by order make such provision as he thinks appropriate for the purpose of authorising-

(a) the use of directed and intrusive surveillance, and

(b) the conduct and use of covert human intelligence sources,

for the purposes of, or for purposes connected with, the carrying out of the Commission's functions.

(2) An order under this section may, for the purposes of or in connection with any such provision as is mentioned in subsection (1), provide for-

(a) Parts 2 and 4 the Regulation of Investigatory Powers Act 2000 (c. 23) (surveillance and covert human intelligence sources and scrutiny of investigatory powers), and

(b) Part 3 of the 1997 Act (authorisations in respect of property),

to have effect with such modifications as may be specified in the order.

(3) The Secretary of State shall not make an order containing (with or without any other provision) any provision authorised by this section unless a draft of that order has been laid before Parliament and approved by a resolution of each House.

(4) Expressions used in this section and in Part 2 of the Regulation of Investigatory Powers Act 2000 have the same meanings in this section as in that Part.

## **20 Duty to keep the complainant informed**

(1) In any case in which there is an investigation of a complaint in accordance with the provisions of Schedule 3-

- (a) by the Commission, or
- (b) under its management,

it shall be the duty of the Commission to provide the complainant with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (4).

(2) In any case in which there is an investigation of a complaint in accordance with the provisions of Schedule 3-

- (a) by the appropriate authority on its own behalf, or
- (b) under the supervision of the Commission,

it shall be the duty of the appropriate authority to provide the complainant with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (4).

(3) Where subsection (2) applies, it shall be the duty of the Commission to give the appropriate authority all such directions as it considers appropriate for securing that that authority complies with its duty under that subsection; and it shall be the duty of the appropriate authority to comply with any direction given to it under this subsection.

(4) The matters of which the complainant must be kept properly informed are-

- (a) the progress of the investigation;
- (b) any provisional findings of the person carrying out the investigation;
- (c) whether any report has been submitted under paragraph 22 of Schedule 3;
- (d) the action (if any) that is taken in respect of the matters dealt with in any such report; and
- (e) the outcome of any such action.

(5) The duties imposed by this section on the Commission and the appropriate authority in relation to any complaint shall be performed in such

manner, and shall have effect subject to such exceptions, as may be provided for by regulations made by the Secretary of State.

(6) The Secretary of State shall not by regulations provide for any exceptions from the duties imposed by this section except so far as he considers it necessary to do so for the purpose of-

(a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings;

(b) preventing the disclosure of information in any circumstances in which it has been determined in accordance with the regulations that its non-disclosure-

(i) is in the interests of national security;

(ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders;

(iii) is required on proportionality grounds; or

(iv) is otherwise necessary in the public interest.

(7) The non-disclosure of information is required on proportionality grounds if its disclosure would cause, directly or indirectly, an adverse effect which would be disproportionate to the benefits arising from its disclosure.

(8) Regulations under this section may include provision framed by reference to the opinion of, or a determination by, the Commission or any police authority or chief officer.

(9) It shall be the duty of a person appointed to carry out an investigation under this Part to provide the Commission or, as the case may be, the appropriate authority with all such information as the Commission or that authority may reasonably require for the purpose of performing its duty under this section.

## **21 Duty to provide information for other persons**

(1) A person has an interest in being kept properly informed about the handling of a complaint or recordable conduct matter if-

(a) it appears to the Commission or to an appropriate authority that he is a person falling within subsection (2); and

(b) that person has indicated that he consents to the provision of information to him in accordance with this section and that consent has not been withdrawn.

(2) A person falls within this subsection if-

(a) he is a relative of a person whose death is the alleged result from the conduct complained of or to which the recordable conduct matter relates;

(b) he is a relative of a person whose serious injury is the alleged result from that conduct and that person is incapable of making a complaint;

(c) he himself has suffered serious injury as the alleged result of that conduct.

(3) A person who does not fall within subsection (2) has an interest in being kept properly informed about the handling of a complaint or recordable conduct matter if-

(a) the Commission or an appropriate authority considers that he has an interest in the handling of the complaint or recordable conduct matter which is sufficient to make it appropriate for information to be provided to him in accordance with this section; and

(b) he has indicated that he consents to the provision of information to him in accordance with this section.

(4) In relation to a complaint, this section confers no rights on the complainant.

(5) A person who has an interest in being kept properly informed about the handling of a complaint or conduct matter is referred to in this section as an "interested person".

(6) In any case in which there is an investigation of the complaint or recordable conduct matter in accordance with the provisions of Schedule 3-

(a) by the Commission, or

(b) under its management,

it shall be the duty of the Commission to provide the interested person with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (9).

(7) In any case in which there is an investigation of the complaint or recordable conduct matter in accordance with the provisions of Schedule 3-

(a) by the appropriate authority on its own behalf, or

(b) under the supervision of the Commission,

it shall be the duty of the appropriate authority to provide the interested person with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in subsection (9).

(8) Where subsection (7) applies, it shall be the duty of the Commission to give the appropriate authority all such directions as it considers appropriate for securing that that authority complies with its duty under that subsection; and it shall be the duty of the appropriate authority to comply with any direction given to it under this subsection.

(9) The matters of which the interested person must be kept properly informed are-

- (a) the progress of the investigation;
- (b) any provisional findings of the person carrying out the investigation;
- (c) whether any report has been submitted under paragraph 22 of Schedule 3;
- (d) the action (if any) that is taken in respect of the matters dealt with in any such report; and
- (e) the outcome of any such action.

(10) The duties imposed by this section on the Commission and the appropriate authority in relation to any complaint or recordable conduct matter shall be performed in such manner, and shall have effect subject to such exceptions, as may be provided for by regulations made by the Secretary of State.

(11) Subsections (6) to (9) of section 20 apply for the purposes of this section as they apply for the purposes of that section.

(12) In this section "relative" means a person of a description prescribed in regulations made by the Secretary of State.

#### *Guidance and regulations*

### **22 Power of the Commission to issue guidance**

(1) The Commission may issue guidance-

- (a) to police authorities,

(b) to chief officers, and

(c) to persons who are serving with the police otherwise than as chief officers,

concerning the exercise or performance, by the persons to whom the guidance is issued, of any of the powers or duties specified in subsection (2).

(2) Those powers and duties are-

(a) those that are conferred or imposed by or under this Part; and

(b) those that are otherwise conferred or imposed but relate to-

(i) the handling of complaints;

(ii) the means by which recordable conduct matters are dealt with; or

(iii) the detection or deterrence of misconduct by persons serving with the police.

(3) Before issuing any guidance under this section, the Commission shall consult with-

(a) persons whom it considers to represent the interests of police authorities;

(b) persons whom it considers to represent the interests of chief officers of police; and

(c) such other persons as it thinks fit.

(4) The approval of the Secretary of State shall be required for the issue by the Commission of any guidance under this section.

(5) Without prejudice to the generality of the preceding provisions of this section, the guidance that may be issued under this section includes-

(a) guidance about the handling of complaints which have not yet been recorded and about dealing with recordable conduct matters that have not been recorded;

(b) guidance about the procedure to be followed by the appropriate authority when recording a complaint or any recordable conduct matter;

(c) guidance about-

(i) how to decide whether a complaint is suitable for being subjected to local resolution; and

(ii) about the information to be provided to a person before his consent to such resolution is given;

(d) guidance about how to protect the scene of an incident or alleged incident which-

(i) is or may become the subject-matter of a complaint; or

(ii) is or may involve a recordable conduct matter;

(e) guidance about the circumstances in which it is appropriate (where it is lawful to do so)-

(i) to disclose to any person, or to publish, any information about an investigation of a complaint or conduct matter; or

(ii) to provide any person with, or to publish, any report or other document relating to such an investigation;

(f) guidance about the matters to be included in a memorandum under paragraph 23 or 25 of Schedule 3 and about the manner in which, and the place at which, such a memorandum is to be delivered to the Commission.

(6) Nothing in this section shall authorise the issuing of any guidance about a particular case.

(7) It shall be the duty of every person to whom any guidance under this section is issued to have regard to that guidance in exercising or performing the powers and duties to which the guidance relates.

(8) A failure by a person to whom guidance under this section is issued to have regard to the guidance shall be admissible in evidence in any disciplinary proceedings or on any appeal from a decision taken in any such proceedings.

## **23 Regulations**

(1) The Secretary of State may make regulations as to the procedure to be followed under any provision of this Part.

(2) Without prejudice to the generality of the power conferred by subsection (1) or of any other power to make regulations conferred by any provision of this Part, the Secretary of State may also by regulations provide-

(a) for the appropriate authority, in the case of a complaint against any person, to be required, in accordance with procedures provided for in the regulations-

(i) to supply the person complained against with a copy of the complaint; and

(ii) to supply the complainant with a copy of the record made of that complaint;



(b) for the matters to be taken into account in making any determination as to which procedure to adopt for handling complaints and dealing with recordable conduct matters;

(c) for any procedure for the purposes of this Part to be discontinued where-

(i) a complaint is withdrawn;

(ii) the complainant indicates that he does not wish any further steps to be taken; or

(iii) the whole or part of the investigation of the complaint has been postponed until the conclusion of criminal proceedings and the complainant fails to indicate after the conclusion of those proceedings that he wishes the investigation to be resumed;

and for the manner in which any such withdrawal or indication is to be effected or given, and for the circumstances in which it is to be taken as effected or given;

(d) for requiring the subject-matter of a complaint that has been withdrawn to be treated for the purposes of this Part, in the cases and to the extent specified in the regulations, as a recordable conduct matter;

(e) for the manner in which any procedure for the purposes of this Part is to be discontinued in a case where it is discontinued in accordance with the regulations, and for the consequences of any such discontinuance;

(f) for the circumstances in which any investigation or other procedure under this Part may be or must be suspended to allow any other investigation or proceedings to continue, and for the consequences of such a suspension;

(g) for the regulation of the appointment of persons to carry out investigations under this Part or to assist with the carrying out of such investigations, for limiting the persons who may be appointed and for the regulation of the carrying out of any such investigation;

(h) for combining into a single investigation-

(i) the investigations of different complaints (whether relating to the same or different conduct),

(ii) the investigations of different conduct matters, and

(iii) the investigation or investigations of any one or more complaints and the investigation or investigations of any one or more conduct matters,

and for splitting a single investigation into two or more separate investigations;

- (i) for the procedure to be followed in cases in which the Commission relinquishes the supervision or management of any investigation and for the consequences of its doing so;
- (j) for the manner in which any reference of a complaint or conduct matter to the Commission is to be made;
- (k) for applying the provisions of this Part with such modifications as the Secretary of State thinks fit in cases where a complaint or recordable conduct matter relates to the conduct of a person who has ceased to be a person serving with the police since the time of the conduct;
- (l) for applying the provisions of this Part with such modifications as the Secretary of State thinks fit in cases where a complaint or conduct matter relates to the conduct of a person-
  - (i) whose identity is unascertained at the time at which a complaint is made or a conduct matter is recorded;
  - (ii) whose identity is not ascertained during, or subsequent to, the investigation of a complaint or recordable conduct matter;
- (m) for the Commission-
  - (i) to be required to notify actions and decisions it takes in consequence of the receipt of a memorandum under paragraph 23 or 25 of Schedule 3; and
  - (ii) to be authorised to provide information in relation to the matters notified;
- (n) for the records to be kept by police authorities and chief officers-
  - (i) with respect to complaints and purported complaints;
  - (ii) with respect to recordable conduct matters; and
  - (iii) with respect to the exercise and performance of their powers and duties under this Part;
- (o) for the Commission to be required to establish and maintain a register of such information provided to it in accordance with this Part as may be of a description specified in the regulations and for regulating the extent to which information stored on that register may be published or otherwise disclosed to any person by the Commission;
- (p) for chief officers to have power to delegate the exercise or performance of powers and duties conferred or imposed on them by or under this Part;
- (q) for the manner in which any notification for the purposes of any provision of this Part is to be given and the time at which, or period within which, any such notification must be given.

## **24 Consultation on regulations**

Before making any regulations under this Part, the Secretary of State shall consult with-

- (a) the Commission;
- (b) persons whom he considers to represent the interests of police authorities;
- (c) persons whom he considers to represent the interests of chief officers of police; and
- (d) such other persons as he thinks fit.

*Conduct of persons in other forms of police service*

## **25 NCIS and NCS**

(1) For subsection (1) of section 39 of the 1997 Act (complaints about members of NCIS) there shall be substituted-

"(1) The Secretary of State may by regulations make provision about-

- (a) the handling of complaints about the conduct of members of NCIS;
- (b) the recording of matters from which it appears there may have been misconduct by members of NCIS; and
- (c) the investigation of such complaints and matters."

(2) In subsection (2) of that section-

- (a) for "shall" there shall be substituted "may"; and
- (b) for paragraph (c) there shall be substituted-

"(c) for applying, with such modifications as he may think fit, any provision made by or under Part 2 of the Police Reform Act 2002 (c. 30) (complaints and misconduct)."

(3) After that subsection there shall be inserted-

"(2ZA) Regulations under subsection (1) may provide-

(a) for obligations under the regulations to be framed by reference to the opinions of such persons as may be specified in the regulations; and

(b) for it to be the duty of any person on whom functions are conferred by the regulations to have regard, in the carrying out of those functions, to any guidance given by such persons and in such manner as may be so specified."

(4) Subsection (3) of that section (guidance by the Secretary of State after consultation with the Scottish Ministers) shall cease to have effect.

(5) For subsections (1) to (3) of section 83 of that Act (complaints about members of NCS and guidance by the Secretary of State) there shall be substituted-

"(1) The Secretary of State may by regulations make provision about-

(a) the handling of complaints about the conduct of members of National Crime Squad;

(b) the recording of matters from which it appears there may have been misconduct by members of the National Crime Squad; and

(c) the investigation of such complaints and matters.

(2) Regulations under this section may make such provision as the Secretary of State thinks desirable for applying, with such modifications as he thinks fit, any provision made by or under Part 2 of the Police Reform Act 2002 (c. 00) (complaints and misconduct).

(2A) Regulations under this section may provide-

(a) for obligations under the regulations to be framed by reference to the opinions of such persons as may be specified in the regulations; and

(b) for it to be the duty of any person on whom functions are conferred by the regulations to have regard, in the carrying out of those functions, to any guidance given by such persons and in such manner as may be so specified."

## **26 Forces maintained otherwise than by police authorities**

(1) Notwithstanding any provision made by or under any enactment passed or made before this Act-

- (a) the Commission, and
- (b) an authority other than a police authority which maintains a body of constables,

shall each have power to enter into an agreement with the other for the establishment and maintenance in relation to that body of constables of procedures corresponding or similar to any of those provided for by or under this Part.

(2) If it appears to the Secretary of State appropriate to do so in relation to any body of constables maintained otherwise than by a police authority to establish any such corresponding or similar procedures, he may by order-

- (a) provide for the establishment and maintenance of such procedures in relation to that body of constables; and
- (b) in a case in which procedures in relation to that body of constables have effect by virtue of subsection (9) or have previously been established by virtue of this section-
  - (i) provide for those procedures to be superseded by the provision made by the order; and
  - (ii) make transitional provision in connection with the replacement of the superseded procedures.

(3) It shall be the duty of the Secretary of State to secure that procedures are established and maintained under subsection (2) in relation to each of the following-

- (a) the Ministry of Defence Police; and
- (b) the British Transport Police Force.

(4) An agreement under this section shall not be made, varied or terminated except with the approval of the Secretary of State.

(5) An agreement or order under this section in relation to any body of constables may contain provision for enabling the Commission to bring and conduct, or otherwise participate or intervene in, any proceedings which are identified by the agreement or order as disciplinary proceedings in relation to members of that body of constables.

(6) An agreement or order under this section in relation to any body of constables may provide for the application of procedures in relation to persons who are not themselves constables but are employed for the purposes of that body of constables and in relation to the conduct of such persons, as well as in relation to members of that body of constables and their conduct.

(7) Before making an order under this section the Secretary of State shall consult with both-

(a) the Commission; and

(b) the authority maintaining the body of constables to whom the order relates.

(8) Procedures established in accordance with any agreement or order under this section shall have no effect in relation to anything done outside England and Wales by any constable or any person employed for the purposes of a body of constables.

(9) Where, immediately before the coming into force of this section, any procedures have effect in relation to any body of constables by virtue of-

(a) section 78 of the 1996 Act (which made provisions similar to that made by this section), or

(b) paragraph 13 of Schedule 8 to that Act (transitional provisions),

those procedures shall continue to have effect thereafter (notwithstanding the repeal by this Act of Chapter 1 of Part 4 of the 1996 Act and of that paragraph) until superseded by procedures established by virtue of any agreement or order under this section.

(10) Subsection (9) has effect subject to the provisions of any order made under section 28.

## **27 Conduct of the Commission's staff**

(1) The Secretary of State shall by regulations make provision for the manner in which the following cases are to be handled or dealt with-

(a) cases in which allegations of misconduct are made against members of the Commission's staff; and

(b) cases in which there is otherwise an indication that there may have been misconduct by a member of the Commission's staff.

(2) Regulations under this section may apply, with such modifications as the Secretary of State thinks fit, any provision made by or under this Part.

(3) Regulations under this section may provide for it to be the duty of any person on whom functions are conferred by the regulations to have regard, in the carrying out of those functions, to any guidance given by such persons and in such manner as may be specified in the regulations.

(4) Before making any regulations under this section the Secretary of State shall consult with the Commission.

*Transitional provisions*

**28 Transitional arrangements connected with establishing the Commission etc.**

(1) The Secretary of State may, in connection with the coming into force of any provision of this Part, by order make such transitional provision and savings (including provision modifying this Part) as he thinks fit.

(2) The Secretary of State may, for the purpose of facilitating the carrying out by the Commission of its functions, or in connection with the coming into force of any provision of this Part, by order make such provision as he thinks fit-

(a) for the transfer and apportionment of property; and

(b) for the transfer, apportionment and creation of rights and liabilities.

(3) The provision that may be made by an order under this section shall include provision that-

(a) pending the coming into force of any repeal by this Act of an enactment contained in Chapter 1 of Part 4 of the 1996 Act (complaints), or

(b) for transitional purposes connected with the coming into force of any such repeal,

the functions of the Police Complaints Authority under an enactment so contained are to be carried out by the Commission.

(4) The provision that may be made by an order under this section shall also include transitional provision in connection with the repeal by this Act of the reference to the Police Complaints Authority in Schedule 1 to the Superannuation Act 1972 (c. 11).

(5) An order under this section may-

(a) provide for the Secretary of State, or any other person nominated by or in accordance with the order, to determine any matter requiring determination under or in consequence of the order; and

(b) make provision as to the payment of fees charged, or expenses incurred, by any person nominated to determine any matter by virtue

of paragraph (a).

(6) Where a person-

(a) ceases to be a member of the Police Complaints Authority by reason of its abolition, and

(b) does not become a member of the Commission,

the Secretary of State may make a payment to that person of such amount as the Secretary of State may, with the consent of the Treasury, determine.

### *Interpretation of Part 2*

## **29 Interpretation of Part 2**

(1) In this Part-

"the appropriate authority", in relation to a person serving with the police or in relation to any complaint, matter or investigation relating to the conduct of such a person, means-

(a) if that person is a senior officer, the police authority for the area of the police force of which he is a member; and

(b) if he is not a senior officer, the chief officer under whose direction and control he is;

"chief officer" means the chief officer of police of any police force;

"the Commission" has the meaning given by section 9(1);

"complainant" shall be construed in accordance with subsection (2);

"complaint" has the meaning given by section 12;

"conduct" includes acts, omissions and statements (whether actual, alleged or inferred);

"conduct matter" has the meaning given by section 12;

"disciplinary proceedings" means-

(a) in relation to a member of a police force or a special constable, proceedings under any regulations made by virtue of section 50 or 51 of the 1996 Act and identified as disciplinary proceedings by those regulations; and

(b) in relation to a person serving with the police who is not a member of a police force or a special constable, proceedings identified as such by regulations made by the Secretary of State for the purposes of this Part;

"document" means anything in which information of any description is recorded;



"information" includes estimates and projections, and statistical analyses;

"local resolution", in relation to a complaint, means the handling of that complaint in accordance with a procedure which-

- (a) does not involve a formal investigation; and
- (b) is laid down by regulations under paragraph 8 of Schedule 3 for complaints which it has been decided, in accordance with paragraph 6 of that Schedule, to subject to local resolution;

"person complained against", in relation to a complaint, means the person whose conduct is the subject-matter of the complaint;

"recordable conduct matter" means (subject to any regulations under section 23(2)(d))-

- (a) a conduct matter that is required to be recorded by the appropriate authority under paragraph 10 or 11 of Schedule 3 or has been so recorded; or
- (b) except in sub-paragraph (4) of paragraph 2 of Schedule 3, any matter brought to the attention of the appropriate authority under that sub-paragraph;

"relevant force", in relation to the appropriate authority, means -

- (a) if that authority is a police authority, the police force maintained by it; and
- (b) if that authority is the chief officer of police of a police force, his force;

"senior officer" means a member of a police force holding a rank above that of chief superintendent;

"serious injury" means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function;

"serving with the police", in relation to any person, shall be construed in accordance with section 12(7).

(2) References in this Part, in relation to anything which is or purports to be a complaint, to the complainant are references-

- (a) except in the case of anything which is or purports to be a complaint falling within section 12(1)(d), to the person by whom the complaint or purported complaint was made; and
- (b) in that case, to the person on whose behalf the complaint or purported complaint was made;

but where any person is acting on another's behalf for the purposes of any complaint or purported complaint, anything that is to be or may be done under this Part by or in relation to the complainant may be done, instead, by or in

relation to the person acting on the complainant's behalf.

(3) Subject to subsection (4), references in this Part, in relation to any conduct or anything purporting to be a complaint about any conduct, to a member of the public include references to any person falling within any of the following paragraphs (whether at the time of the conduct or at any subsequent time)-

- (a) a person serving with the police;
- (b) a member of the National Criminal Intelligence Service or the National Crime Squad;
- (c) a member of the staff of the Central Police Training and Development Authority; or
- (d) a person engaged on relevant service, within the meaning of section 97(1)(a), (cc) or (d) of the 1996 Act (temporary service otherwise than with NCIS or NCS).

(4) In this Part references, in relation to any conduct or to anything purporting to be a complaint about any conduct, to a member of the public do not include references to-

- (a) a person who, at the time when the conduct is supposed to have taken place, was under the direction and control of the same chief officer as the person whose conduct it was; or
- (b) a person who-
  - (i) at the time when the conduct is supposed to have taken place, in relation to him, or
  - (ii) at the time when he is supposed to have been adversely affected by it, or to have witnessed it,was on duty in his capacity as a person falling within subsection (3)(a) to (d).

(5) For the purposes of this Part a person is adversely affected if he suffers any form of loss or damage, distress or inconvenience, if he is put in danger or if he is otherwise unduly put at risk of being adversely affected.

(6) References in this Part to the investigation of any complaint or matter by the appropriate authority on its own behalf, under the supervision of the Commission, under the management of the Commission or by the Commission itself shall be construed as references to its investigation in accordance with paragraph 16, 17, 18 or, as the case may be, 19 of Schedule 3.

(7) The Commissioner of Police for the City of London shall be treated for

the purposes of this Part as if he were a member of the City of London police force.

PART

3

REMOVAL, SUSPENSION AND DISCIPLINING OF POLICE OFFICERS

*Removal and suspension of senior officers*

**30 Resignation in the interests of efficiency and effectiveness**

(1) In section 9E of the 1996 Act (removal of Commissioner and Deputy Commissioner of Police of the Metropolis)-

(a) in subsection (1), for "to retire in the interests of efficiency or effectiveness" there shall be substituted "in the interests of efficiency or effectiveness, to retire or to resign"; and

(b) in subsection (3), for the words from "retire", in the first place where it occurs, to "earlier date" there shall be substituted "retire or resign under subsection (1), he shall retire or resign with effect from such date as the Metropolitan Police Authority may specify, or with effect from such earlier date".

(2) In section 11 of that Act (removal of chief constables)-

(a) in subsection (2), for "to retire in the interests of efficiency or effectiveness" there shall be substituted "in the interests of efficiency or effectiveness, to retire or to resign"; and

(b) in subsection (4), for the words from "retire", in the first place where it occurs, to "earlier date" there shall be substituted "retire or resign under subsection (2), shall retire or resign with effect from such date as the police authority may specify, or with effect from such earlier date".

**31 Procedural requirements for removal of senior officers**

(1) In subsection (2) of section 9E of the 1996 Act (removal of Commissioner of Police of the Metropolis) for the words from "an opportunity" to the end there shall be substituted"-

(a) an explanation in writing of the Authority's grounds for calling upon him, in the interests of efficiency or effectiveness, to retire or to resign; and

(b) an opportunity to make representations;  
and the Authority shall consider any representations made by or on behalf of the Commissioner.

The opportunity given to the Commissioner to make representations must include the opportunity to make them in person."

(2) In subsection (3) of section 11 of the 1996 Act (removal of chief constable), for the words from "an opportunity" to the end there shall be substituted"-

(a) an explanation in writing of the authority's grounds for calling upon him, in the interests of efficiency or effectiveness, to retire or to resign; and

(b) an opportunity to make representations;  
and the authority shall consider any representations made by or on behalf of the chief officer.

The opportunity given to the chief constable to make representations must include the opportunity to make them in person."

## **32 Suspension of senior officers**

(1) In section 9E of the 1996 Act (removal of Commissioner and Deputy Commissioner of Police of the Metropolis), after subsection (2) there shall be inserted-

"(2A) The Metropolitan Police Authority, acting with the approval of the Secretary of State, may suspend the Commissioner of Police of the Metropolis from duty if-

(a) it is proposing to consider whether to exercise its power under subsection (1) to call upon the Commissioner to retire or to resign and is satisfied that, in the light of the proposal, the maintenance of public confidence in the metropolitan police force requires the suspension; or

(b) having been notified by the Secretary of State that he is proposing to consider whether to require the Authority to exercise that power, it is satisfied that, in the light of the Secretary of State's proposal, the maintenance of public confidence in that force requires the suspension; or

(c) it has exercised that power or been sent under section 42(2A) a copy of a notice of the Secretary of State's intention to require it to exercise that power, but the retirement or

resignation has not yet taken effect;  
and it shall be the duty of the Metropolitan Police Authority (without reference to the preceding provisions of this subsection) to suspend the Commissioner from duty if it is required to do so by the Secretary of State under section 42(1A)."

(2) In section 11 of that Act (appointment and removal of chief constables), after subsection (3) there shall be inserted-

"(3A) A police authority maintaining a police force under section 2, acting with the approval of the Secretary of State, may suspend from duty the chief constable of that force if-

(a) it is proposing to consider whether to exercise its power under subsection (2) to call upon the chief constable to retire or to resign and is satisfied that, in the light of the proposal, the maintenance of public confidence in that force requires the suspension; or

(b) having been notified by the Secretary of State that he is proposing to consider whether to require the police authority to exercise that power, it is satisfied that, in the light of the Secretary of State's proposal, the maintenance of public confidence in that force requires the suspension; or

(c) it has exercised that power or been sent under section 42(2A) a copy of a notice of the Secretary of State's intention to require it to exercise that power, but the retirement or resignation has not yet taken effect;

and it shall be the duty of a police authority maintaining such a force (without reference to the preceding provisions of this subsection) to suspend the chief constable of that force from duty if it is required to do so by the Secretary of State under section 42(1A)."

(3) In each of sections 9F(3), 9FA(3) and 9G(3) of that Act (application of sections 9E(1) to (3) in the case of Assistant Commissioners, Deputy Assistant Commissioners and Commanders), at the end there shall be inserted "but with the omission in subsection (2A)-

(a) of paragraph (b);

(b) in paragraph (c), of the words from "or been sent" to "exercise that power"; and

(c) of the words after paragraph (c)."

(4) In section 11A(3) of that Act (application of section 11(2) to (4) in the

case of deputy chief constables), at the end there shall be inserted"but with the omission in subsection (3A)-

- (a) of paragraph (b);
- (b) in paragraph (c), of the words from "or been sent" to "exercise that power"; and
- (c) of the words after paragraph (c)."

(5) In section 12(3) of that Act (application of section 11(2), (3) and (4) in the case of assistant chief constables)-

- (a) for ", (3) and" there shall be substituted "to"; and
- (b) at the end there shall be inserted"but with the omission in subsection (3A) -

- (a) of paragraph (b);
- (b) in paragraph (c), of the words from "or been sent" to "exercise that power"; and
- (c) of the words after paragraph (c)."

### **33 Removal etc. of senior officers at the instance of the Secretary of State**

(1) Section 42 of the 1996 Act (role of the Secretary of State as respects removal of chief constables etc.) shall be amended as follows.

(2) For subsections (1) and (2) there shall be substituted-

"(1) The Secretary of State may-

- (a) require the Metropolitan Police Authority to exercise its power under section 9E to call upon the Commissioner or Deputy Commissioner, in the interests of efficiency or effectiveness, to retire or to resign; or
- (b) require a police authority maintaining a police force under section 2 to exercise its power under section 11 to call upon the chief constable of that force, in the interests of efficiency or effectiveness, to retire or to resign.

(1A) The Secretary of State may also, in any case falling within subsection (1B) in which he considers that it is necessary for the maintenance of public confidence in the force in question-

- (a) require the Metropolitan Police Authority to suspend the Commissioner or Deputy Commissioner from duty; or

(b) require a police authority maintaining a police force under section 2 to suspend the chief constable of that force from duty.

(1B) The cases falling within this subsection are-

(a) where the Secretary of State is proposing to exercise his power under subsection (1) in relation to the Metropolitan Police Authority or, as the case may be, the other police authority in question, or is proposing to consider so exercising that power;

(b) where the Metropolitan Police Authority or the other police authority in question is itself proposing to exercise its power to call upon the Commissioner or Deputy Commissioner or, as the case may be, the chief constable of the force in question to retire or to resign, or is proposing to consider so exercising that power; and

(c) where the power mentioned in paragraph (a) or (b) has been exercised but the retirement or resignation has not yet taken effect.

(2) Before requiring the exercise by the Metropolitan Police Authority or any other police authority of its power to call upon the Commissioner or Deputy Commissioner or the chief constable of the force in question to retire or to resign, the Secretary of State shall-

(a) give the officer concerned a notice in writing-

(i) informing him of the Secretary of State's intention to require the exercise of that power; and

(ii) explaining the Secretary of State's grounds for requiring the exercise of that power; and

(b) give that officer an opportunity to make representations to the Secretary of State.

(2A) Where the Secretary of State gives a notice under subsection (2)(a), he shall send a copy of the notice to the Metropolitan Police Authority or other police authority concerned.

(2B) The Secretary of State shall consider any representations made to him under subsection (2)."

(3) In subsection (3) (inquiries), for the words from the beginning to "subsection (1)" there shall be substituted-

"(3) Where the Secretary of State proposes to require the exercise of

a power mentioned in subsection (1), he".

(4) After subsection (3) there shall be inserted-

"(3A) At an inquiry held under subsection (3)-

(a) the Commissioner, Deputy Commissioner or, as the case may be, the chief constable in question shall be entitled, in accordance with any regulations under section 42A, to make representations to the inquiry;

(b) the Metropolitan Police Authority or, as the case may be, the police authority concerned shall be entitled, in accordance with any regulations made under section 42A, to make representations to the inquiry.

(3B) The entitlement of the Commissioner, Deputy Commissioner or, as the case may be, the chief constable in question to make representations shall include the entitlement to make them in person."

(5) In subsection (4) (expenses of inquiry), for the words "a chief constable, deputy chief constable or assistant chief constable" there shall be substituted "the Commissioner, the Deputy Commissioner or a chief constable".

(6) After subsection (4) there shall be inserted-

"(4A) If the Secretary of State exercises the power conferred by subsection (1) in relation to the Commissioner or the Deputy Commissioner or a chief constable, the Metropolitan Police Authority or other police authority concerned-

(a) shall not be required to seek the Secretary of State's approval before calling upon the Commissioner or Deputy Commissioner or chief constable in question, in the interests of efficiency or effectiveness, to retire or to resign; and

(b) shall not be required to give the Commissioner, the Deputy Commissioner or the chief constable a written explanation of the authority's grounds for calling upon him to retire or to resign, to give him an opportunity to make representations to it or to consider any representations made by him.

(4B) In this section "the Commissioner" means the Commissioner of Police of the Metropolis and "the Deputy Commissioner" means the Deputy Commissioner of Police of the Metropolis.



(4C) In this section a reference to the police authority concerned, in relation to a chief constable, is to the police authority which maintains the police force of which he is chief constable."

(7) Subsection (5) (application to senior officers in the metropolitan police) shall cease to have effect.

### **34 Regulations concerning procedure for removal of senior officers**

After section 42 of the 1996 Act, there shall be inserted-

#### **"42A Procedure in relation to removal of senior officers**

(1) The Secretary of State may by regulations make provision as to the procedure to be followed in the exercise of any power conferred or duty imposed by section 9E, 11 or 42.

(2) Before making any regulations under this section, the Secretary of State shall consult with-

(a) persons whom he considers to represent the interests of police authorities;

(b) persons whom he considers to represent the interests of chief officers of police; and

(c) such other persons as he thinks fit.

(3) Regulations under this section may make different provision for different cases and circumstances.

(4) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament."

#### *Disciplinary proceedings and protected disclosures*

### **35 Disciplinary regulations for special constables**

In section 51 of the 1996 Act (regulations for special constables), in subsection (2), after paragraph (b) there shall be inserted-

"(ba) the conduct of special constables and the maintenance of discipline;".

### **36 Conduct of disciplinary proceedings**

(1) Without prejudice to the generality of any of the powers conferred by sections 50 and 51 of the 1996 Act (regulations for police forces and for special constables), regulations under each of those sections may make provision-

(a) for conferring a right to bring and conduct, or otherwise participate or intervene in, any disciplinary proceedings on the Independent Police Complaints Commission;

(b) for conferring a right to participate in, or to be present at, disciplinary proceedings on such persons as may be specified or described in the regulations; and

(c) for section 34 of the Criminal Justice and Public Order Act 1994 (c. 33) (inferences to be drawn from a failure to mention a fact when questioned or charged) to apply, with such modifications and in such cases as may be provided for in the regulations, to disciplinary proceedings.

(2) In this section "disciplinary proceedings" means any proceedings under any regulations made under section 50 or, as the case may be, section 51 of 1996 Act which are identified as disciplinary proceedings by those regulations.

### **37 Protected disclosures by police officers**

(1) After section 43K of the Employment Rights Act 1996 (c. 18), there shall be inserted-

#### **"43KA Application of this Part and related provisions to police**

(1) For the purposes of

(a) this Part,

(b) section 47B and sections 48 and 49 so far as relating to that section, and

(c) section 103A and the other provisions of Part 10 so far as relating to the right not to be unfairly dismissed in a case where the dismissal is unfair by virtue of section 103A,

a person who holds, otherwise than under a contract of employment, the office of constable or an appointment as a police cadet shall be treated as an employee employed by the relevant

officer under a contract of employment; and any reference to a worker being "employed" and to his "employer" shall be construed accordingly.

(2) In this section "the relevant officer" means -

- (a) in relation to a member of a police force or a special constable appointed for a police area, the chief officer of police;
- (b) in relation to a person appointed as a police member of the NCIS, the Director General of NCIS;
- (c) in relation to a person appointed as a police member of the NCS, the Director General of NCS;
- (d) in relation to any other person holding the office of constable or an appointment as police cadet, the person who has the direction and control of the body of constables or cadets in question."

(2) In section 200(1) of that Act (provisions which do not apply to persons engaged in police service under a contract of employment)-

- (a) the words ", Part IVA" and ", 47B" shall be omitted;
- (b) after "sections 100" there shall be inserted ", 103A"; and
- (c) after "section 100" there shall be inserted "or 103A".

(3) Section 13 of the Public Interest Disclosure Act 1998 (c. 23) (exclusion of police service from provisions about protected disclosures) shall cease to have effect.

## PART

### 4

## POLICE POWERS ETC

### CHAPTER 1

#### EXERCISE OF POLICE POWERS ETC BY CIVILIANS

### **38 Police powers for police authority employees**

(1) The chief officer of police of any police force may designate any person who-

- (a) is employed by the police authority maintaining that force, and

(b) is under the direction and control of that chief officer,  
as an officer of one or more of the descriptions specified in subsection (2).

(2) The description of officers are as follows-

(a) community support officer;

(b) investigating officer;

(c) detention officer;

(d) escort officer.

(3) A Director General may designate any person who-

(a) is an employee of his Service Authority, and

(b) is under the direction and control of that Director General,  
as an investigating officer.

(4) A chief officer of police or a Director General shall not designate a person under this section unless he is satisfied that that person-

(a) is a suitable person to carry out the functions for the purposes of which he is designated;

(b) is capable of effectively carrying out those functions; and

(c) has received adequate training in the carrying out of those functions and in the exercise and performance of the powers and duties to be conferred on him by virtue of the designation.

(5) A person designated under this section shall have the powers and duties conferred or imposed on him by the designation.

(6) Powers and duties may be conferred or imposed on a designated person by means only of the application to him by his designation of provisions of the applicable Part of Schedule 4 that are to apply to the designated person; and for this purpose the applicable Part of that Schedule is-

(a) in the case of a person designated as a community support officer, Part 1;

(b) in the case of a person designated as an investigating officer, Part 2;

(c) in the case of a person designated as a detention officer, Part 3; and

(d) in the case of a person designated as an escort officer, Part 4.

(7) An employee of a police authority or of a Service Authority authorised

or required to do anything by virtue of a designation under this section-

(a) shall not be authorised or required by virtue of that designation to engage in any conduct otherwise than in the course of that employment; and

(b) shall be so authorised or required subject to such restrictions and conditions (if any) as may be specified in his designation.

(8) Where any power exercisable by any person in reliance on his designation under this section is a power which, in the case of its exercise by a constable, includes or is supplemented by a power to use reasonable force, any person exercising that power in reliance on that designation shall have the same entitlement as a constable to use reasonable force.

(9) Where any power exercisable by any person in reliance on his designation under this section includes power to use force to enter any premises, that power shall not be exercisable by that person except-

(a) in the company, and under the supervision, of a constable; or

(b) for the purpose of saving life or limb or preventing serious damage to property.

### **39 Police powers for contracted-out staff**

(1) This section applies if a police authority has entered into a contract with a person ("the contractor") for the provision of services relating to the detention or escort of persons who have been arrested or are otherwise in custody.

(2) The chief officer of police of the police force maintained by that police authority may designate any person who is an employee of the contractor as either or both of the following-

(a) a detention officer; or

(b) an escort officer.

(3) A person designated under this section shall have the powers and duties conferred or imposed on him by the designation.

(4) A chief officer of police shall not designate a person under this section unless he is satisfied that that person-

(a) is a suitable person to carry out the functions for the purposes of which he is designated;

- (b) is capable of effectively carrying out those functions; and
- (c) has received adequate training in the carrying out of those functions and in the exercise and performance of the powers and duties to be conferred on him by virtue of the designation.

(5) A chief officer of police shall not designate a person under this section unless he is satisfied that the contractor is a fit and proper person to supervise the carrying out of the functions for the purposes of which that person is designated.

(6) Powers and duties may be conferred or imposed on a designated person by means only of the application to him by his designation of provisions of the applicable Part of Schedule 4 that are to apply to the designated person; and for this purpose the applicable Part of that Schedule is-

- (a) in the case of a person designated as a detention officer, Part 3; and
- (b) in the case of a person designated as an escort officer, Part 4.

(7) An employee of the contractor authorised or required to do anything by virtue of a designation under this section-

- (a) shall not be authorised or required by virtue of that designation to engage in any conduct otherwise than in the course of that employment; and
- (b) shall be so authorised or required subject to such restrictions and conditions (if any) as may be specified in his designation.

(8) Where any power exercisable by any person in reliance on his designation under this section is a power which, in the case of its exercise by a constable, includes or is supplemented by a power to use reasonable force, any person exercising that power in reliance on that designation shall have the same entitlement as a constable to use reasonable force.

(9) The Secretary of State may by regulations make provision for the handling of complaints relating to, or other instances of misconduct involving, the carrying out by any person designated under this section of the functions for the purposes of which any power or duty is conferred or imposed by his designation.

(10) Regulations under subsection (9) may, in particular, provide that any provision made by Part 2 of this Act with respect to complaints against persons serving with the police is to apply, with such modifications as may be prescribed by them, with respect to complaints against persons designated under this section.

(11) Before making regulations under this section, the Secretary of State shall consult with-

- (a) persons whom he considers to represent the interests of police authorities;
- (b) persons whom he considers to represent the interests of chief officers of police;
- (c) the Independent Police Complaints Commission; and
- (d) such other persons as he thinks fit.

(12) A designation under this section, unless it is previously withdrawn or ceases to have effect in accordance with subsection (13), shall remain in force for such period as may be specified in the designation; but it may be renewed at any time with effect from the time when it would otherwise expire.

(13) A designation under this section shall cease to have effect-

- (a) if the designated person ceases to be an employee of the contractor; or
- (b) if the contract between the police authority and the contractor is terminated or expires.

#### **40 Community safety accreditation schemes**

(1) The chief officer of police of any police force may, if he considers that it is appropriate to do so for the purposes specified in subsection (3), establish and maintain a scheme ("a community safety accreditation scheme").

(2) A community safety accreditation scheme is a scheme for the exercise in the chief officer's police area by persons accredited by him under section 41 of the powers conferred by their accreditations under that section.

(3) Those purposes are-

- (a) contributing to community safety and security; and
- (b) in co-operation with the police force for the area, combatting crime and disorder, public nuisance and other forms of anti-social behaviour.

(4) Before establishing a community safety accreditation scheme for his police area, a chief officer of any police force (other than the Commissioner of Police of the Metropolis) must consult with-

- (a) the police authority maintaining that force, and
- (b) every local authority any part of whose area lies within the police

area.

(5) Before establishing a community safety accreditation scheme for the metropolitan police district, the Commissioner of Police of the Metropolis must consult with-

- (a) the Metropolitan Police Authority;
- (b) the Mayor of London; and
- (c) every local authority any part of whose area lies within the metropolitan police district.

(6) In subsections (4)(b) and (5)(c) "local authority" means-

(a) in relation to England, a district council, a London borough council, the Common Council of the City of London or the Council of the Isles of Scilly; and

(b) in relation to Wales, a county council or a county borough council.

(7) Every police plan under section 8 of the 1996 Act which is issued after the commencement of this section, and every draft of such a plan which is submitted by a chief officer of police to a police authority after the commencement of this section, must set out-

- (a) whether a community safety accreditation scheme is maintained for the police area in question;
- (b) if not, whether there is any proposal to establish such a scheme for that area during the period to which the plan relates;
- (c) particulars of any such proposal or of any proposal to modify during that period any community safety accreditation scheme that is already maintained for that area;
- (d) the extent (if any) of any arrangements for provisions specified in Schedule 4 to be applied to designated persons employed by the police authority; and
- (e) the respects in which any community safety accreditation scheme that is maintained or proposed will be supplementing those arrangements during the period to which the plan relates.

(8) A community safety accreditation scheme must contain provision for the making of arrangements with employers who-

- (a) are carrying on business in the police area in question, or
- (b) are carrying on business in relation to the whole or any part of that area or in relation to places situated within it,

for those employers to supervise the carrying out by their employees of the community safety functions for the purposes of which powers are conferred



on those employees by means of accreditations under section 41.

(9) It shall be the duty of a chief officer of police who establishes and maintains a community safety accreditation scheme to ensure that the employers of the persons on whom powers are conferred by the grant of accreditations under section 41 have established and maintain satisfactory arrangements for handling complaints relating to the carrying out by those persons of the functions for the purposes of which the powers are conferred.

#### **41 Accreditation under community safety accreditation schemes**

(1) This section applies where a chief officer of police has, for the purposes of a community safety accreditation scheme, entered into any arrangements with any employer for or with respect to the carrying out of community safety functions by employees of that employer.

(2) The chief officer of police may, on the making of an application for the purpose by such person and in such manner as he may require, grant accreditation under this section to any employee of the employer.

(3) Schedule 5 (which sets out the powers that may be conferred on accredited persons) shall have effect.

(4) A chief officer of police shall not grant accreditation to a person under this section unless he is satisfied-

- (a) that that person's employer is a fit and proper person to supervise the carrying out of the functions for the purposes of which the accreditation is to be granted;
- (b) that the person himself is a suitable person to exercise the powers that will be conferred on him by virtue of the accreditation;
- (c) that that person is capable of effectively carrying out the functions for the purposes of which those powers are to be conferred on him;  
and
- (d) that that person has received adequate training for the exercise of those powers.

(5) A chief officer of police may charge such fee as he considers appropriate for one or both of the following-

- (a) considering an application for or for the renewal of an accreditation under this section;
- (b) granting such an accreditation.

(6) A person authorised or required to do anything by virtue of an accreditation under this section-

(a) shall not be authorised or required by virtue of that accreditation to engage in any conduct otherwise than in the course of his employment by the employer with whom the chief officer of police has entered into the arrangements mentioned in subsection (1); and

(b) shall be so authorised or required subject to such other restrictions and conditions (if any) as may be specified in his accreditation.

(7) An accreditation under this section, unless it is previously withdrawn or ceases to have effect in accordance with subsection (8), shall remain in force for such period as may be specified in the accreditation; but it may be renewed at any time with effect from the time when it would otherwise expire.

(8) An accreditation under this section shall cease to have effect-

(a) if the accredited person ceases to be an employee of the person with whom the chief officer of police has entered into the arrangements mentioned in subsection (1); or

(b) if those arrangements are terminated or expire.

#### **42 Supplementary provisions relating to designations and accreditations**

(1) A person who exercises or performs any power or duty in relation to any person in reliance on his designation under section 38 or 39 or his accreditation under section 41, or who purports to do so, shall produce that designation or accreditation to that person, if requested to do so.

(2) A power exercisable by any person in reliance on his designation by a chief officer of police under section 38 or 39 or his accreditation under section 41 shall be exercisable only by a person wearing such uniform as may be-

(a) determined or approved for the purposes of this Chapter by the chief officer of police who granted the designation or accreditation; and

(b) identified or described in the designation or accreditation;

and, in the case of an accredited person, such a power shall be exercisable only if he is also wearing such badge as may be specified for the purposes of this subsection by the Secretary of State, and is wearing it in such manner, or in such place, as may be so specified.

(3) A chief officer of police who has granted a designation or accreditation to any person under section 38, 39 or 41 may at any time, by notice to the

designated or accredited person, modify or withdraw that designation or accreditation.

(4) A Director General may at any time, by notice to a person he has designated as an investigating officer under section 38, modify or withdraw that designation.

(5) Where any person's designation under section 39 is modified or withdrawn, the chief officer giving notice of the modification or withdrawal shall send a copy of the notice to the contractor responsible for supervising that person in the carrying out of the functions for the purposes of which the designation was granted.

(6) Where any person's accreditation under section 41 is modified or withdrawn, the chief officer giving notice of the modification or withdrawal shall send a copy of the notice to the employer responsible for supervising that person in the carrying out of the functions for the purposes of which the accreditation was granted.

(7) For the purposes of determining liability for the unlawful conduct of employees of a police authority, conduct by such an employee in reliance or purported reliance on a designation under section 38 shall be taken to be conduct in the course of his employment by the police authority; and, in the case of a tort, that authority shall fall to be treated as a joint tortfeasor accordingly.

(8) For the purposes of determining liability for the unlawful conduct of employees of a Service Authority, conduct by such an employee in reliance or purported reliance on a designation under section 38 shall be taken to be conduct in the course of his employment; and, in the case of a tort, the Service Authority shall fall to be treated as a joint tortfeasor accordingly.

(9) For the purposes of determining liability for the unlawful conduct of employees of a contractor (within the meaning of section 39), conduct by such an employee in reliance or purported reliance on a designation under that section shall be taken to be conduct in the course of his employment by that contractor; and, in the case of a tort, that contractor shall fall to be treated as a joint tortfeasor accordingly.

(10) For the purposes of determining liability for the unlawful conduct of employees of a person with whom a chief officer of police has entered into any arrangements for the purposes of a community safety accreditation scheme, conduct by such an employee in reliance or purported reliance on an accreditation under section 41 shall be taken to be conduct in the course of his

employment by that employer; and, in the case of a tort, that employer shall fall to be treated as a joint tortfeasor accordingly.

#### **43 Railway safety accreditation scheme**

(1) The Secretary of State may make regulations for the purpose of enabling the chief constable of the British Transport Police Force to establish and maintain a scheme ("a railway safety accreditation scheme").

(2) A railway safety accreditation scheme is a scheme for the exercise in, on or in the vicinity of policed premises in England and Wales, by persons accredited by the chief constable of the British Transport Police Force under the scheme, of the powers conferred on those persons by their accreditation under that scheme.

(3) The regulations may make provision-

(a) as to the purposes for which a railway safety accreditation scheme may be established;

(b) as to the procedure to be followed in the establishment of such a scheme; and

(c) as to matters for which such a scheme must contain provision.

(4) The regulations may make provision as to the descriptions of persons who may be accredited under a railway safety accreditation scheme and as to the procedure and criteria to be applied for the grant of any accreditation under such a scheme.

(5) The regulations may make provision as to the powers which may be conferred on a person by an accreditation under such a scheme.

(6) Subject to subsection (7), no regulations made by virtue of subsection (5) shall permit a power to be conferred on a person accredited under a railway safety accreditation scheme which could not be conferred on an accredited person under a community safety accreditation scheme.

(7) The regulations may provide that the powers which may be conferred on a person by an accreditation under a railway safety accreditation scheme include the powers of a constable in uniform and of an authorised constable to give a penalty notice under Chapter 1 of Part 1 of the Criminal Justice and Police Act 2001 (fixed penalty notices) in respect of the following offences-

(a) an offence under section 55 of the British Transport Commission

Act 1949 (c. xxix) (trespassing on a railway);

(b) an offence under section 56 of that Act (throwing stones etc. at trains or other things on railways).

(8) In relation to a person accredited under a railway safety accreditation scheme, the regulations may apply, with such modifications as may be prescribed by them, any provision of this Chapter which applies in relation to an accredited person.

(9) Before making regulations under this section the Secretary of State shall consult with-

(a) persons whom he considers to represent the interests of chief officers of police;

(b) the chief constable of the British Transport Police Force;

(c) persons whom he considers to represent the interests of police authorities;

(d) the British Transport Police Committee;

(e) persons whom he considers to represent the interests of local authorities;

(f) the Mayor of London; and

(g) such other persons as he thinks fit.

(10) In this section-

"local authorities" means district councils, London borough councils, county councils in Wales, county borough councils and the Common Council of the City of London; and

"policed premises" has the meaning given by section 53(3) of the British Transport Commission Act 1949.

#### **44 Removal of restriction on powers conferred on traffic wardens**

(1) Section 96 of the Road Traffic Regulation Act 1984 (c. 27) (additional powers of traffic wardens) shall be amended as follows.

(2) In subsection (2)(c) (powers under the Road Traffic Act 1988 (c. 52) which may be conferred on traffic wardens), after sub-paragraph (i) there shall be inserted-

"(ia) section 67(3) (which relates to the power of a constable in uniform to stop vehicles for testing);".

(3) In subsection (3) (traffic wardens not to be given the powers of a

constable under sections 163, 164(1), (2) and (6) and 165 of the Road Traffic Act 1988 except for the purposes of exercising them in the circumstances specified in that subsection)-

(a) in the words before paragraph (a), the words "163" (which refer to the power to stop a vehicle) shall be omitted; and

(b) paragraph (c) and the word "or" immediately preceding it shall cease to have effect.

#### **45 Code of practice relating to chief officers' powers under Chapter 1**

(1) The Secretary of State shall issue a code of practice about the exercise and performance by chief officers of police and by Directors General of their powers and duties under this Chapter.

(2) The Secretary of State may from time to time revise the whole or any part of a code of practice issued under this section.

(3) Before issuing or revising a code of practice under this section, the Secretary of State shall consult with-

(a) the Service Authority for the National Criminal Intelligence Service;

(b) the Service Authority for the National Crime Squad;

(c) persons whom he considers to represent the interests of police authorities;

(d) the Director General of the National Criminal Intelligence Service;

(e) the Director General of the National Crime Squad;

(f) persons whom he considers to represent the interests of chief officers of police;

(g) persons whom he considers to represent the interests of local authorities;

(h) the Mayor of London; and

(i) such other persons as he thinks fit.

(4) The Secretary of State shall lay any code of practice issued by him under this section, and any revisions of any such code, before Parliament.

(5) In discharging any function to which a code of practice under this section relates, a chief officer of police or a Director General shall have regard to the code.

(6) For the purposes of subsection (3)(g), "local authorities" means district councils, London borough councils, county councils in Wales, county borough councils, the Common Council of the City of London and the Council of the Isles of Scilly.

#### **46 Offences against designated and accredited persons etc.**

(1) Any person who assaults-

- (a) a designated person in the execution of his duty,
- (b) an accredited person in the execution of his duty, or
- (c) a person assisting a designated or accredited person in the execution of his duty,

is guilty of an offence and shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

(2) Any person who resists or wilfully obstructs-

- (a) a designated person in the execution of his duty,
- (b) an accredited person in the execution of his duty, or
- (c) a person assisting a designated or accredited person in the execution of his duty,

is guilty of an offence and shall be liable, on summary conviction, to imprisonment for a term not exceeding one month or to a fine not exceeding level 3 on the standard scale, or to both.

(3) Any person who, with intent to deceive-

- (a) impersonates a designated person or an accredited person,
- (b) makes any statement or does any act calculated falsely to suggest that he is a designated person or that he is an accredited person, or
- (c) makes any statement or does any act calculated falsely to suggest that he has powers as a designated or accredited person that exceed the powers he actually has,

is guilty of an offence and shall be liable, on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale, or to both.

(4) In this section references to the execution by a designated person or accredited person of his duty are references to his exercising any power or

performing any duty which is his by virtue of his designation or accreditation.

#### **47 Interpretation of Chapter 1**

(1) In this Chapter-

"accredited person" means a person in relation to whom an accreditation under section 41 is for the time being in force;

"community safety functions" means any functions the carrying out of which would be facilitated by the ability to exercise one or more of the powers mentioned in Schedule 5;

"conduct" includes omissions and statements;

"designated person" means a person in relation to whom a designation under section 38 or 39 is for the time being in force;

"Director General" means-

(a) the Director General of the National Criminal Intelligence Service; or

(b) the Director General of the National Crime Squad;

"Service Authority" means-

(a) in relation to employment with the National Criminal Intelligence Service or to its Director General, the Service Authority for the National Criminal Intelligence Service; and

(b) in relation to employment with the National Crime Squad or to its Director General, the Service Authority for the National Crime Squad.

(2) In this Chapter-

(a) references to carrying on business include references to carrying out functions under any enactment; and

(b) references to the employees of a person carrying on business include references to persons holding office under a person, and references to employers shall be construed accordingly.



CHAPTER

2

PROVISIONS MODIFYING AND SUPPLEMENTING POLICE POWERS

*Powers of arrest*

**48 Offences for which a person may be arrested without a warrant**

(1) The 1984 Act shall be amended as follows.

(2) In subsection (1)(c) of section 24 (arrestable offences), for "to which subsection (2) below applies" there shall be substituted "listed in Schedule 1A".

(3) For subsection (2) of that section there shall be substituted-

"(2) Schedule 1A (which lists the offences referred to in subsection (1)(c)) shall have effect."

(4) In subsection (3) of that section (attempts)-

(a) in paragraph (a), for "mentioned in subsection (2) above" there shall be substituted "listed in Schedule 1A"; and

(b) in paragraph (b), for "an offence under section 12(1) of the Theft Act 1968 (c. 60)" there shall be substituted "one which is a summary offence".

(5) After Schedule 1 there shall be inserted the Schedule set out in Schedule 6.

(6) This section has no effect in relation to offences committed before its commencement.

**49 Power of arrest in relation to failure to stop a vehicle**

(1) In section 163 of the Road Traffic Act 1988 (c. 52) (failure to stop when required to do so by a constable in uniform), after subsection (3) there shall be inserted-

"(4) A constable in uniform may arrest a person without warrant if he has reasonable cause to suspect that the person has committed an offence under this section."

(2) In section 17(1)(c) of the 1984 Act (power of entry to effect arrest for certain

offences), after sub-paragraph (iii) there shall be inserted-

"(iiia) section 163 of the Road Traffic Act 1988 (c. 52) (failure to stop when required to do so by a constable in uniform);".

(3) This section has no effect in relation to offences committed before its commencement.

*Power to require name and address*

**50 Persons acting in an anti-social manner**

(1) If a constable in uniform has reason to believe that a person has been acting, or is acting, in an anti-social manner (within the meaning of section 1 of the Crime and Disorder Act 1998 (c. 37) (anti-social behaviour orders)), he may require that person to give his name and address to the constable.

(2) Any person who-

- (a) fails to give his name and address when required to do so under subsection (1), or
- (b) gives a false or inaccurate name or address in response to a requirement under that subsection,

is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

*Persons in police detention*

**51 Independent custody visitors for places of detention**

(1) Every police authority shall-

- (a) make arrangements for detainees to be visited by persons appointed under the arrangements ("independent custody visitors"); and
- (b) keep those arrangements under review and from time to time revise them as they think fit.

(2) The arrangements must secure that the persons appointed under the arrangements are independent of both-

- (a) the police authority; and
- (b) the chief officer of police of the police force maintained by that authority.

(3) The arrangements may confer on independent custody visitors such powers as the police authority considers necessary to enable them to carry out their functions under the arrangements and may, in particular, confer on them powers-

- (a) to require access to be given to each police station;
- (b) to examine records relating to the detention of persons there;
- (c) to meet detainees there for the purposes of a discussion about their treatment and conditions while detained; and
- (d) to inspect the facilities there including in particular, cell accommodation, washing and toilet facilities and the facilities for the provision of food.

(4) The arrangements may include provision for access to a detainee to be denied to independent custody visitors if

- (a) it appears to an officer of or above the rank of inspector that there are grounds for denying access at the time it is requested;
- (b) the grounds are grounds specified for the purposes of paragraph (a) in the arrangements; and
- (c) the procedural requirements imposed by the arrangements in relation to a denial of access are complied with.

(5) Grounds shall not be specified in any arrangements for the purposes of subsection (4)(a) unless they are grounds for the time being set out for the purposes of this subsection in the code of practice issued by the Secretary of State under subsection (6).

(6) The Secretary of State shall issue, and may from time to time revise, a code of practice as to the carrying out by police authorities and independent custody visitors of their functions under the arrangements.

(7) Before issuing or revising a code of practice under this section, the Secretary of State shall consult with-

- (a) persons whom he considers to represent the interests of police authorities;
- (b) persons whom he considers to represent the interests of chief officers of police; and
- (c) such other persons as he thinks fit.

(8) The Secretary of State shall lay any code of practice issued by him under this section, and any revisions of any such code, before Parliament.

(9) Police authorities and independent custody visitors shall have regard to the code of practice for the time being in force under subsection (6) in the carrying out of their functions under the preceding provisions of this section.

(10) In this section "detainee", in relation to arrangements made under this section, means a person detained in a police station in the police area of the police authority.

## **52 Detention reviews for detained persons who are asleep**

(1) In section 40 of the 1984 Act (review of police detention), in subsection (8) for the words from "the substitution" to the end there shall be substituted "the modifications specified in subsection (8A)".

(2) After that subsection there shall be inserted-

"(8A) The modifications are-

- (a) the substitution of references to the person whose detention is under review for references to the person arrested;
- (b) the substitution of references to the review officer for references to the custody officer; and
- (c) in subsection (6), the insertion of the following paragraph after paragraph (a)-  
"(aa) asleep;".

(3) In subsection (10) of that section-

- (a) for "(6)" there shall be substituted "(6B)"; and
- (b) for the words from "the substitution" to the end there shall be substituted "the modifications specified in subsection (10A)".

(4) After that subsection there shall be inserted-

"(10A) The modifications are-

- (a) the substitution of a reference to the person whose detention is under review for any reference to the person arrested or to the person charged; and
- (b) in subsection (5), the insertion of the following paragraph after paragraph (a)-  
"(aa) asleep;".

## **53 Persons suspected of offences connected with transport systems**

(1) In section 34(6) of the 1984 Act (persons treated as arrested for an offence), after "1988" there shall be inserted "or section 30(2) of the Transport and Works Act

1992 (c. 42)".

(2) In section 62(11) of that Act (provisions of the Road Traffic Act 1988 (c. 52) relating to the taking of specimens not to be affected by provisions of that section)-

(a) for "affects" there shall be substituted "applies to the taking of a specimen for the purposes of any of the provisions of"; and

(b) after "Road Traffic Act 1988" there shall be inserted "or of sections 26 to 38 of the Transport and Works Act 1992".

#### *Blood specimens*

### **54 Persons authorised to take intimate samples from persons in police detention**

(1) For subsection (9) of section 62 of the 1984 Act (persons who may take intimate samples) there shall be substituted-

"(9) In the case of an intimate sample which is a dental impression, the sample may be taken from a person only by a registered dentist.

(9A) In the case of any other form of intimate sample, except in the case of a sample of urine, the sample may be taken from a person only by-

(a) a registered medical practitioner; or

(b) a registered health care professional."

(2) In section 65 of the 1984 Act (interpretation of Part 5 of that Act), in subsection (1) after the definition of "registered dentist" there shall be inserted-

"'registered health care professional' means a person (other than a medical practitioner) who is-

(a) a registered nurse; or

(b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State;".

(3) After that subsection, there shall be inserted-

"(1A) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.

(1B) An order under subsection (1) shall be made by statutory instrument

and shall be subject to annulment in pursuance of a resolution of either House of Parliament."

## **55 Extension of role of health care professionals**

(1) In subsection (4) of section 7 of the Road Traffic Act 1988 (constable to decide if specimen is of blood or urine) for the words from "shall be decided" onwards there shall be substituted "and, in the case of a specimen of blood, the question who is to be asked to take it shall be decided (subject to subsection (4A)) by the constable making the requirement".

(2) After that subsection there shall be inserted-

"(4A) Where a constable decides for the purposes of subsection (4) to require the provision of a specimen of blood, there shall be no requirement to provide such a specimen if-

(a) the medical practitioner who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; or

(b) the registered health care professional who is asked to take it is of that opinion and there is no contrary opinion from a medical practitioner;

and, where by virtue of this subsection there can be no requirement to provide a specimen of blood, the constable may require a specimen of urine instead."

(3) In subsection (2) of section 11 of that Act (interpretation of sections 3A to 10 of that Act), after the definition of "prescribed limit" there shall be inserted-

"'registered health care professional' means a person (other than a medical practitioner) who is-

(a) a registered nurse; or

(b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State."

(4) After that subsection there shall be inserted-

"(2A) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.

(2B) An order under subsection (2) shall be made by statutory instrument;

and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(5) For subsection (4) of that section there shall be substituted-

"(4) A person provides a specimen of blood if and only if-

- (a) he consents to the taking of such a specimen from him; and
- (b) the specimen is taken from him by a medical practitioner or, if it is taken in a police station, either by a medical practitioner or by a registered health care professional."

## **56 Specimens taken from persons incapable of consenting**

(1) After section 7 of the Road Traffic Act 1988 (c. 52) there shall be inserted-

### **"7A Specimens of blood taken from persons incapable of consenting**

(1) A constable may make a request to a medical practitioner for him to take a specimen of blood from a person ("the person concerned") irrespective of whether that person consents if-

- (a) that person is a person from whom the constable would (in the absence of any incapacity of that person and of any objection under section 9) be entitled under section 7 to require the provision of a specimen of blood for a laboratory test;
- (b) it appears to that constable that that person has been involved in an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter;
- (c) it appears to that constable that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood; and
- (d) it appears to that constable that that person's incapacity is attributable to medical reasons.

(2) A request under this section-

- (a) shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned; and
- (b) shall not be made to a medical practitioner other than a police medical practitioner unless-
  - (i) it is not reasonably practicable for the request to be made to a

police medical practitioner; or

(ii) it is not reasonably practicable for such a medical practitioner (assuming him to be willing to do so) to take the specimen.

(3) It shall be lawful for a medical practitioner to whom a request is made under this section, if he thinks fit-

(a) to take a specimen of blood from the person concerned irrespective of whether that person consents; and

(b) to provide the sample to a constable.

(4) If a specimen is taken in pursuance of a request under this section, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken-

(a) has been informed that it was taken; and

(b) has been required by a constable to give his permission for a laboratory test of the specimen; and

(c) has given his permission.

(5) A constable must, on requiring a person to give his permission for the purposes of this section for a laboratory test of a specimen, warn that person that a failure to give the permission may render him liable to prosecution.

(6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this section is guilty of an offence.

(7) In this section "police medical practitioner" means a medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of a police force."

(2) In section 9 of that Act (protection of hospital patients), for subsection (2) there shall be substituted-

"(1A) While a person is at a hospital as a patient, no specimen of blood shall be taken from him under section 7A of this Act and he shall not be required to give his permission for a laboratory test of a specimen taken under that section unless the medical practitioner in immediate charge of his case-

(a) has been notified of the proposal to take the specimen or to make the requirement; and

(b) has not objected on the ground specified in subsection (2).

(2) The ground on which the medical practitioner may object is-



(a) in a case falling within subsection (1), that the requirement or the provision of the specimen or (if one is required) the warning required by section 7(7) of this Act would be prejudicial to the proper care and treatment of the patient; and

(b) in a case falling within subsection (1A), that the taking of the specimen, the requirement or the warning required by section 7A(5) of this Act would be so prejudicial."

(3) In section 34(3) of the Road Traffic Offenders Act 1988 (c. 53) (disqualification for certain offences where offender has previous conviction)-

(a) the word "and" at the end of paragraph (b) shall be omitted; and

(b) after paragraph (c) there shall be inserted-

"(d) section 7A(6) (failing to allow a specimen to be subjected to laboratory test) where that is an offence involving obligatory disqualification;"

(4) In Schedule 1 to the Road Traffic Offenders Act 1988 (offences to which sections 1, 11 and 12(1) of that Act apply), in the Table, after the entry beginning "RTA section 7" there shall be inserted-

"RTA section 7A	Failing to allow specimen of blood to be subjected to laboratory test	Sections 11 and 12(1)."
-----------------	---	-------------------------

(5) In Part 1 of Schedule 2 to the Road Traffic Offenders Act 1988 (prosecution and punishment of offences under the Traffic Acts), after the entry beginning "RTA section 7" there shall be inserted-

"RTA section 7A	Failing to allow specimen to be subjected to laboratory test	Summarily	(a) Where the test would be for ascertaining ability to drive or proportion of alcohol at the time offender was driving or	(a) Obligatory in the case mentioned in column 4(a) (b) Discretionary in any other case	Obligatory	3-11, in case mentioned in column 4(a) 10, in any other case."
-----------------	--	-----------	--	--	------------	--

			<p>attempting to drive, 6 months or level 5 on the standard scale or both.</p> <p>(b) In any other case, 3 months or level 4 on the standard scale or both</p>			
--	--	--	--	--	--	--

(6) In section 143(6)(b) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (power to forfeit property used for the purposes of an offence under section 7 of the Road Traffic Act 1988 (c. 52))-

(a) after "7" there shall be inserted "or 7A"; and

(b) after "test" there shall be inserted "or to give permission for such a test".

**57 Use of specimens taken from persons incapable of consenting**

(1) In subsection (2) of section 15 of the Road Traffic Offenders Act 1988 (c. 53) (evidence of blood alcohol level)-

(a) after "provided by" there shall be inserted "or taken from"; and

(b) after the word "provided", in the second place where it occurs, there shall be inserted "or taken".

(2) In subsection (3)(a) of that section (rebutting the assumption in subsection (2)), after "provided the specimen" there shall be inserted "or had it taken from him".

(3) In subsection (4) of that section (circumstances in which a specimen of blood is to be disregarded), for the words from "unless" to the end there shall be substituted "unless-

- (a) it was taken from the accused with his consent and either-
  - (i) in a police station by a medical practitioner or a registered health care professional; or
  - (ii) elsewhere by a medical practitioner;

or

- (b) it was taken from the accused by a medical practitioner under

section 7A of the Road Traffic Act 1988 and the accused subsequently gave his permission for a laboratory test of the specimen."

(4) After subsection (5) of that section, there shall be inserted-

"(5A) Where a specimen of blood was taken from the accused under section 7A of the Road Traffic Act 1988, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution unless-

(a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken; and

(b) any request to be supplied with the other part which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with."

(5) In subsection (1) of section 16 of that Act (documentary evidence as to specimens), after "15(5)" there shall be inserted "and (5A)".

(6) In subsection (2) of that section (documentary evidence as to consent), after the words "medical practitioner", in both places where they occur, there shall be inserted "or a registered health care professional".

## **58 Equivalent provision for offences connected with transport systems**

(1) In subsection (6) of section 31 of the Transport and Works Act 1992 (c. 42) (constable to decide if specimen is of blood or urine), for the words from "shall be decided" onwards there shall be substituted "and, in the case of a specimen of blood, the question who is to be asked to take it shall be decided (subject to subsection (6A)) by the constable making the requirement".

(2) After that subsection there shall be inserted-

"(6A) Where a constable decides for the purposes of subsection (6) to require the provision of a specimen of blood, there shall be no requirement to provide such a specimen if-

(a) the medical practitioner who is asked to take the specimen is of the opinion that, for medical reasons, it cannot or should not be taken; or

(b) the registered health care professional who is asked to take it is of that opinion and there is no contrary opinion from a medical practitioner,

and, where by virtue of this subsection there can be no requirement to provide

a specimen of blood, the constable may require a specimen of urine instead."

(3) After subsection (9) of that section there shall be inserted-

"(9A) In this section "health care professional" means a person (other than a medical practitioner) who is-

(a) a registered nurse; or

(b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.

(9B) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.

(9C) An order under subsection (9A)(b) shall be made by statutory instrument; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(4) After section 31 of that Act there shall be inserted-

**"31A Specimens of blood taken from persons incapable of consenting**

(1) A constable may make a request to a medical practitioner for him to take a specimen of blood from a person ("the person concerned") irrespective of whether that person consents if-

(a) that person is a person from whom the constable would (in the absence of any incapacity of that person and of any objection under section 33) be entitled under section 31 to require the provision of a specimen of blood for a laboratory test;

(b) it appears to that constable that that person has been involved in-

(i) an accident that constitutes or is comprised in the matter that is under investigation or the circumstances of that matter; or

(ii) a dangerous incident (within the meaning given by section 29(3)) that constitutes or is comprised in that matter or those circumstances;

(c) it appears to that constable that that person is or may be incapable (whether or not he has purported to do so) of giving a valid consent to the taking of a specimen of blood; and

(d) it appears to that constable that that person's incapacity is

attributable to medical reasons.

(2) A request under this section-

(a) shall not be made to a medical practitioner who for the time being has any responsibility (apart from the request) for the clinical care of the person concerned; and

(b) shall not be made to a medical practitioner other than a police medical practitioner unless-

(i) it is not reasonably practicable for the request to be made to a police medical practitioner; or

(ii) it is not reasonably practicable for such a medical practitioner (assuming him to be willing to do so) to take the specimen.

(3) It shall be lawful for a medical practitioner to whom a request is made under this section, if he thinks fit-

(a) to take a specimen of blood from the person concerned irrespective of whether that person consents; and

(b) to provide the sample to a constable.

(4) If a specimen is taken in pursuance of a request under this section, the specimen shall not be subjected to a laboratory test unless the person from whom it was taken-

(a) has been informed that it was taken; and

(b) has been required by a constable to give his permission for a laboratory test of the specimen; and

(c) has given his permission.

(5) A constable must, on requiring a person to give his permission for the purposes of this section for a laboratory test of a specimen, warn that person that a failure to give the permission, may render him liable to prosecution.

(6) A person who, without reasonable excuse, fails to give his permission for a laboratory test of a specimen of blood taken from him under this section is guilty of an offence.

(7) In this section "police medical practitioner" means a medical practitioner who is engaged under any agreement to provide medical services for purposes connected with the activities of a police force."

(5) In section 33 of that Act (protection of hospital patients), for subsection (2) there shall be substituted-

"(1A) While a person is at a hospital as a patient, no specimen of blood shall be taken from him under section 31A of this Act and he shall not be required to give his permission for a laboratory test of a specimen taken under that section unless the medical practitioner in immediate charge of his case-

(a) has been notified of the proposal to take the specimen or to make the requirement; and

(b) has not objected on the ground specified in subsection (2).

(2) The ground on which the medical practitioner may object is-

(a) in a case falling within subsection (1), that the requirement or the provision of the specimen or (if one is required) the warning required by section 31(9) of this Act would be prejudicial to the proper care and treatment of the patient; and

(b) in a case falling within subsection (1A), that the taking of the specimen, the requirement or the warning required by section 31A(5) of this Act would be so prejudicial."

(6) In subsection (1)(a) of section 34 of that Act (evidence of blood alcohol level) after "provided by" there shall be inserted "or taken from".

(7) In subsection (2)(a) of that section (rebutting the assumption in subsection (1)(b)), after "provided the specimen" there shall be inserted "or had it taken from him".

(8) After subsection (3) of that section there shall be substituted-

"(3A) Where a specimen of blood was taken from the accused under section 31A, evidence of the proportion of alcohol or any drug found in the specimen is not admissible on behalf of the prosecution in the proceedings unless-

(a) the specimen in which the alcohol or drug was found is one of two parts into which the specimen taken from the accused was divided at the time it was taken; and

(b) any request to be supplied with the other part which was made by the accused at the time when he gave his permission for a laboratory test of the specimen was complied with."

(9) In section 35(3) of that Act (documentary evidence as to consent) after the words "medical practitioner", in both places where they occur, there shall be inserted "or a registered health care professional".

(10) After subsection (2) of section 38 of that Act (interpretation of Chapter 1 of

Part 2 of that Act) there shall be inserted-

"(2A) In this Chapter "registered health care professional" means a person (other than a medical practitioner) who is-

- (a) a registered nurse; or
- (b) a registered member of a health care profession which is designated for the purposes of this paragraph by an order made by the Secretary of State.

(2B) A health care profession is any profession mentioned in section 60(2) of the Health Act 1999 (c. 8) other than the profession of practising medicine and the profession of nursing.

(2C) An order under subsection (2A)(b) shall be made by statutory instrument; and any such statutory instrument shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(11) For subsection (5) of that section there shall be substituted-

"(5) For the purposes of this Chapter, a person provides a specimen of blood if and only if-

- (a) he consents to the taking of such a specimen from him; and
- (b) the specimen is taken from him by a medical practitioner or, if it is taken in a police station, either by a medical practitioner or by a registered health care professional."

#### *Seizure of motor vehicles*

### **59 Vehicles used in manner causing alarm, distress or annoyance**

(1) Where a constable in uniform has reasonable grounds for believing that a motor vehicle is being used on any occasion in a manner which-

- (a) contravenes section 3 or 34 of the Road Traffic Act 1988 (c. 52) (careless and inconsiderate driving and prohibition of off-road driving), and
- (b) is causing, or is likely to cause, alarm, distress or annoyance to members of the public,

he shall have the powers set out in subsection (3).

(2) A constable in uniform shall also have the powers set out in subsection (3) where he has reasonable grounds for believing that a motor vehicle has been used on

any occasion in a manner falling within subsection (1).

(3) Those powers are-

(a) power, if the motor vehicle is moving, to order the person driving it to stop the vehicle;

(b) power to seize and remove the motor vehicle;

(c) power, for the purposes of exercising a power falling within paragraph (a) or (b), to enter any premises on which he has reasonable grounds for believing the motor vehicle to be;

(d) power to use reasonable force, if necessary, in the exercise of any power conferred by any of paragraphs to (a) to (c).

(4) A constable shall not seize a motor vehicle in the exercise of the powers conferred on him by this section unless-

(a) he has warned the person appearing to him to be the person whose use falls within subsection (1) that he will seize it, if that use continues or is repeated; and

(b) it appears to him that the use has continued or been repeated after the the warning.

(5) Subsection (4) does not require a warning to be given by a constable on any occasion on which he would otherwise have the power to seize a motor vehicle under this section if-

(a) the circumstances make it impracticable for him to give the warning;

(b) the constable has already on that occasion given a warning under that subsection in respect of any use of that motor vehicle or of another motor vehicle by that person or any other person;

(c) the constable has reasonable grounds for believing that such a warning has been given on that occasion otherwise than by him; or

(d) the constable has reasonable grounds for believing that the person whose use of that motor vehicle on that occasion would justify the seizure is a person to whom a warning under that subsection has been given (whether or not by that constable or in respect the same vehicle or the same or a similar use) on a previous occasion in the previous twelve months.

(6) A person who fails to comply with an order under subsection (3)(a) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(7) Subsection (3)(c) does not authorise entry into a private dwelling house.



(8) The powers conferred on a constable by this section shall be exercisable only at a time when regulations under section 60 are in force.

(9) In this section-

"driving" has the same meaning as in the Road Traffic Act 1988 (c. 52);

"motor vehicle" means any mechanically propelled vehicle, whether or not it is intended or adapted for use on roads; and

"private dwelling house" does not include any garage or other structure occupied with the dwelling house, or any land appurtenant to the dwelling house.

## **60 Retention etc. of vehicles seized under section 59**

(1) The Secretary of State may by regulations make provision as to-

- (a) the removal and retention of motor vehicles seized under section 59; and
- (b) the release or disposal of such motor vehicles.

(2) Regulations under subsection (1) may, in particular, make provision-

(a) for the giving of notice of the seizure of a motor vehicle under section 59 to a person who is the owner of that vehicle or who, in accordance with the regulations, appears to be its owner;

(b) for the procedure by which a person who claims to be the owner of a motor vehicle seized under section 59 may seek to have it released;

(c) for requiring the payment of fees, charges or costs in relation to the removal and retention of such a motor vehicle and to any application for its release;

(d) as to the circumstances in which a motor vehicle seized under section 59 may be disposed of;

(e) as to the destination-

(i) of any fees or charges payable in accordance with the regulations; and

(ii) of the proceeds (if any) arising from the disposal of a motor vehicle seized under section 59;

(f) for the delivery to a local authority, in circumstances prescribed by or determined in accordance with the regulations, of any motor vehicle seized under section 59.

(3) Regulations under subsection (1) must provide that a person who would otherwise be liable to pay any fee or charge under the regulations shall not be liable to pay it if-

(a) the use by reference to which the motor vehicle in question was seized was not a use by him; and

(b) he did not know of the use of the vehicle in the manner which led to its seizure, had not consented to its use in that manner and could not, by the taking of reasonable steps, have prevented its use in that manner.

(4) In this section-

"local authority"-

(a) in relation to England, means the council of a county, metropolitan district or London borough, the Common Council of the City of London or Transport for London; and

(b) in relation to Wales, means the council of a county or county borough;

"motor vehicle" has the same meaning as in section 59.

#### *Anti-social behaviour*

### **61 Anti-social behaviour orders**

(1) Section 1 of the Crime and Disorder Act 1998 (c. 37) (anti-social behaviour orders) shall be amended as follows.

(2) For paragraph (b) of subsection (1) (authority to be satisfied that order is necessary to protect persons), there shall be substituted-

"(b) that such an order is necessary to protect relevant persons from further anti-social acts by him."

(3) The words after that paragraph (which specify the authorities who, as relevant authorities, are entitled to apply for anti-social behaviour orders) shall be omitted.

(4) After subsection (1) there shall be inserted-

"(1A) In this section and sections 1B and 1E "relevant authority" means -

(a) the council for a local government area;

(b) the chief officer of police of any police force maintained for a police area;

(c) the chief constable of the British Transport Police Force; or

(d) any person registered under section 1 of the Housing Act 1996 (c. 52) as a social landlord who provides or manages any houses or hostel

in a local government area.

(1B) In this section "relevant persons" means-

(a) in relation to a relevant authority falling within paragraph (a) of subsection (1A), persons within the local government area of that council;

(b) in relation to a relevant authority falling within paragraph (b) of that subsection, persons within the police area;

(c) in relation to a relevant authority falling within paragraph (c) of that subsection-

(i) persons who are on or likely to be on policed premises in a local government area; or

(ii) persons who are in the vicinity of or likely to be in the vicinity of such premises;

(d) in relation to a relevant authority falling within paragraph (d) of that subsection-

(i) persons who are residing in or who are otherwise on or likely to be on premises provided or managed by that authority; or

(ii) persons who are in the vicinity of or likely to be in the vicinity of such premises."

(5) Subsection (2) (which is superseded by the provision made by section 66 of this Act) shall cease to have effect.

(6) In subsection (3) (which identifies the court to which an application should be made), for the words from "the place" to the end there shall be substituted "the local government area or police area concerned".

(7) For subsection (6) (nature of prohibitions which may be imposed by order) there shall be substituted-

"(6) The prohibitions that may be imposed by an anti-social behaviour order are those necessary for the purpose of protecting persons (whether relevant persons or persons elsewhere in England and Wales) from further anti-social acts by the defendant."

(8) In subsection (10) of that section (penalty for contravention of order), for "shall be" there shall be substituted "is guilty of an offence and".

(9) In subsection (12) of that section (interpretation)-

(a) after "In this section- " there shall be inserted-

"British Transport Police Force" means the force of constables appointed under section 53 of the British Transport Commission Act 1949 (c. xxix);"; and

(b) after the definition of "local government area" there shall be inserted-

"policed premises" has the meaning given by section 53(3) of the British Transport Commission Act 1949."

(10) Nothing in this section applies in relation to any application made under section 1 of the Crime and Disorder Act 1998 (c. 37) before the coming into force of this section.

## **62 Power of Secretary of State to add to relevant authorities**

(1) After section 1 of the Crime and Disorder Act 1998 (c. 37) there shall be inserted-

### **"1A Power of Secretary of State to add to relevant authorities**

The Secretary of State may by order provide that the chief officer of a body of constables maintained otherwise than by a police authority is, in such cases and circumstances as may be prescribed by the order, to be a relevant authority for the purposes of section 1 above."

(2) In subsection (2) of section 114 of that Act (negative resolution procedure for orders) after "section" there shall be inserted "1A,".

## **63 Orders in county court proceedings**

After section 1A of the Crime and Disorder Act 1998 (which is inserted by section 62), there shall be inserted-

### **"1B Orders in county court proceedings**

(1) This section applies to any proceedings in a county court ("the principal proceedings").

(2) If a relevant authority-

(a) is a party to the principal proceedings, and

(b) considers that a party to those proceedings is a person in relation

to whom it would be reasonable for it to make an application under section 1,  
it may make an application in those proceedings for an order under subsection (4).

(3) If a relevant authority-

- (a) is not a party to the principal proceedings, and
- (b) considers that a party to those proceedings is a person in relation to whom it would be reasonable for it to make an application under section 1,

it may make an application to be joined to those proceedings to enable it to apply for an order under subsection (4) and, if it is so joined, may apply for such an order.

(4) If, on an application for an order under this subsection, it is proved that the conditions mentioned in section 1(1) are fulfilled as respects that other party, the court may make an order which prohibits him from doing anything described in the order.

(5) Subject to subsection (6), the party to the principal proceedings against whom an order under this section has been made and the relevant authority on whose application that order was made may apply to the county court which made an order under this section for it to be varied or discharged by a further order.

(6) Except with the consent of the relevant authority and the person subject to the order, no order under this section shall be discharged before the end of the period of two years beginning with the date of service of the order.

(7) Subsections (5) to (7) and (10) to (12) of section 1 apply for the purposes of the making and effect of orders made under this section as they apply for the purposes of the making and effect of anti-social behaviour orders."

## **64 Orders on conviction in criminal proceedings**

After section 1B of the Crime and Disorder Act 1998 (c. 37) (which is inserted by section 63), there shall be inserted-

### **"1C Orders on conviction in criminal proceedings**

(1) This section applies where a person (the "offender") is convicted of a relevant offence.

(2) If the court considers-

(a) that the offender has acted, at any time since the commencement date, in an anti-social manner, that is to say in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself, and

(b) that an order under this section is necessary to protect persons in any place in England and Wales from further anti-social acts by him, it may make an order which prohibits the offender from doing anything described in the order.

(3) The court may make an order under this section whether or not an application has been made for such an order.

(4) An order under this section shall not be made except-

(a) in addition to a sentence imposed in respect of the relevant offence; or

(b) in addition to an order discharging him conditionally.

(5) An order under this section takes effect on the day on which it is made, but the court may provide in any such order that such requirements of the order as it may specify shall, during any period when the offender is detained in legal custody, be suspended until his release from that custody.

(6) An offender subject to an order under this section may apply to the court which made it for it to be varied or discharged.

(7) In the case of an order under this section made by a magistrates' court, the reference in subsection (6) to the court by which the order was made includes a reference to any magistrates' court acting for the same petty sessions area as that court.

(8) No application may be made under subsection (6) for the discharge of an order before the end of the period of two years beginning with the day on which the order takes effect.

(9) Subsections (7), (10) and (11) of section 1 apply for the purposes of the making and effect of orders made by virtue of this section as they apply for the purposes of the making and effect of anti-social behaviour orders.

(10) In this section-

"the commencement date" has the same meaning as in section 1 above;

"the court" in relation to an offender means-

(a) the court by or before which he is convicted of the relevant offence; or

(b) if he is committed to the Crown Court to be dealt with for that offence, the Crown Court; and

"relevant offence" means an offence committed after the coming into force of section 64 of the Police Reform Act 2002 (c. 30)."

## **65 Interim orders**

(1) After section 1C of the Crime and Disorder Act 1998 (c. 37)(which is inserted by section 64), there shall be inserted-

### **"1D Interim orders**

(1) The applications to which this section applies are-

(a) an application for an anti-social behaviour order; and

(b) an application for an order under section 1B.

(2) If, before determining an application to which this section applies, the court considers that it is just to make an order under this section pending the determination of that application ("the main application"), it may make such an order.

(3) An order under this section is an order which prohibits the defendant from doing anything described in the order.

(4) An order under this section-

(a) shall be for a fixed period;

(b) may be varied, renewed or discharged;

(c) shall, if it has not previously ceased to have effect, cease to have effect on the determination of the main application.

(5) Subsections (6), (8) and (10) to (12) of section 1 apply for the purposes of the making and effect of orders under this section as they apply for the purposes of the making and effect of anti-social behaviour orders."

(2) In section 4(1) of that Act (appeals), after "an anti-social behaviour order" there

shall be inserted ", an order under section 1D above,".

## **66 Consultation requirements**

After section 1D of the Crime and Disorder Act 1998 (c. 37)(which is inserted by section 65), there shall be inserted-

### **"1E Consultation requirements**

(1) This section applies to-

- (a) applications for an anti-social behaviour order; and
- (b) applications for an order under section 1B.

(2) Before making an application to which this section applies, the council for a local government area shall consult the chief officer of police of the police force maintained for the police area within which that local government area lies.

(3) Before making an application to which this section applies, a chief officer of police shall consult the council for the local government area in which the person in relation to whom the application is to be made resides or appears to reside.

(4) Before making an application to which this section applies, a relevant authority other than a council for a local government area or a chief officer of police shall consult-

- (a) the council for the local government area in which the person in relation to whom the application is to be made resides or appears to reside; and
- (b) the chief officer of police of the police force maintained for the police area within which that local government area lies."

### *Sex offenders*

## **67 Sex offenders: England and Wales**

(1) Section 2 of the Crime and Disorder Act 1998 (c. 37) (sex offender orders) shall be amended as follows.

(2) In subsection (1) (application for a sex offender order)-



(a) for "in his police area" there shall be substituted "who he believes is in, or is intending to come to, his police area";

(b) for "the public" there shall be substituted "the public in the United Kingdom, or any particular members of that public,".

(3) In subsection (2) (which identifies the court to which an application must be made)-

(a) for "the magistrates' court" there shall be substituted"-

(a) any magistrates' court";

(b) at the end there shall be inserted"; or

(b) any magistrates' court whose commission area includes any part of the applicant's police area."

(4) In subsection (4) (the prohibitions which may be imposed), for "the public" there shall be substituted "the public in the United Kingdom, or any particular members of that public,".

(5) In subsection (6) (variation or discharge of the order)-

(a) after "the applicant" there shall be inserted ", any other relevant chief officer of police";

(b) for "the court which made a sex offender order for it" there shall be substituted "the appropriate court for the sex offender order".

(6) After that subsection there shall be inserted-

"(6A) In subsection (6) above-

"the appropriate court" means-

(a) the court which made the sex offender order; or

(b) any magistrates' court whose commission area includes any part of the police area of the applicant or of any other relevant chief officer of police;

"relevant chief officer of police" means a chief officer of police who believes that the defendant is in, or is intending to come to, his police area."

(7) In subsection (7) (discharge of orders), after "parties" there shall be inserted "and subject to subsection (7A) below".

(8) After that subsection there shall be inserted-

"(7A) Where any magistrates' court makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one."

(9) In subsection (8) (offence for breach of order), for "shall be" there shall be substituted "is guilty of an offence and".

(10) Subsections (4) to (6) apply in relation to applications and orders under section 2 of the Crime and Disorder Act 1998 (c. 37), whether made before or after the coming into force of this section.

## **68 Interim orders for sex offenders: England and Wales**

(1) After section 2 of the Crime and Disorder Act 1998 there shall be inserted-

### **"2A Interim orders: sex offenders**

(1) This section applies where an application for a sex offender order ("the main application") to a magistrates' court has not been determined.

(2) The applicant may apply by complaint to the court for an interim order, pending the determination of the main application.

(3) The court may make an interim order prohibiting the defendant from doing anything described in the order if it considers that it is appropriate to do so.

(4) An interim order-

(a) shall have effect for the period specified in the order;

(b) shall (if still in force) cease to have effect on the determination of the main application.

(5) While an interim order is in force, Part 1 of the Sex Offenders Act 1997 (c. 51) shall have effect as if-

(a) the defendant were subject to the notification requirements of that Part; and

(b) in relation to him, the relevant date (within the meaning of that Part) were the date of service of the order.

(6) The applicant or the defendant may apply by complaint to the court which made the interim order for it to be varied or discharged by a further

order.

(7) If without reasonable excuse a person does anything which he is prohibited from doing by an interim order, he is guilty of an offence.

(8) A person guilty of an offence under subsection (7) above shall be liable-

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.

(9) Where a person is convicted of an offence under subsection (7) above, it shall not be open to the court by or before which he is convicted to make an order under subsection (1)(b) (conditional discharge) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) in respect of the offence."

(2) In section 4(1) of that Act (appeals), for "or sex offender order" there shall be substituted ", a sex offender order or an order under section 2A above".

## **69 Sex offender orders made in Scotland or Northern Ireland**

After section 2A of the Crime and Disorder Act 1998 (c. 37) (which is inserted by section 68 there shall be inserted-

### **"2B Sex offender orders made in Scotland or Northern Ireland**

(1) If without reasonable excuse a person does anything in England and Wales which he is prohibited from doing there by-

(a) an order under section 20(4) below; or

(b) an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)),

he is guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) above shall be liable-

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to

both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.

(3) Where a person is convicted of an offence under subsection (1) above, it shall not be open to the court by or before which he is convicted to make an order under subsection (1)(b) (conditional discharge) of section 12 of the Powers of Criminal Courts (Sentencing) Act 2000 in respect of the offence."

## **70 Sex offenders: Scotland**

(1) The Crime and Disorder Act 1998 shall be amended as follows.

(2) In section 20(1) (application for a sex offender order in Scotland) for "in the area of his police force" there shall be substituted "who he believes is in, or is intending to come to, the area of his police force".

(3) In section 20(2) (conditions to be fulfilled), for "the public" there shall be substituted "the public in the United Kingdom, or any particular members of that public".

(4) In section 20(3) (court to which application must be made)-

(a) after "application to" there shall be inserted"-

(a) ";

(b) at the end there shall be inserted"; or

(b) the sheriff whose sheriffdom includes any part of the area of the applicant's police force."

(5) In section 20(5) (prohibitions which may be imposed), for "the public" there shall be substituted "the public in the United Kingdom, or any particular members of that public,".

(6) In section 21(7) (time limit, variation and revocation of order)-

(a) in paragraph (b), after "revoked" there shall be inserted "(in the case of a sex offender order, by the appropriate court for that order)";

(b) in paragraph (b)(i), after "the order" there shall be inserted "or, in the case of a sex offender order, any other relevant chief constable".

(7) After that subsection there shall be inserted-

"(7A) In subsection (7) above-

"the appropriate court" means-

- (a) the sheriff who made the sex offender order; or
- (b) the sheriff whose sheriffdom includes any part of the area of the applicant's police force or of the police force of any other relevant chief constable;

"relevant chief constable" means a chief constable who believes that the accused is in, or is intending to come to, the area of his police force."

(8) After subsection (7A) (inserted by subsection (7)) there shall be inserted-

"(7B) Where a sheriff makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one."

(9) Subsections (5) to (7) apply in relation to applications and orders under section 20 of the Crime and Disorder Act 1998 (c. 37), whether made before or after the coming into force of this section.

## **71 Sex offender orders made in England and Wales or Northern Ireland**

After section 21 of the Crime and Disorder Act 1998 there shall be inserted-

### **"21A Sex offender orders made in England and Wales or Northern Ireland**

(1) If without reasonable excuse a person does anything in Scotland which he is prohibited from doing there by-

- (a) an order under section 2(3) or 2A above; or
- (b) an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)),

he is guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) above shall be liable-

- (a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or
- (b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both."

## **72 Sex offenders: Northern Ireland**

(1) Article 6 of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)) (sex offender orders) shall be amended as follows.

(2) In paragraph (1) (application for a sex offender order)-

(a) for "in Northern Ireland" there shall be substituted "who he believes is in, or is intending to come to, Northern Ireland";

(b) for "the public" there shall be substituted "the public in the United Kingdom, or any particular members of that public,".

(3) In paragraph (2) (which identifies the court to which an application must be made), for the words following "1981 to" there shall be substituted "any court of summary jurisdiction".

(4) In paragraph (4) (the prohibitions which may be imposed), for "the public" there shall be substituted "the public in the United Kingdom, or any particular members of that public,".

(5) In paragraph (7) (discharge of orders), after "parties" there shall be inserted "and subject to paragraph (7A)".

(6) After that paragraph there shall be inserted-

"(7A) Where a court makes a sex offender order in relation to a person who is already subject to such an order (whether made by that court or another), the earlier order is discharged by the making of the subsequent one."

(7) Subsection (4) applies in relation to applications and orders under Article 6 of the Criminal Justice (Northern Ireland) Order 1998, whether made before or after the coming into force of this section.

## **73 Interim orders for sex offenders: Northern Ireland**

(1) After Article 6 of the Criminal Justice (Northern Ireland) Order 1998 there shall be inserted-

### **"6A Interim orders: sex offenders**

(1) This Article applies where an application for a sex offender order ("the main application") to a court of summary jurisdiction has not been

determined.

(2) The applicant may apply by way of complaint under Part VIII of the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/ 1675 (N.I. 26)) to the court for an interim order, pending the determination of the main application.

(3) The court may make an interim order prohibiting the defendant from doing anything described in the order if it considers that it is appropriate to do so.

(4) An interim order-

(a) shall have effect for the period specified in the order;

(b) shall (if still in force) cease to have effect on the determination of the main application.

(5) While an interim order is in force, Part 1 of the Sex Offenders Act 1997 (c. 51) shall have effect as if-

(a) the defendant were subject to the notification requirements of that Part; and

(b) in relation to him, the relevant date (within the meaning of that Part) were the date of service of the order.

(6) The applicant or the defendant may apply for the variation or discharge of the interim order by a further order.

(7) If without reasonable excuse a person does anything which he is prohibited from doing by an interim order, he is guilty of an offence.

(8) A person guilty of an offence under paragraph (7) shall be liable-

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.

(9) Where a person is convicted of an offence under paragraph (7), it shall not be open to the court by or before which he is convicted to make an order under paragraph (1)(b) (conditional discharge) of Article 4 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/ 3160 (N.I. 24)) in respect of the offence."

(2) In Article 7(7) of that Order (sex offender orders: supplemental)-

(a) after "a sex offender order" there shall be inserted "or an interim order under Article 6A";

(b) after "Article 6(6)" there shall be inserted "or 6A(6)".

**74 Sex offender orders made in England and Wales or Scotland**

After Article 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/2839 (N.I. 20)) (which is inserted by section 73 above) there shall be inserted-

**"6B Sex offender orders made in England and Wales or Scotland**

(1) If without reasonable excuse a person does anything in Northern Ireland which he is prohibited from doing there by an order under section 2, 2A or 20 of the Crime and Disorder Act 1998 (c. 37) he is guilty of an offence.

(2) A person who is guilty of an offence under paragraph (1) shall be liable-

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both; or

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.

(3) Where a person is convicted of an offence under paragraph (1), it shall not be open to the court by or before which he is convicted to make an order under paragraph (1)(b) (conditional discharge) of Article 4 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) in respect of the offence."

*The British Transport Police*

**75 Removal of truants to designated places**

(1) In section 16 of the Crime and Disorder Act 1998 (c. 37) (removal of truants to designated place), after subsection (3) there shall be inserted-

"(3A) The power of a police officer of or above the rank of superintendent under subsection (2) to specify any area falling within a police area shall be exercisable by such an officer who is a member of the British Transport Police as if the reference in that subsection to an area in the police area were a



reference to-

- (a) any area in or in the vicinity of any policed premises; or
  - (b) the whole or any part of any such premises;
- and references in subsection (3) to the specified area shall have effect accordingly."

(2) In subsection (5) of that section (interpretation)-

- (a) before the definition of "local authority" there shall be inserted-  
""British Transport Police" means the force of constables appointed under section 53 of the British Transport Commission Act 1949 (c. xxix);"

and

- (b) after the definition of "local authority" there shall be inserted-  
""policed premises" has the meaning given by section 53(3) of the British Transport Commission Act 1949;".

## **76 Amendments to Part 3 of the Road Traffic Offenders Act 1988**

(1) Part 3 of the Road Traffic Offenders Act 1988 (c. 53) (fixed penalties) shall be amended as follows.

(2) In section 54(9) (meaning of authorised person for the purposes of fixed penalty provisions), at the end there shall be inserted "or a person authorised for those purposes by or on behalf of the chief constable of the British Transport Police."

(3) In section 75(1) (conditional offers in England and Wales), at the end there shall be inserted "or, if the constable is a member of the British Transport Police, by or on behalf of the chief constable of the British Transport Police."

(4) In section 76(2) (limitation on proceedings), in paragraph (a), for "the chief officer" there shall be substituted "the person by or on whose behalf the conditional offer was sent".

(5) In section 87 (guidance from the Secretary of State), after "areas" there shall be inserted "and to the chief constable of the British Transport Police".

(6) In section 89 (interpretation of Part 3), after the definition of "authorised person" there shall be inserted-

""British Transport Police" means the force of constables appointed under the British Transport Commission Act 1949 (c. xxix);".

*Property in possession of NCS*

**77 Application of the Police (Property) Act 1897 to NCS**

(1) After section 2 of the Police (Property) Act 1897 (c. 30) there shall be inserted-

**"2A Application to NCS**

(1) This Act applies to property which has come into the possession of the National Crime Squad as it applies to property that has come into the possession of the police.

(2) In relation to property that has come into the possession of the National Crime Squad-

(a) the reference in section 1(1) to an officer of police is a reference to a member of that Squad; and

(b) references in section 2 to the property remaining in the possession of the police are references to its remaining in the possession of that Squad.

(3) The power to make regulations under section 2 has effect in relation to property that has come into the possession of the National Crime Squad as if-

(a) the relevant authority for the purposes of subsection (2A) of that section were the Service Authority for that Squad; and

(b) the reference in subsection (2A)(c) of that section to police purposes were a reference to the purposes of that Squad."

(2) In section (2) of that Act (regulations), for subsection (2B) there shall be substituted-

"(2B) The relevant authority for the purposes of subsection (2A) is the police authority."

PART  
5

THE MINISTRY OF DEFENCE POLICE

**78 Ministry of Defence police serving with other forces**

After section 2A of the Ministry of Defence Police Act 1987 (c. 4) (provision of assistance to other forces) there shall be inserted-

**"2B Constables serving with other forces**

(1) This section applies where a member of the Ministry of Defence Police serves with a relevant force under arrangements made between the chief officer of that force and the chief constable of the Ministry of Defence Police.

(2) The member of the Ministry of Defence Police-

(a) shall be under the direction and control of the chief officer of the relevant force; and

(b) shall have the same powers and privileges as a member of that force.

(3) In this section-

"British Transport Police Force" has the same meaning as in section 2 above;

"chief officer" means-

(a) any chief officer of police of a police force for a police area in Great Britain;

(b) the chief constable of the Police Service of Northern Ireland;

(c) the Director General of the National Criminal Intelligence Service;

(d) the Director General of the National Crime Squad;

(e) the chief constable of the British Transport Police Force; or

(f) the chief constable of the United Kingdom Atomic Energy Authority Constabulary;

"relevant force" means-

(a) any police force for a police area in Great Britain;

(b) the Police Service of Northern Ireland;

- (c) the National Criminal Intelligence Service;
- (d) the National Crime Squad;
- (e) the British Transport Police Force; or
- (f) the United Kingdom Atomic Energy Authority Constabulary;

"United Kingdom Atomic Energy Authority Constabulary" has the same meaning as in section 2 above."

## **79 Disciplinary matters**

(1) After section 3 of the Ministry of Defence Police Act 1987 (c. 4) there shall be inserted-

### **"3A Regulations relating to disciplinary matters**

(1) The Secretary of State shall by regulations made by statutory instrument establish, or make provision for the establishment of, procedures for cases in which a member of the Ministry of Defence Police may be dealt with by suspension, dismissal, requirement to resign, reduction in rank, reduction in rate of pay, fine, reprimand or caution.

(2) The regulations may provide-

(a) for decisions which would otherwise fall to be taken by the Secretary of State or the chief constable of the Ministry of Defence Police to be taken instead-

(i) by a person or persons appointed in accordance with the regulations; or

(ii) by the Ministry of Defence Police Committee;

and

(b) for decisions taken by or on behalf of the Secretary of State or the chief constable of the Ministry of Defence Police to be reviewed by a person or persons appointed by or in accordance with the regulations.

(3) In relation to any matter as to which provision may be made by regulations under this section, the regulations may-

(a) authorise or require provision to be made by, or confer discretionary powers on, the Secretary of State, the Ministry of Defence Police Committee, the chief constable of the Ministry of Defence Police or other persons; or

(b) authorise or require the delegation by any person of

functions conferred on that person by or under the regulations.

(4) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(2) After section 4 of that Act there shall be inserted-

**"4A Appeals against dismissal etc.**

(1) Subject to subsection (2) below, a member of the Ministry of Defence Police who is dismissed, required to resign or reduced in rank by a decision taken-

(a) in proceedings under regulations made in accordance with section 3A above, or

(b) in proceedings for the purposes of any procedures established in accordance with an agreement or order under section 60 of the Police (Northern Ireland) Act 1998 (c. 32),

may appeal to an appeals tribunal.

(2) Subsection (1) above does not apply in the case of a person who has a right to apply to some other person for a review of the decision; and in that case that person may appeal to an appeals tribunal from any decision of that other person as a result of which he is dismissed, required to resign or reduced in rank.

(3) The Secretary of State may by regulations made by statutory instrument-

(a) make provision equivalent, subject to such modifications as the Secretary of State thinks fit, to that made in relation to police appeals tribunals by any provision of Schedule 6 to the Police Act 1996 (c. 16) or Schedule 3 to the Police (Scotland) Act 1967 (c. 77);

(b) make provision as to procedure on appeals to appeals tribunals under this section; and

(c) make provision enabling an appeals tribunal to require any person to attend a hearing and to give evidence or produce documents.

(4) Regulations made by virtue of subsection (3)(c) above may, in particular, apply subsections (2) and (3) of section 250 of the Local Government Act 1972 (c. 70) or subsections (4) and (5) of section 210 of the Local Government (Scotland) Act 1973 (c. 65) with such

modifications as may be set out in the regulations.

(5) Where an appeals tribunal allows an appeal it may, if it considers that it is appropriate to do so, make an order dealing with the appellant in a way which-

- (a) appears to the tribunal to be less severe than the way in which he was dealt with by the decision appealed against; and
- (b) is a way in which he could have been dealt with by the person who made the decision.

(6) Any statutory instrument containing regulations under subsection (3) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) In this section "an appeals tribunal" means a tribunal constituted in accordance with regulations under subsection (3) above."

(3) In section 1 of that Act (establishment of Ministry of Defence Police), for subsection (5) there shall be substituted-

"(5) The Secretary of State shall appoint a committee, to be known as the Ministry of Defence Police Committee-

- (a) to advise him with respect to such matters concerning the Ministry of Defence Police as he may from time to time require; and
- (b) to exercise such other functions as may be conferred on it by or under this Act;

and the Secretary of State may make regulations concerning the membership and the procedure of the Committee."

(4) After section 6 of that Act there shall be inserted-

**"6A Powers to make regulations**

Any power of the Secretary of State under this Act to make regulations shall include power to make different provision for different purposes."

**80 Functions of inspectors of constabulary**

Before section 5 of the Ministry of Defence Police Act 1987 (c. 4) there shall be inserted-

**"4B Functions of inspectors of constabulary**

(1) The inspectors of constabulary shall inspect, and report to the Secretary of State on, the efficiency and effectiveness of the Ministry of Defence Police.

(2) The Secretary of State may at any time require the inspectors of constabulary to carry out an inspection under this section of the Ministry of Defence Police and to report to him on that inspection.

(3) A requirement under subsection (2) may include a requirement for the inspection to be confined to a particular part of the Ministry of Defence Police, to particular matters or to particular activities of the Ministry of Defence Police.

(4) The inspectors of constabulary shall carry out such other duties for the purposes of furthering the efficiency and effectiveness of the Ministry of Defence Police as the Secretary of State may from time to time direct.

(5) Before carrying out any inspection by virtue of subsection (1) in Scotland, the inspectors of constabulary shall consult the Scottish inspectors with respect to the scope and conduct of the proposed inspection.

(6) In this section-

"the inspectors of constabulary" means Her Majesty's Inspectors of Constabulary appointed under section 54 of the Police Act 1996 (c. 16);

"the Scottish inspectors" means the inspectors of constabulary appointed under section 33 of the Police (Scotland) Act 1967 (c. 77).

**4C Publication of reports**

(1) Subject to subsection (2) below, the Secretary of State shall arrange for any report received by him under section 4B above to be published in such manner as appears to him to be appropriate.

(2) The Secretary of State may exclude from publication under

subsection (1) above any part of a report if, in his opinion, the publication of that part-

- (a) would be against the interests of national security; or
- (b) might jeopardise the safety of any person.

(3) The Secretary of State shall-

- (a) send a copy of the published report to the chief constable of the Ministry of Defence Police; and
- (b) invite the chief constable to submit comments on the published report to the Secretary of State before such date as the Secretary of State may specify.

(4) The Secretary of State shall arrange for-

- (a) any comments submitted by the chief constable in accordance with subsection (3) above, and
- (b) any response that the Secretary of State may prepare to the published report or to any comments submitted by the chief constable,

to be published in such manner as he considers appropriate."

## **81 Exemptions from firearms legislation**

(1) After section 16A of the Firearms (Amendment) Act 1988 (c. 45) there shall be inserted-

### **"16B Possession of firearms on Ministry of Defence Police premises**

(1) A person who is being trained or assessed in the use of firearms under the supervision of a member of the Ministry of Defence Police may, without holding a certificate or obtaining the authority of the Secretary of State under section 5 of the principal Act, have in his possession a firearm and ammunition on relevant premises for the purposes of the training or assessment.

(2) In this section "relevant premises" means premises used for any purpose of the Ministry of Defence Police."

(2) After Article 12A of the Firearms (Northern Ireland) Order 1981 (S.I. 1981/155 (N.I. 2)) there is inserted-



**"12B Possession of firearms on Ministry of Defence Police premises**

(1) A person who is being trained or assessed in the use of firearms under the supervision of a member of the Ministry of Defence Police may, without holding a firearm certificate or obtaining the authority of the Secretary of State under Article 6, have in his possession a firearm and ammunition on relevant premises for the purposes of the training or assessment.

(2) In this Article "relevant premises" means premises used for any purpose of the Ministry of Defence Police."

PART

6

MISCELLANEOUS

*Appointment and attestation of police officers etc.*

**82 Nationality requirements applicable to police officers etc.**

(1) Irrespective of his place of birth, a person of any nationality may be-

- (a) a member of a police force maintained for any police area in England and Wales or Scotland;
- (b) a member of the Police Service of Northern Ireland or of the Police Service of Northern Ireland Reserve;
- (c) a member of the National Criminal Intelligence Service or of the National Crime Squad (whether a police member or a member of any description);
- (d) a member of the British Transport Police Force;
- (e) a member of the United Kingdom Atomic Energy Authority Constabulary;
- (f) a member of the Royal Parks Constabulary; or
- (g) a special constable;

and, accordingly, irrespective of his place of birth such a person may be attested or appointed, and hold office, as a constable.

(2) Subsection (1) is subject to any provision falling within subsection which relates to qualification for appointment as a constable or as a special constable or for membership of, or for particular ranks, offices or positions

with-

- (a) any force or constabulary;
- (b) the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve; or
- (c) the National Criminal Intelligence Service or the National Crime Squad.

(3) Provision falls within this subsection if it is-

- (a) provision made by regulations made under section 50 or 51 of the 1996 Act (regulations for police constables and for special constables);
- (b) provision made by regulations made under section 26 of the Police (Scotland) Act 1967 (c. 77) (regulations about the government and administration of police forces);
- (c) provision made under section 25 or 26 of the Police (Northern Ireland) Act 1998 (c. 32) (regulations for police constables and for the constables in the Police Service of Northern Ireland Reserve);
- (d) provision made by regulations made under section 34A or 79A of the 1997 Act (regulations for members of NCIS and NCS) or contained in the terms and conditions of appointment of the Directors General and other members of the National Criminal Intelligence Service or of the National Crime Squad; and
- (e) provision given effect to by any arrangements made for the purpose of regulating appointment to membership of the British Transport Police Force, the United Kingdom Atomic Energy Authority Constabulary or the Royal Parks Constabulary, or to particular ranks or positions with that Force or Constabulary.

(4) Without prejudice to the generality of any power conferred apart from this section, the provision falling within subsection (3) that may be made by any such regulations, terms and conditions or arrangements as are mentioned in that subsection may include provision imposing any of the following requirements-

- (a) requirements with respect to the competence in written and spoken English of candidates for appointment;
- (b) requirements with respect to the immigration status of such candidates;
- (c) requirements with respect to nationality in the case of particular ranks, offices or positions;

and, in a case where the power to make provision with respect to qualification for appointment as a constable or as a special constable, or for membership of

a force, Service or Squad, is exercisable by any such regulations as are mentioned in that subsection, the regulations made must impose requirements with respect to all the matters mentioned in paragraphs (a) and (b).

(5) In this section-

"the Royal Parks Constabulary" means the force of constables appointed under the Parks Regulation Act 1872 (c. 15);

"the United Kingdom Atomic Energy Authority Constabulary" means the force of special constables appointed under section 3 of the Special Constables Act 1923 (c. 11) on the nomination of the United Kingdom Atomic Energy Authority.

### **83 Attestation of constables**

For Schedule 4 to the 1996 Act there shall be substituted-

#### **"SCHEDULE 4**

##### **FORM OF DECLARATION**

"I . . . . . of . . . . . do solemnly and sincerely declare and affirm that I will well and truly serve the Queen in the office of constable, with fairness, integrity, diligence and impartiality, upholding fundamental human rights and according equal respect to all people; and that I will, to the best of my power, cause the peace to be kept and preserved and prevent all offences against people and property; and that while I continue to hold the said office I will, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law."

### **84 Delegation of functions in relation to senior appointments**

In section 54 of the 1996 Act (appointment and functions of inspectors of constabulary), after subsection (3) there shall be inserted-

"(3A) The Secretary of State may delegate to the chief inspector of constabulary any or all of the following functions-

(a) his functions by virtue of sections 9F(2), 9FA(2) and 9G(2) with respect to the approval required for the appointment of an Assistant Commissioner of Police of the

Metropolis, of a Deputy Assistant Commissioner of Police of the Metropolis or of a Commander in the metropolitan police force;

(b) his functions by virtue of sections 11(1), 11A(2) and 12(2) with respect to the approval required for the appointment of the chief constable of a police force, of the deputy chief constable of a police force or of an assistant chief constable of a police force;

(c) his functions by virtue of section 12A(4) with respect to the consent required for a deputy chief constable to exercise or perform any powers or duties of a chief constable for a continuous period exceeding three months."

## **85 Director General of NCIS**

(1) Section 6 of the 1997 Act (appointment of Director General) shall be amended as follows.

(2) In subsection (2), for "list of persons eligible for appointment" there shall be substituted "shortlist".

(3) Subsection (3) (persons eligible for appointment) shall cease to have effect.

(4) After subsection (5), there shall be inserted-

"(5A) The Director General shall not be attested as a constable under subsection (5) if-

(a) he was not a serving police officer immediately before his appointment as Director General took effect; or

(b) he had already been attested as a constable in England and Wales and still held that office immediately before his appointment took effect."

(5) In subsections (6) and (7) (Director General to have the powers and privileges of a constable and to hold the rank of chief constable), after "Director General", in each subsection, there shall be inserted ", except in a case where he was not a serving police officer immediately before his appointment took effect,".

(6) After subsection (8) there shall be inserted-

"(9) In this section "serving police officer" means a person who-

- (a) is a member of a relevant police force;
- (b) is engaged on relevant service, within the meaning of section 97 of the Police Act 1996 (c. 16); or
- (c) without being so engaged, is a police member of NCIS or a police member of the National Crime Squad.

(10) In subsection (9) "relevant police force" means-

- (a) a police force maintained under section 2 of the Police Act 1996;
- (b) the metropolitan police force;
- (c) the City of London police force;
- (d) a police force maintained under or by virtue of section 1 of the Police (Scotland) Act 1967 (c. 77);
- (e) the Police Service of Northern Ireland;
- (f) the Ministry of Defence Police;
- (g) the British Transport Police Force,
- (h) the States of Jersey Police Force;
- (i) the salaried police force of the Island of Guernsey; or
- (j) the Isle of Man Constabulary."

## **86 Police members of NCIS**

(1) Section 9 of the 1997 Act (members of NCIS) shall be amended as follows.

(2) In subsection (2)-

(a) for paragraph (a) there shall be substituted-

"(a) he met the requirements of subsection (3) immediately before his appointment took effect and his appointment is to a police rank in NCIS; or"; and

(b) in paragraph (b), the words from "to which" to "applies" shall be omitted.

(3) For subsection (3) (qualifications for appointment as a police member) there shall be substituted-

"(3) A person meets the requirements of this subsection if he is attested or sworn as a constable and-

- (a) he is a member of a police force maintained under section 2 of the Police Act 1996;
- (b) he is a member of the metropolitan police force or of the City of London police force;
- (c) he is a regular constable within the meaning of the Police (Scotland) Act 1967 (c. 77);
- (d) he is a member of the Police Service of Northern Ireland;
- (e) he is a member of the National Crime Squad;
- (f) he is a member of the Ministry of Defence Police appointed on the nomination of the Secretary of State under section 1 of the Ministry of Defence Police Act 1987 (c. 4) ;
- (g) he is a member of the British Transport Police Force;
- (h) he is a member of the States of Jersey Police Force;
- (i) he is a member of the salaried police force of the Island of Guernsey;
- (j) he is a member of the Isle of Man Constabulary; or
- (k) he is engaged with NCIS on a period of temporary service."

(4) In subsection (9), in paragraph (a) (restriction on delegation to Director General of appointment of police members), after "police member" there shall be inserted "with the rank of assistant chief constable,".

(5) After that subsection, there shall be inserted-

"(9A) In this section "a period of temporary service" means a period of temporary service to which any of the following provisions applies-

- (a) section 97 of the Police Act 1996 (c. 16);
- (b) section 38A of the Police (Scotland) Act 1967;
- (c) section 27 of the Police (Northern Ireland) Act 1998 (c. 32);
- (d) section 2B of the Ministry of Defence Police Act 1987."

## **87 Police members of NCS**

(1) Section 55 of the 1997 Act (members of National Crime Squad) shall be amended as follows.

(2) In subsection (2)-

(a) for paragraph (a) there shall be substituted-

"(a) he met the requirements of subsection (3) immediately before his appointment took effect and his appointment is to a police rank in the National Crime Squad; or".

(b) in paragraph (b), the words from "to which" to "applies" shall be omitted.

(3) For subsection (3) there shall be substituted-

"(3) A person meets the requirements of this subsection if he is attested or sworn as a constable and-

(a) he is a member of a police force maintained under section 2 of the Police Act 1996;

(b) he is a member of the metropolitan police force or of the City of London police force;

(c) he is a regular constable within the meaning of the Police (Scotland) Act 1967;

(d) he is a member of the Police Service of Northern Ireland;

(e) he is a member of NCIS;

(f) he is a member of the Ministry of Defence Police appointed on the nomination of the Secretary of State under section 1 of the Ministry of Defence Police Act 1987 (c. 4) ;

(g) he is a member of the British Transport Police Force;

(h) he is a member of the States of Jersey Police Force;

(i) he is a member of the salaried police force of the Island of Guernsey;

(j) he is a member of the Isle of Man Constabulary; or

(k) he is engaged with the National Crime Squad on a period of temporary service."

(4) In subsection (9), in paragraph (a) (restriction on delegation to Director General of appointment of police members), after "police member" there shall be inserted "with the rank of assistant chief constable".

(5) After that subsection, there shall be inserted-

"(9A) In this section "a period of temporary service" means a period of temporary service to which any of the following provisions applies-

(a) section 97 of the Police Act 1996 (c. 16);

(b) section 2B of the Ministry of Defence Police Act 1987 (c. 4)."

## **88 Regulations for NCIS**

(1) After section 34 of the 1997 Act there shall be inserted-

### **"34A Regulations for NCIS**

(1) Subject to the provisions of this section, the Secretary of State may make regulations as to the government and administration of NCIS and conditions of service with NCIS.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision with respect to-

- (a) the ranks to be held by police members of NCIS;
- (b) the promotion of police members of NCIS;
- (c) voluntary retirement of police members of NCIS;
- (d) the efficiency and effectiveness of police members of NCIS;
- (e) the suspension of police members of NCIS from membership of NCIS and from their office as constable;
- (f) the maintenance of personal records of members of NCIS;
- (g) the duties which are or are not to be performed by police members of NCIS;
- (h) the treatment as occasions of police duty of attendance at meetings of the Police Federations and of any body recognised by the Secretary of State for the purposes of section 64 of the Police Act 1996;
- (i) the hours of duty, leave, pay and allowances of police members of NCIS; and
- (j) the issue, use and return of
  - (i) personal equipment and accoutrements; and
  - (ii) police clothing.

(3) Regulations under this section for regulating pay and allowances may be made with retrospective effect to any date specified in the regulations, but nothing in this subsection shall be construed as authorising pay or allowances payable to any person to be reduced retrospectively.



(4) Regulations under this section as to conditions of service shall secure that appointments for fixed terms are not made except where the person appointed holds the rank of superintendent or a higher rank.

(5) Regulations under this section may make different provision for different cases and circumstances.

(6) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) Before making any regulations under this section, the Secretary of State shall consult the Scottish Ministers."

(2) In section 37 of the 1997 Act (discipline regulations for NCIS), after subsection (2) there shall be inserted-

"(2A) Without prejudice to the generality of the other powers conferred by this section, regulations under this section may make provision-

(a) for conferring a right to bring and conduct, or otherwise participate or intervene in, any disciplinary proceedings on the Independent Police Complaints Commission;

(b) for conferring a right to participate in, or to be present at, disciplinary proceedings on such persons as may be specified or described in the regulations;

(c) as to the representation of persons subject to disciplinary proceedings; and

(d) for section 34 of the Criminal Justice and Public Order Act 1994 (c. 33) (inferences to be drawn from a failure to mention a fact when questioned or charged) to apply, with such modifications and in such cases as may be provided for in the regulations, to disciplinary proceedings.

(2B) In subsection (2A) "disciplinary proceedings" means any proceedings under any regulations made under subsection (1) which-

(a) are conducted in England and Wales; and

(b) are identified as disciplinary proceedings by those regulations."

(3) In section 38 of the 1997 Act (appeals against decisions in disciplinary

proceedings), in subsection (1), for the words "or required to resign", in both places where they occur, there shall be substituted ", required to resign or reduced in rank".

## **89 Regulations for NCS**

(1) After section 79 of the 1997 Act there shall be inserted-

### **"79A Regulations for NCS**

(1) Subject to the provisions of this section, the Secretary of State may make regulations as to the government and administration of the National Crime Squad and conditions of service with that Squad.

(2) Without prejudice to the generality of subsection (1), regulations under this section may make provision with respect to-

- (a) the ranks to be held by police members of the National Crime Squad;
- (b) the promotion of police members of the Squad;
- (c) voluntary retirement of police members of the Squad;
- (d) the efficiency and effectiveness of police members of the Squad;
- (e) the suspension of police members of the Squad from membership of it and from their office as constables;
- (f) the maintenance of personal records of members of the Squad;
- (g) the duties which are or are not to be performed by police members of the Squad;
- (h) the treatment as occasions of police duty of attendance at meetings of the Police Federations and of any body recognised by the Secretary of State for the purposes of section 64 of the Police Act 1996 (c. 16);
- (i) the hours of duty, leave, pay and allowances of police members of the Squad; and
- (j) the issue, use and return of
  - (i) personal equipment and accoutrements; and
  - (ii) police clothing.

(3) Regulations under this section for regulating pay and allowances may be made with retrospective effect to any date specified in the regulations, but nothing in this subsection shall be

construed as authorising pay or allowances payable to any person to be reduced retrospectively.

(4) Regulations under this section as to conditions of service shall secure that appointments for fixed terms are not made except where the person appointed holds the rank of superintendent or a higher rank.

(5) Regulations under this section may make different provision for different cases and circumstances.

(6) Any statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(2) In section 81 of the 1997 Act (discipline regulations for NCS), after subsection (2) there shall be inserted-

"(2A) Without prejudice to the generality of the other powers conferred by this section, regulations under this section may make provision-

(a) for conferring a right to bring and conduct, or otherwise participate or intervene in, any disciplinary proceedings on the Independent Police Complaints Commission;

(b) for conferring a right to participate in, or to be present at, disciplinary proceedings on such persons as may be specified or described in the regulations;

(c) as to the representation of persons subject to any disciplinary proceedings; and

(d) for section 34 of the Criminal Justice and Public Order Act 1994 (c. 33) (inferences to be drawn from a failure to mention a fact when questioned or charged) to apply, with such modifications and in such cases as may be provided for in the regulations, to disciplinary proceedings.

(2B) In subsection (2A) "disciplinary proceedings" means any proceedings under any regulations made under subsection (1) which are identified as disciplinary proceedings by those regulations."

(3) In section 82 of the 1997 Act (appeals against decisions in disciplinary proceedings), in subsection (1), for the words "or required to resign", in both places where they occur, there shall be substituted ", required to resign or reduced in rank".

## **90 Supplementary provisions about police membership of NCIS**

(1) The reference in section 59(8)(a) of the 1996 Act to persons falling within section 9(2)(a) of the 1997 Act shall include a reference to persons appointed as police members of the National Criminal Intelligence Service ("NCIS") after the date on which section 86 comes into force.

(2) The persons whose interests are to be represented by the membership of the Police Negotiating Board shall include persons appointed as police members of NCIS after the date on which section 86 comes into force.

(3) In section 62(1) of the 1996 Act (duty to consult Police Negotiating Board before making certain regulations), after paragraph (a) there shall be inserted-

"(aa) section 34A of the Police Act 1997;"

(4) The function of the Police Advisory Board for England and Wales of advising on general questions affecting members of NCIS within section 9(1)(b) of the 1997 Act shall include the function of advising on such general questions as respects persons appointed as police members of NCIS after the date on which section 86 comes into force.

(5) In section 63(3) of the 1996 Act (duty to consult Police Advisory Board before making certain regulations), in paragraph (c), after "section" there shall be inserted "34A,".

(6) In subsection (1) of section 9A of the 1997 Act (retirement in interests of efficiency or effectiveness), for "member of NCIS" there shall be substituted "police member of NCIS with the rank of assistant chief constable".

(7) Subsection (2) of that section shall cease to have effect.

## **91 Supplementary provisions about police membership of NCS**

(1) The reference in section 59(8)(b) of the 1996 Act to persons falling within section 55(2)(a) of the 1997 Act shall include a reference to persons appointed as police members of the National Crime Squad ("the Squad") after the date on which section 87 comes into force.

(2) The persons whose interests are to be represented by the membership of

the Police Negotiating Board shall include persons appointed as police members of the Squad after the date on which section 87 comes into force.

(3) In section 62(1) of the 1996 Act (duty to consult Police Negotiating Board before making certain regulations), after paragraph (a) there shall be inserted-

"(ab) section 79A of the Police Act 1997;"

(4) The function of the Police Advisory Board for England and Wales of advising on general questions affecting members of the Squad within section 55(1)(b) of the 1997 Act shall include the function of advising on such general questions as respects persons appointed as police members of the Squad after the date on which section 87 comes into force.

(5) In section 63(3) of the 1996 Act (duty to consult Police Advisory Board before making certain regulations), in paragraph (c), after "39," there shall be inserted "79A,"

(6) In subsection (1) of section 55A of the 1997 Act (retirement in interests of efficiency or effectiveness), for "member of the National Crime Squad" there shall be substituted "police member of the National Crime Squad with the rank of assistant chief constable".

(7) Subsection (2) of that section shall cease to have effect.

*Bodies with functions in relation to the police*

**92 Police authorities to produce three-year strategy plans**

(1) After section 6 of the 1996 Act there shall be inserted-

**"6A Three-year strategy plans**

(1) Every police authority maintaining a police force for a police area in England and Wales shall, before the beginning of every relevant three-year period, issue a plan ("a three-year strategy plan") which sets out the authority's medium and long term strategies for the policing of that area during that period.

(2) Before a three-year strategy plan for any period is issued by a police authority, a draft of a plan setting out medium and long term strategies for the policing of the authority's area during that period

must have been

(a) prepared by the chief officer of police of the police force maintained by that authority; and

(b) submitted by him to the police authority for its consideration.

(3) In preparing the draft plan, the chief officer of police of a police force shall have regard to the views, obtained in accordance with arrangements under section 96, of people in the police area in question.

(4) A police authority which has issued a three-year strategy plan for any period may modify that plan at any time during that period.

(5) It shall be the duty, in issuing, preparing or modifying a three-year strategy plan or a draft of such a plan, of every police authority or chief officer of police to have regard to the National Policing Plan in force at that time.

(6) The Secretary of State -

(a) shall issue guidance to police authorities and chief officers of police as to the matters to be contained in any three-year strategy plan, and as to the form to be taken by any such plan; and

(b) may from time to time revise and modify that guidance; and it shall be the duty of every police authority and chief officer of police to take account of any guidance under this subsection when issuing, preparing or modifying any such plan or any draft plan prepared for the purposes of subsection (2).

(7) Before issuing or revising any guidance under subsection (6) the Secretary of State shall consult with-

(a) persons whom he considers to represent the interests of police authorities;

(b) persons whom he considers to represent the interests of chief officers of police; and

(c) such other persons as he thinks fit.

(8) A police authority which is proposing to issue or modify any plan under this section shall submit that plan, or the modifications, to the Secretary of State.

(9) Where a police authority issues a three-year strategy plan or modifies such a plan, it shall-

(a) send a copy of the plan or the modified plan to the Secretary of State; and

(b) cause the plan or modified plan to be published;

and the copy of any modified plan sent to the Secretary of State and the publication of any modified plan must show the modifications, or be accompanied by or published with a document which sets them out or describes them.

(10) If the Secretary of State considers that there are grounds for thinking that-

(a) a police authority's three-year strategy plan, or

(b) any proposals by a police authority for such a plan, or for the modification of such a plan,

may not be consistent with any National Policing Plan applicable to a financial year wholly or partly comprised in the period to which the strategy plan applies, he shall, before informing the police authority of his conclusions on whether or not it is in fact so inconsistent, consult with the persons mentioned in subsection (11).

(11) Those persons are-

(a) the police authority in question;

(b) the chief officer of police of the police force maintained by that authority;

(c) persons whom the Secretary of State considers to represent the interests of police authorities; and

(d) persons whom the Secretary of State considers to represent the interests of chief officers of police.

(12) Before a police authority-

(a) issues a three-year strategy plan that differs in any material respect from the draft submitted to it by the chief officer of police of the force maintained by that authority, or

(b) modifies its three-year strategy plan,

it shall consult with that chief officer.

(13) Any best value performance plan prepared by a police authority under section 6 of the Local Government Act 1999 (c. 27)

for any financial year must be consistent with any three-year strategy plan which sets out the authority's current strategies for policing its area during any period which includes the whole or any part of that financial year.

(14) The Secretary of State may by regulations make provision for-

- (a) the procedure to be followed on the submission to him of any plan or modifications for the purposes of this section; and
- (b) the periods which are to constitute relevant three-year periods for the purposes of this section;

and those regulations may provide for a period of less than three years to be the first period treated as a relevant three-year period for the purposes of this section.

(15) A statutory instrument containing regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(2) In section 8 of that Act (local policing plans), after subsection (2) there shall be inserted-

"(2A) The local policing plan for any financial year must be consistent with any three-year strategy plan under section 6A which sets out the authority's current strategies for the policing of its area during any period which includes the whole or any part of that financial year."

(3) In section 9(2) of that Act (annual report by police authorities to include assessment of extent to which local policing plan carried out), for the words from "the local policing plan" onwards there shall be substituted", during that year proposals have been implemented, and things have been done, in accordance with the following plans-

- (a) the three-year strategy plan issued under section 6A for the period that includes that year; and
- (b) the local policing plan issued for that year under section 8."

### **93 Quorum for the Service Authorities under the 1997 Act**

For paragraph 4(1) of Schedule 2A to the 1997 Act (quorum for meetings of



NCIS Service Authority and National Crime Squad Service Authority) there shall be substituted-

"(1) Subject to paragraph (1A), each Service Authority shall make provision for a quorum for its meetings.

(1A) The quorum for each Service Authority shall be not less than four, and of any quorum-

(a) one must be a member appointed under paragraph 2 of Schedule 1; and

(b) at least two others must be members appointed under Part 1 of that Schedule and otherwise than under paragraph 6 or 6A."

**94 Expenses of members of police authorities etc.**

(1) In each the enactments specified in subsection (2)-

(a) in sub-paragraph (1), after the words "by way of" there shall be inserted "reimbursement of expenses and"; and

(b) in sub-paragraph (4), after the word "about" there shall be inserted "the reimbursement of expenses or about".

(2) The enactments are-

(a) paragraph 25A of Schedule 2 to the 1996 Act (allowances for members of police authorities established under section 3 of that Act); and

(b) paragraph 20A of Schedule 2A to that Act (allowances for members of Metropolitan Police Authority).

(3) In sub-paragraph (6) of paragraph 20A of Schedule 2A to the 1996 Act (limitation on payments to members of London Assembly) after "payment" there shall be inserted "by way of an allowance".

(4) The following provisions (which are superseded by the amendments made by this section) shall cease to have effect-

(a) paragraph 25 of Schedule 2 to the 1996 Act; and

(b) paragraph 20 of Schedule 2A to that Act.

**95 Duties under the Health and Safety at Work etc. Act 1974**

(1) The following enactments shall be amended in accordance with

subsections (2) and (3)-

(a) section 51A of the Health and Safety at Work etc. Act 1974 (c. 37) (application of Part 1 of that Act to the police);

(b) section 49A of the Employment Rights Act 1996 (c. 18) (right of police officers not to suffer a detriment in relation to health and safety at work issues); and

(c) section 134A of that Act (right of police officers not to be unfairly dismissed in relation to health and safety at work issues).

(2) In subsection (1) of each of those sections, for "officer" there shall be substituted "authority".

(3) For subsection (2) of each of those sections, there shall be substituted-

"(2) In this section "the relevant authority" means -

(a) in relation to a member of a police force, a special constable appointed for a police area or a police cadet appointed by a chief officer of police, the police authority or, in the case of a combined area in Scotland, the police board (within the meaning of the Police (Scotland) Act 1967 (c. 77));

(b) in relation to a person appointed as a police member of the National Criminal Intelligence Service, the Service Authority for that service;

(c) in relation to a person appointed as a police member of the National Crime Squad, the Service Authority for that squad;

(d) in relation to any other person holding the office of constable or an appointment as police cadet, the person responsible for maintaining the body of constables or police cadets in question.

(2A) The Commissioner of Police for the City of London shall be treated for the purposes of this section as if he were a member of the City of London police force."

(4) After subsection (2A) of section 51A of the Health and Safety at Work etc. Act 1974 (c. 37) (which is inserted by subsection (3)) there shall be inserted-

"(2B) The following provisions (which impose the same liability for unlawful conduct of constables on persons with their direction and control as would arise if the constables were the employees of those

persons) do not apply in relation to any liability arising in respect of a contravention of this Act-

- (a) section 88(1) of the Police Act 1996 (c. 16);
- (b) section 97(9) of that Act;
- (c) section 42(1) of the Police Act 1997 (c. 50);
- (d) section 86(1) of that Act;
- (e) paragraph 7(1) of Schedule 8 to that Act;
- (f) section 39 of the Police (Scotland) Act 1967 (c. 77); and
- (g) paragraph 14(1) of Schedule 3 to the Criminal Justice and Police Act 2001 (c. 16).

(2C) The provision which may be made by health and safety regulations includes in particular-

- (a) provision which, for the purposes of this Part specified in the regulations, treats the acts or omissions of a chief officer as if they were acts or omissions of the relevant authority in relation to the constables or police cadets under that officer's direction and control;
- (b) provision which treats premises under the control of a chief officer as premises under the control of the relevant authority in relation to that officer.

(2D) In subsection (2C) "chief officer" means-

- (a) a chief officer of police;
- (b) the Director General of the National Criminal Intelligence Service;
- (c) the Director General of the National Crime Squad; or
- (d) any other person having direction and control of a body of constables or police cadets."

(5) In each of paragraphs (a), (b) and (c) of subsection (3) of that section, for "chief officer of police" there shall be substituted "police authority".

(6) In subsection (4) of that section, for "or (c)" there shall be substituted ", (c) or (d)".

(7) Section 5 of the Police (Health and Safety) Act 1997 (c. 42) (payments by police authorities etc. out of relevant funds in relation to contraventions of health and safety legislation) shall cease to have effect.

(8) An order bringing this section into force may make such savings and

transitional provisions as the Secretary of State thinks fit.

**96 President of ACPO**

If a person who holds the office of constable becomes the president of the Association of Chief Police Officers of England, Wales and Northern Ireland, he shall, while he is the president of that Association-

- (a) continue to hold the office of constable; and
- (b) hold that office with the rank of chief constable.

**97 Crime and disorder reduction partnerships**

(1) The Crime and Disorder Act 1998 (c. 37) shall be amended as follows.

(2) In section 5 (authorities responsible for strategies), in subsection (1), after paragraph (b) there shall be inserted-

- "(c) every police authority any part of whose police area so lies;
- (d) every fire authority any part of whose area so lies;
- (e) if the local government area is in England, every Primary Care Trust the whole or any part of whose area so lies; and
- (f) if the local government area is in Wales, every health authority the whole or any part of whose area so lies."

(3) After subsection (1) of that section there shall be inserted-

"(1A) The Secretary of State may by order provide in relation to any two or more local government areas in England-

- (a) that the functions conferred by sections 6 to 7 below are to be carried out in relation to those areas taken together as if they constituted only one area; and
- (b) that the persons who for the purposes of this Chapter are to be taken to be responsible authorities in relation to the combined area are the persons who comprise every person who (apart from the order) would be a responsible authority in relation to any one or more of the areas included in the combined area.

(1B) The Secretary of State shall not make an order under subsection (1A) above unless-

- (a) an application for the order has been made jointly by all the persons who would be the responsible authorities in relation to the combined area or the Secretary of State has first consulted those persons; and
- (b) he considers it would be in the interests of reducing crime and disorder, or of combatting the misuse of drugs, to make the order."

(4) In subsection (2) of that section (consultation)-

(a) for paragraphs (a) and (b) there shall be substituted-

"(b) every local probation board any part of whose area lies within the area;"

(b) at the end of paragraph (c) there shall be inserted"; and

(d) where they are acting in relation to an area in Wales, every person or body which is of a description which is for the time being prescribed by an order under this subsection of the National Assembly for Wales;"

(5) In subsection (3) of that section, at the end there shall be inserted "and, in the case of the responsible authorities for an area in Wales, of any person or body of a description for the time being prescribed by an order under this subsection of the National Assembly for Wales."

(6) After subsection (4) of that section, there shall be inserted-

"(5) In this section-

"fire authority" means-

- (a) any fire authority constituted by a combination scheme under the Fire Services Act 1947 (c. 41);
- (b) any metropolitan county fire and civil defence authority; or
- (c) the London Fire and Emergency Planning Authority; and

"police authority" means -

- (a) any police authority established under section 3 of the Police Act 1996 (c. 16); or
- (b) the Metropolitan Police Authority."

(7) In subsection (1) of section 6 (formulation and implementation of strategies), for the words from "a strategy" onwards there shall be substituted-

"(a) in the case of an area in England-

(i) a strategy for the reduction of crime and disorder in the area; and

(ii) a strategy for combatting the misuse of drugs in the area;

and

(b) in the case of an area in Wales-

(i) a strategy for the reduction of crime and disorder in the area; and

(ii) a strategy for combatting substance misuse in the area."

(8) After that subsection there shall be inserted-

"(1A) In determining what matters to include or not to include in their strategy for combatting substance misuse, the responsible authorities for an area in Wales shall have regard to any guidance issued for the purposes of this section by the National Assembly for Wales."

(9) In subsection (2) of that section (steps to be taken before the formulation of a strategy), for paragraph (a) there shall be substituted-

"(a) carry out, taking due account of the knowledge and experience of persons in the area, a review-

(i) in the case of an area in England, of the levels and patterns of crime and disorder in the area and of the level and patterns of the misuse of drugs in the area; and

(ii) in the case of an area in Wales, of the levels and patterns of crime and disorder in the area and of the level and patterns of substance misuse in the area;".

(10) After subsection (6) of that section (duty to keep strategy under review) there shall be inserted-

"(6A) Within one month of the end of each reporting period, the responsible authorities shall submit a report on the implementation of their strategies during that period-

(a) in the case of a report relating to the strategies for an area in England, to the Secretary of State; and

(b) in the case of a report relating to the strategies for an area

in Wales, to the Secretary of State and to the National Assembly for Wales."

(11) In subsection (7) of that section (interpretation), after the definition of "relevant period" there shall be inserted-

"reporting period" means every period of one year which falls within a relevant period and which begins-

(a) in the case of the first reporting period in the relevant period, with the day on which the relevant period begins; and

(b) in any other case, with the day after the day on which the previous reporting period ends;

"substance misuse" includes the misuse of drugs or alcohol."

(12) In section 17(2) (authorities to which duty to consider crime and disorder implications applies), after "London Fire and Emergency Planning Authority," there shall be inserted "a fire authority constituted by a combination scheme under the Fire Services Act 1947 (c. 41),".

(13) In section 114-

(a) in subsection (1) (powers of Ministers exercisable by statutory instrument), after "Minister of the Crown" there shall be inserted "or of the National Assembly for Wales"; and

(b) in subsection (2) (orders subject to negative resolution procedure), for "5(2) or (3) or 10(6) above, or" there shall be substituted "5(1A), (2) or (3), 6A(1) or 10(6) above (other than one made by the National Assembly for Wales), or containing".

(14) In section 115(2) (authorities to which information may be disclosed for purposes connected with that Act), in paragraph (d)-

(a) in sub-paragraph (i), after "London borough council" there shall be inserted ", a parish council"; and

(b) in sub-paragraph (ii), for "or a county borough council" there shall be substituted ", a county borough council or a community council".

(15) Section 5(1) (as amended by subsection (2)) shall have effect in relation to a local government area in England at any time when that area or a part of it comprises or contains an area that is not included in the area of a Primary Care Trust, as if the reference to a Primary Care Trust the whole or part of whose area lies within the local government area included a reference to any health authority or strategic health authority whose area comprises or includes the area for which there is no Primary Care Trust.

**98 Secretary of State's functions in relation to strategies**

After section 6 of the Crime and Disorder Act 1998 (c. 37), there shall be inserted-

**"6A Powers of the Secretary of State and National Assembly for Wales**

(1) The Secretary of State may, by order, require-

(a) the responsible authorities for local government areas to formulate any section 6 strategy of theirs for the reduction of crime and disorder so as to include, in particular, provision for the reduction of-

- (i) crime of a description specified in the order; or
- (ii) disorder of a description so specified.

(b) the responsible authorities for local government areas in England to prepare any section 6 strategy of theirs for combatting the misuse of drugs so as to include in it a strategy for combatting, in the area in question, such other forms of substance misuse as may be specified or described in the order.

(2) After formulating any section 6 strategy (whether in a case in which there has been an order under subsection or in any other case), the responsible authorities for a local government area shall send both-

- (a) a copy of the strategy, and
- (b) a copy of the document which they propose to publish under section 6(5),

to the Secretary of State.

(3) It shall be the duty of the responsible authorities, when preparing any document to be published under section 6(5), to have regard to any guidance issued by the Secretary of State as to the form and content of the documents to be so published.

(4) If the responsible authorities for a local government area propose to make any changes to a section 6 strategy of theirs, they shall send copies of the proposed changes to the Secretary of State.

(5) In subsections (2) to (4)-



(a) references to the Secretary of State, in relation to responsible authorities for local government areas in Wales shall have effect as references to the Secretary of State and the National Assembly for Wales; and

(b) accordingly, guidance issued for the purposes of subsection (3) in relation to local government areas in Wales must be issued by the Secretary of State and that Assembly acting jointly.

(6) In this section-

"responsible authorities" and "local government area" have same meanings as in sections 5 and 6;

"section 6 strategy" means a strategy required to be formulated under section 6(1); and

"substance misuse" has the same meaning as in section 6."

## **99 Power to modify functions and structure of PITO**

(1) The Secretary of State may by order make provision in relation to the Police Information Technology Organisation ("the Organisation")-

(a) for conferring additional functions on the Organisation and for modifying its existing functions and powers;

(b) for imposing duties on the Organisation with respect to the carrying out of its functions;

(c) for modifying the constitution of the Organisation and any provision regulating its management and control;

(d) for conferring powers on the Secretary of State in relation to anything mentioned in the preceding provisions of this subsection, or in relation to the Organisation's members or staff.

(2) The provision that may be made by an order under this section includes each of the following-

(a) provision modifying, in any such manner as the Secretary of State thinks fit, any provision of Part 4 of the 1997 Act (which relates to the Organisation) or of any other enactment that makes provision in relation to, or refers to, the Organisation;

(b) provision conferring functions on the Organisation in relation to persons who have no functions in relation to, nor any connection with, policing but who carry out functions for the purposes of the criminal justice system;

(c) provisions imposing obligations on persons in relation to whom the Organisation has or is given functions to consult with the

Organisation and do such other things in relation to the Organisation as may be specified in the order;

(d) provision which in consequence of any provision falling within paragraph (b), changes the name of the Organisation;

(e) provision imposing obligations on the Organisation with respect to planning and consultation; and

(f) provision framed by reference to any power of the Secretary of State or Scottish Ministers under the provisions of such an order to make a determination or give an approval, or by reference to his or their opinion, from time to time, of any matter.

(3) In subsection (2)(b) the reference to persons who carry out functions for the purposes of the criminal justice system includes a reference to members of the prison service in any Part of the United Kingdom and to members of the probation service.

(4) The consequential provision that may be contained in an order under this section includes provision modifying any enactment.

(5) Before making an order under this section, the Secretary of State shall consult with the Scottish Ministers.

(6) The Secretary of State shall not make an order containing (with or without any other provision) any provision authorised by this section unless a draft of that order has been laid before Parliament and approved by a resolution of each House.

## **100 Metropolitan Police Authority housing**

(1) In section 4(e) of the Housing Act 1985 (c. 68) (which defines local authorities for the purposes of the provisions of that Act, including those relating to secure tenancies), the words "the Metropolitan Police Authority" shall be omitted.

(2) In paragraph 12(2)(g) of Schedule 1 to the Housing Act 1988 (c. 50) (local authority tenancies that cannot be assured tenancies), the words "and the Metropolitan Police Authority" shall be omitted.

(3) Nothing in subsection (1) or in any repeal made by this Act for the purposes of that subsection shall affect-

(a) the operation of Part 5 of the Housing Act 1985 (c. 68) (the right to buy) in relation to any case in which a person who had acquired a

right to buy under that Part before the day on which this Act is passed either-

- (i) had served a notice under section 122 of that Act (tenant's notice claiming right to buy) on the Metropolitan Police Authority before that day; or
- (ii) serves such a notice on that Authority in the period of three months beginning with that day;

or

(b) the extent to which, in any other case, any period falling before the day on which this Act is passed falls at any subsequent time to be treated as a period qualifying under any of the provisions of Schedule 4 to that Act.

(4) A tenancy which becomes an assured tenancy by virtue of this section shall be an assured shorthold tenancy unless (whenever it was entered into) it-

(a) falls within any of paragraphs 1 to 3 of Schedule 2A to the Housing Act 1988 (c. 50); or

(b) was an assured tenancy, but not an assured shorthold tenancy, immediately before it became a secure tenancy.

#### **101 Provision of goods and services by police authorities**

For section 18 of the 1996 Act (supply of goods and services) there shall be substituted-

#### **"18 Supply of goods and services**

(1) Subsections (1) to (3) of section 1 of the Local Authorities (Goods and Services) Act 1970 (c. 39) (supply of goods and services by local authorities)-

(a) shall apply, with the modification set out in subsection (2), to a police authority established under section 3 of this Act and to the Metropolitan Police Authority as they apply to a local authority; and

(b) shall also apply with that modification in their application to the Common Council of the City of London in its capacity as the police authority for the City of London police force.

(2) The modification is that references in those subsections to a public body shall be read as references to any person."

*Liability for unlawful acts of constables etc.*

**102 Liability for wrongful acts of constables etc.**

(1) Each of the enactments specified in subsection (2) shall be amended as follows-

- (a) for the words "torts committed by", in each place where they occur, there shall be substituted "any unlawful conduct of"; and
- (b) for "in respect of any such tort" there shall be substituted ", in the case of a tort,".

(2) The enactments are-

- (a) section 88(1) of the 1996 Act (liability of chief officers);
- (b) section 97(9) of that Act (liability of the Secretary of State);
- (c) section 42(1) of the 1997 Act (liability of the Director General of NCIS);
- (d) section 86(1) of that Act (liability of the Director General of the National Crime Squad);
- (e) section 27(8) of the Police (Northern Ireland) Act 1998 (c. 32) (liability of the Secretary of State);
- (f) section 29(1) of that Act (liability of the chief constable of the Police Service of Northern Ireland);
- (g) paragraph 7(3) of Schedule 3 to that Act (liability of the Police Ombudsman); and
- (h) paragraph 14(1) of Schedule 3 to the Criminal Justice and Police Act 2001 (c. 16) (liability of the Central Police Training and Development Authority).

(3) In paragraph 7(1) of Schedule 8 to the 1997 Act (liability of Police Information Technology Organisation)-

- (a) for "a tort committed by" there shall be substituted "any unlawful conduct of";
- (b) for "torts committed by" there shall be substituted "any unlawful conduct of"; and
- (c) for "in respect of any such tort" there shall be substituted ", in the case of a tort,".

(4) In each of the enactments specified in subsection (5), for "a tort committed by" there shall be substituted "any unlawful conduct of".

(5) The enactments are-

- (a) section 88(4)(a) of the 1996 Act (payments in respect of tort proceedings against constables and special constables);
- (b) section 42(4)(a) of the 1997 Act (payments in respect of tort proceedings against members of, and constables serving with, NCIS);
- (c) section 86(4)(a) of that Act (payments in respect of tort proceedings against members of, and constables serving with, the National Crime Squad);
- (d) section 29(3)(a) of the Police (Northern Ireland) Act 1998 (payments in respect of tort proceedings against police officers in Northern Ireland); and
- (e) paragraph 7(4)(a) of Schedule 3 to that Act (payment in respect of tort proceedings against police officers serving with, or assisting, the Police Ombudsman).

(6) In section 42(6) of the 1997 Act (application to Scotland), paragraph (a) shall be omitted.

(7) In section 39 (1) of the Police (Scotland) Act 1967 (c. 77) (liability for wrongful acts of constables)-

- (a) for "in reparation in respect of any wrongful act or omission" there shall be substituted "for any unlawful conduct"; and
- (b) for "in respect of a wrongful act or omission" there shall be substituted "for any unlawful conduct".

(8) In section 39(4) of that Act, for "wrongful act or omission" there shall be substituted "unlawful conduct".

#### *International joint investigation teams*

### **103 Liability in respect of members of teams**

(1) In section 88 of the 1996 Act (liability for wrongful acts of constables), after subsection (5) there shall be inserted-

"(6) This section shall have effect where an international joint investigation team has been formed under the leadership of a constable who is a member of a police force as if-

- (a) any unlawful conduct, in the performance or purported performance of his functions as such, of any member of that team who is neither a constable nor an employee of the police

authority were unlawful conduct of a constable under the direction and control of the chief officer of police of that force; and

(b) subsection (4) applied, in the case of the police authority maintaining that force, to every member of that team to whom it would not apply apart from this subsection.

(7) In this section "international joint investigation team" means any investigation team formed in accordance with-

(a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;

(b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or

(c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State.

(8) A statutory instrument containing an order under subsection (7) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(2) In section 42 of the 1997 Act (liability for wrongful acts of police members of the NCIS), after subsection (5) there shall be inserted-

"(5A) This section shall have effect where an international joint investigation team has been formed under the leadership of a member of NCIS as if-

(a) any unlawful conduct, in the performance or purported performance of his functions as such, of any member of that team who is neither a constable nor a member of NCIS were unlawful conduct of a constable under the direction and control of the Director General of NCIS; and

(b) subsection (4) applied to every member of that team to whom it would not apply apart from this subsection.

(5B) In this section "international joint investigation team" means any investigation team formed in accordance with-

(a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;

(b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the

Protocol to that Convention, established in accordance with that Article of that Treaty; or

(c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State.

(5C) A statutory instrument containing an order under subsection (5B) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(3) In section 86 of the 1997 Act (liability for wrongful acts of police members of the National Crime Squad), after subsection (5) there shall be inserted-

"(6) This section shall have effect where an international joint investigation team has been formed under the leadership of a member of the National Crime Squad as if-

(a) any unlawful conduct, in the performance or purported performance of his functions as such, of any member of that team who is neither a constable nor a member of the National Crime Squad were unlawful conduct of a constable under the direction and control of the Director General of that Squad; and

(b) subsection (4) applied to every member of that team to whom it would not apply apart from this subsection.

(7) In this section "international joint investigation team" means any investigation team formed in accordance with-

(a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;

(b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or

(c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State.

(8) A statutory instrument containing an order under subsection (7) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(4) In section 39 of the Police (Scotland) Act 1967 (c. 77) (liability for wrongful acts of constables), after subsection (4) there shall be inserted-

"(5) This section shall have effect where an international joint investigation team has been formed under the leadership of a constable of a police force as if-

- (a) any unlawful conduct, in the performance or purported performance of his functions as such, of any member of that team who is neither a constable nor an employee of the police authority were unlawful conduct of a constable under the direction and control of the chief constable of that force; and
- (b) subsection (4) applied, in the case of the police authority maintaining that force, to every member of that team to whom it would not apply apart from this subsection.

(6) In this section "international joint investigation team" means any investigation team formed in accordance with-

- (a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;
- (b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or
- (c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State with the consent of the Scottish Ministers.

(7) A statutory instrument containing an order under subsection (6) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(5) In section 29 of the Police (Northern Ireland) Act 1998 (c. 32) (liability for wrongful acts of constables), after subsection (5) there shall be inserted-

"(6) This section shall have effect where an international joint investigation team has been formed under the leadership of a constable who is a member of the Police Service of Northern Ireland as if any unlawful conduct, in the performance or purported performance of his functions as such, of any member of that team who is neither-

- (a) a constable, nor
- (b) an employee of the Board,



were unlawful conduct of a constable under the direction and control of the Chief Constable.

(7) In this section "international joint investigation team" means any investigation team formed in accordance with-

- (a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;
- (b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or
- (c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State.

(8) A statutory instrument containing an order under subsection (7) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(6) Where-

- (a) any sums are paid by virtue of this section out of a police fund, the NCIS service fund or the NCS service fund, or by the Chief Constable of the Police Service of Northern Ireland, and
- (b) in pursuance of any international obligation, the Secretary of State receives any sum by way of reimbursement, in whole or in part, of the sums paid out of that fund or by that Chief Constable,

the Secretary of State shall pay into that fund or (as the case may be) to that Chief Constable the sums received by him by way of reimbursement.

(7) Where-

- (a) any sums are paid by virtue of this section by a police authority in Scotland or a joint police board there, and
- (b) in pursuance of an international obligation, the Secretary of State receives any sum by way of reimbursement, in whole or in part, of the sums so paid,

the Secretary of State shall pay the sum received by him by way of reimbursement to the Scottish Ministers who shall pay it to that authority or board.

## 104 Assaults on members of teams

(1) In section 89 of the 1996 Act (assaults on constables), after subsection (3) there shall be inserted-

"(4) In this section references to a person assisting a constable in the execution of his duty include references to any person who is neither a constable nor in the company of a constable but who-

(a) is a member of an international joint investigation team that is led by a member of a police force or by a member of the National Criminal Intelligence Service or of the National Crime Squad; and

(b) is carrying out his functions as a member of that team.

(5) In this section "international joint investigation team" means any investigation team formed in accordance with-

(a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;

(b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or

(c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State.

(6) A statutory instrument containing an order under subsection (5) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(2) In section 41 of the Police (Scotland) Act 1967 (c. 77) (assaults on constables), after subsection (3) there shall be inserted-

"(4) In this section references to a person assisting a constable in the execution of his duty include references to any person who is neither a constable nor in the company of a constable but who-

(a) is a member of an international joint investigation team that is led by a constable of a police force or by a member of the National Criminal Intelligence Service or of the National Crime Squad; and

(b) is carrying out his functions as a member of that team.

(5) In this section "international joint investigation team" means any investigation team formed in accordance with-

(a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;

(b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or

(c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State with the consent of the Scottish Ministers.

(6) A statutory instrument containing an order under subsection (5) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

(3) [a] In section 66 of the Police (Northern Ireland) Act 1998 (c. 32) (assaults on constables), after subsection (4) there shall be inserted-

"(5) In this section references to a person assisting a constable in the execution of his duty include references to any person who is neither a constable nor in the company of a constable but who-

(a) is a member of an international joint investigation team that is led by a member of the Police Service of Northern Ireland; and

(b) is carrying out his functions as a member of that team.

(6) In this section "international joint investigation team" means any investigation team formed in accordance with-

(a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;

(b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or

(c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State.

(7) A statutory instrument containing an order under subsection (5)

shall be subject to annulment in pursuance of a resolution of either House of Parliament."

---

[a] Amended by Correction Slip. Section 104(3) of the Police Reform Act 2002 should read as follows-

(3) In section 66 of the Police (Northern Ireland) Act 1998 (c. 32) (assaults on constables), after subsection (4) there shall be inserted-

"(5) In this section references to a person assisting a constable in the execution of his duty include references to any person who is neither a constable nor in the company of a constable but who-

(a) is a member of an international joint investigation team that is led by a member of the Police Service of Northern Ireland; and

(b) is carrying out his functions as a member of that team.

(6) In this section "international joint investigation team" means any investigation team formed in accordance with-

(a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;

(b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or

(c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State.

(7) A statutory instrument containing an order under subsection (5) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

instead of:

(3) In section 66 of the Police (Northern Ireland) Act 1998 (c. 32) (assaults on constables), after subsection (3) there shall be inserted-

"(4) In this section references to a person assisting a constable in the execution of his duty include references to any person who is

neither a constable nor in the company of a constable but who-

(a) is a member of an international joint investigation team that is led by a member of the Police Service of Northern Ireland; and

(b) is carrying out his functions as a member of that team.

(5) In this section "international joint investigation team" means any investigation team formed in accordance with-

(a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;

(b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union, and the Protocol to that Convention, established in accordance with that Article of that Treaty; or

(c) any international agreement to which the United Kingdom is a party and which is specified for the purposes of this section in an order made by the Secretary of State.

(6) A statutory instrument containing an order under subsection (5) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

## PART

### 7

## SUPPLEMENTAL

### **105 Powers of Secretary of State to make orders and regulations**

(1) Every power conferred by this Act on the Secretary of State to make orders or regulations shall be exercisable by statutory instrument.

(2) A statutory instrument containing an order or regulations made in exercise of any such power, other than an order to which subsection (3) applies, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) This subsection applies to-

(a) any order under section 9(7) or 108; and

(b) any order that is required to be approved in draft by virtue of section 19(3) or 99(6).

(4) Every power of the Secretary of State to make an order or regulations under this Act, other than an order under section 9(7) or 108, shall include power-

(a) to make different provision for different cases;

(b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and

(c) to make such incidental, supplemental, consequential and transitional provision as the Secretary of State thinks fit.

(5) Every power of the Secretary of State to make provision by regulations under Part 2 shall include power to make provision for any of the matters that may be provided for to be determined, in accordance with the regulations, by the Independent Police Complaints Commission.

## **106 General interpretation**

In this Act-

"the 1984 Act" means the Police and Criminal Evidence Act 1984 (c. 60);

"the 1996 Act" means the Police Act 1996 (c. 16);

"the 1997 Act" means the Police Act 1997 (c. 50);

"the British Transport Police Force" means the force of constables appointed under section 53 of the British Transport Commission Act 1949 (c. xxix);

"modifications" includes omissions, alterations and additions, and cognate expressions shall be construed accordingly.

## **107 Consequential amendments and repeals**

(1) Schedule 7 (which makes minor and consequential amendments) shall have effect.

(2) The enactments specified in Schedule 8 (which include provisions that are spent or have ceased to be of any practical utility) are hereby repealed to the extent specified in the second column of that Schedule.

## **108 Short title, commencement and extent**

(1) This Act may be cited as the Police Reform Act 2002.

(2) This Act, except-

(a) the provisions specified in subsection (3) (which come into force on the day on which this Act is passed), and

(b) the provisions to which subsections (4) and (5) apply,

shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed under this subsection for different purposes or different areas.

(3) The provisions coming into force on the day on which this Act is passed are-

(a) section 100, the entries in Schedule 8 relating to the Housing Act 1985 (c. 68), the Housing Act 1988 (c. 50), paragraphs 51 and 59 of Schedule 27 to the Greater London Authority Act 1999 (c. 29) and paragraph 74 of Schedule 6 to the Criminal Justice and Police Act 2001 (c. 16) and section 107(2) (so far as relating to those entries); and

(b) sections 105 and 106 and this section.

(4) The provisions of sections 97 and 98, so far as they relate to local government areas in Wales, shall come into force on such day as the National Assembly for Wales may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different purposes or different areas.

(5) Sections 70 and 71, and sections 102 to 104 so far as they amend the Police (Scotland) Act 1967 (c. 77), shall come into force on such day as the Scottish Ministers may by order appoint; and different days may be appointed under this subsection for different purposes or different areas.

(6) Subject to subsections (7) to (9), this Act extends to England and Wales only.

(7) This Act extends to the United Kingdom so far as it makes the following provision-

(a) the provision contained in Part 5;

(b) the provision contained in section 82;

(c) the provision contained in section 99;

(d) the provision contained in section 103(6);

(e) any provision (other than one contained in Chapter 1 of Part 4) relating to the National Criminal Intelligence Service.

(8) Section 96 also extends to Northern Ireland.

(9) Subject to subsection (10), this Act, so far as it amends or repeals any enactment (other than one that extends to England and Wales only), has the same extent as the enactment amended or repealed.

(10) The amendments and repeals made by this Act-

(a) in section 96 of the Road Traffic Regulation Act 1984 (c. 27) (traffic wardens),

(b) in sections 103 and 183 of the Road Traffic Act 1988 (c. 52) (driving while disqualified), and

(c) Part 3 of the Road Traffic Offenders Act 1988 (c. 53) (fixed penalties),

do not extend to Scotland.

## PART

### 7

## SUPPLEMENTAL

### **105 Powers of Secretary of State to make orders and regulations**

(1) Every power conferred by this Act on the Secretary of State to make orders or regulations shall be exercisable by statutory instrument.

(2) A statutory instrument containing an order or regulations made in exercise of any such power, other than an order to which subsection (3) applies, shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) This subsection applies to-

(a) any order under section 9(7) or 108; and

(b) any order that is required to be approved in draft by virtue of section 19(3) or 99(6).

(4) Every power of the Secretary of State to make an order or regulations under this Act, other than an order under section 9(7) or 108, shall include power-

(a) to make different provision for different cases;



(b) to make provision subject to such exemptions and exceptions as the Secretary of State thinks fit; and

(c) to make such incidental, supplemental, consequential and transitional provision as the Secretary of State thinks fit.

(5) Every power of the Secretary of State to make provision by regulations under Part 2 shall include power to make provision for any of the matters that may be provided for to be determined, in accordance with the regulations, by the Independent Police Complaints Commission.

## **106 General interpretation**

In this Act-

"the 1984 Act" means the Police and Criminal Evidence Act 1984 (c. 60);

"the 1996 Act" means the Police Act 1996 (c. 16);

"the 1997 Act" means the Police Act 1997 (c. 50);

"the British Transport Police Force" means the force of constables appointed under section 53 of the British Transport Commission Act 1949 (c. xxix);

"modifications" includes omissions, alterations and additions, and cognate expressions shall be construed accordingly.

## **107 Consequential amendments and repeals**

(1) Schedule 7 (which makes minor and consequential amendments) shall have effect.

(2) The enactments specified in Schedule 8 (which include provisions that are spent or have ceased to be of any practical utility) are hereby repealed to the extent specified in the second column of that Schedule.

## **108 Short title, commencement and extent**

(1) This Act may be cited as the Police Reform Act 2002.

(2) This Act, except-

(a) the provisions specified in subsection (3) (which come into force on the day on which this Act is passed), and

(b) the provisions to which subsections (4) and (5) apply,

shall come into force on such day as the Secretary of State may by order appoint; and different days may be appointed under this subsection for different purposes or different areas.

(3) The provisions coming into force on the day on which this Act is passed are-

(a) section 100, the entries in Schedule 8 relating to the Housing Act 1985 (c. 68), the Housing Act 1988 (c. 50), paragraphs 51 and 59 of Schedule 27 to the Greater London Authority Act 1999 (c. 29) and paragraph 74 of Schedule 6 to the Criminal Justice and Police Act 2001 (c. 16) and section 107(2) (so far as relating to those entries); and

(b) sections 105 and 106 and this section.

(4) The provisions of sections 97 and 98, so far as they relate to local government areas in Wales, shall come into force on such day as the National Assembly for Wales may by order made by statutory instrument appoint; and different days may be appointed under this subsection for different purposes or different areas.

(5) Sections 70 and 71, and sections 102 to 104 so far as they amend the Police (Scotland) Act 1967 (c. 77), shall come into force on such day as the Scottish Ministers may by order appoint; and different days may be appointed under this subsection for different purposes or different areas.

(6) Subject to subsections (7) to (9), this Act extends to England and Wales only.

(7) This Act extends to the United Kingdom so far as it makes the following provision-

(a) the provision contained in Part 5;

(b) the provision contained in section 82;

(c) the provision contained in section 99;

(d) the provision contained in section 103(6);

(e) any provision (other than one contained in Chapter 1 of Part 4) relating to the National Criminal Intelligence Service.

(8) Section 96 also extends to Northern Ireland.

(9) Subject to subsection (10), this Act, so far as it amends or repeals any enactment (other than one that extends to England and Wales only), has the same extent as the enactment amended or repealed.

(10) The amendments and repeals made by this Act-

(a) in section 96 of the Road Traffic Regulation Act 1984 (c. 27) (traffic wardens),

(b) in sections 103 and 183 of the Road Traffic Act 1988 (c. 52) (driving while disqualified), and

(c) Part 3 of the Road Traffic Offenders Act 1988 (c. 53) (fixed penalties),

do not extend to Scotland.

## SCHEDULES

### SCHEDULE 1

#### Section 8

#### POWERS OF THE SECRETARY OF STATE IN RELATION TO NCIS AND NCS

##### *Introductory*

1 The 1997 Act shall be amended as follows.

##### *Codes of Practice for Directors General*

2 (1) After section 28 (codes of practice for the NCIS Service Authority) there shall be inserted-

##### **"28A Codes of practice for Director General of NCIS**

(1) The Secretary of State may issue codes of practice relating to the discharge by the Director General of NCIS of any of his functions.

(2) The Secretary of State may from time to time revise the whole or any part of a code of practice issued under this section.

(3) Where the Secretary of State proposes to issue or revise a code of practice under this section, he shall first require the Central Police Training and Development Authority to prepare a draft of the code or of the revisions; and the draft prepared by that Authority must contain all such matters as the Secretary of State may specify in the requirement.

(4) Before preparing a draft code of practice under this section or any draft revisions of such a code, the Central Police Training and Development Authority ("the CPTDA") shall consult with-

- (a) the NCIS Service Authority;
- (b) the Director General of NCIS;
- (c) persons whom the CPTDA considers to represent the interests of police authorities;
- (d) persons whom the CPTDA considers to represent the interests of chief officers of police; and
- (e) such other persons as the CPTDA thinks fit.

(5) Before issuing or revising a code of practice under this section the Secretary of State shall consult the Scottish Ministers.

(6) The Secretary of State shall lay any code of practice issued by him under this section, and any revisions of any such code, before Parliament.

(7) The Secretary of State shall not be required by subsection (6) to lay before Parliament, or may exclude from what he does so lay, anything the publication of which, in his opinion-

- (a) would be against the interests of national security;
- (b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders;
- or
- (c) could jeopardise the safety of any person.

(8) In discharging any function to which a code of practice under this section relates, the Director General of NCIS shall have regard to the code."

(2) After section 73 (codes of practice for the NCS Service Authority) there shall be inserted-

**"73A Codes of practice for Director General of NCS**

(1) The Secretary of State may issue codes of practice relating to the discharge by the Director General of the National Crime Squad of any of his functions.

(2) The Secretary of State may from time to time revise the whole or any part of a code of practice issued under this section.

(3) Where the Secretary of State proposes to issue or revise a code of practice under this section, he shall first require the Central Police Training and Development Authority to prepare a draft of the code or of the revisions; and the draft prepared by that Authority must contain all such matters as the Secretary of State may specify in the requirement.

(4) Before preparing a draft code of practice under this section or any draft revisions of such a code, the Central Police Training and Development Authority ("the CPTDA") shall consult with-

- (a) the NCS Service Authority;
- (b) the Director General of the National Crime Squad;
- (c) persons whom the CPTDA considers to represent the interests of police authorities;
- (d) persons whom the CPTDA considers to represent the interests of chief officers of police; and
- (e) such other persons as the CPTDA thinks fit.

(5) The Secretary of State shall lay any code of practice issued by him under this section, and any revisions of any such code, before Parliament.

(6) The Secretary of State shall not be required by subsection (5) to lay before Parliament, or may exclude from what he does so lay, anything the publication of which, in his opinion-

- (a) would be against the interests of national security;
  - (b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders;
- or

(c) could jeopardise the safety of any person.

(7) In discharging any function to which a code of practice under this section relates, the Director General of the National Crime Squad shall have regard to the code."

*Directions to Service Authorities*

- 3 (1) For section 30 (power to give directions in response to a report on NCIS carried out in accordance with that section) there shall be substituted-

**"30 Power to give directions to NCIS Service Authority**

(1) Where a report made to the Secretary of State on an inspection under section 54 of the Police Act 1996 (c. 16) or section 41 of the Police (Northern Ireland) Act 1998 (c. 32) states-

(a) that, in the opinion of the person making the report, the whole or any part of NCIS is, whether generally or in particular respects, not efficient or not effective, or

(b) that, in that person's opinion, the whole or a part of NCIS will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken,

the Secretary of State may, after consultation with the Scottish Ministers, direct the NCIS Service Authority to take such remedial measures as may be specified in the direction.

(2) Those remedial measures must not relate to any matter other than-

(a) a matter by reference to which the report contains a statement of opinion falling within subsection (1)(a) or (b); or

(b) a matter that the Secretary of State considers relevant to any matter falling within paragraph (a).

(3) Where a report made to the Scottish Ministers on an inspection under section 33 of the Police (Scotland) Act 1967 (c. 77) states-

(a) that, in the opinion of the person making the report,

the whole or any part of NCIS is, whether generally or in particular respects, not efficient or not effective, or  
(b) that, in that person's opinion, the whole or a part of NCIS will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken,

the Scottish Ministers may, after consultation with the Secretary of State, direct the NCIS Service Authority to take such remedial measures as may be specified in the direction.

(4) Those remedial measures must not relate to any matter other than-

(a) a matter by reference to which the report contains a statement of opinion falling within subsection (3)(a) or (b); or

(b) a matter that the Scottish Ministers consider relevant to any matter falling within paragraph (a).

(5) If the Secretary of State exercises his power to give a direction under this section-

(a) he shall prepare a report on his exercise of that power; and

(b) he shall lay that report before Parliament.

(6) If the Scottish Ministers exercise their power to give a direction under this section-

(a) they shall prepare a report on their exercise of that power; and

(b) they shall lay that report before the Scottish Parliament.

(7) A report under subsection (5) or (6)-

(a) shall be prepared at such time as the Secretary of State considers or, as the case may be, the Scottish Ministers consider appropriate; and

(b) may relate to more than one exercise of the power to give a direction under this section."

(2) For section 75 (power to give directions in response to a report on NCS on an inspection carried out in accordance with that section) there shall be substituted-

**"75 Power to give directions to NCS Service Authority**

(1) Where a report made to the Secretary of State on an inspection under section 54 of the Police Act 1996 (c. 16) states-

(a) that, in the opinion of the person making the report, the whole or any part of the National Crime Squad is, whether generally or in particular respects, not efficient or not effective, or

(b) that, in that person's opinion, the whole or a part of the National Crime Squad will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken,

the Secretary of State may direct the NCS Service Authority to take such remedial measures as may be specified in the direction.

(2) Those remedial measures must not relate to any matter other than-

(a) a matter by reference to which the report contains a statement of opinion falling within subsection (1)(a) or (b); or

(b) a matter that the Secretary of State considers relevant to any matter falling within paragraph (a).

(3) If the Secretary of State exercises his power to give a direction under this section-

(a) he shall prepare a report on his exercise of that power; and

(b) he shall lay that report before Parliament.

(4) A report under subsection (3)-

(a) shall be prepared at such time as the Secretary of State considers appropriate; and

(b) may relate to more than one exercise of the power to give a direction under this section."

*Directions as to action plans*

4 (1) After section 31 there shall be inserted-



### **"31A Power to give directions as to action plans**

(1) This section applies where an inspection report made to the Secretary of State states -

(a) that, in the opinion of the person making the report, the whole or any part of NCIS is, whether generally or in particular respects, not efficient or not effective; or

(b) that, in that person's opinion, the whole or a part of NCIS will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken.

(2) If the Secretary of State considers that remedial measures are required in relation to any matter identified by the report, he may, after consultation with the Scottish Ministers, direct the NCIS Service Authority to submit an action plan to him.

(3) An action plan is a plan setting out the remedial measures which the NCIS Service Authority proposes to take in relation to the matters in respect of which the direction is given.

(4) If the NCIS Service Authority is directed to submit an action plan, that authority shall direct the Director General of NCIS to prepare a draft of it and to submit it to the NCIS Service Authority for that authority to consider.

(5) The NCIS Service Authority, on considering a draft action plan submitted to it under subsection (4) may submit the plan to the Secretary of State, with or without modifications.

(6) If the NCIS Service Authority proposes to make modifications to the draft of the action plan submitted under subsection (4), it must consult with the Director General of NCIS.

(7) On considering an action plan submitted to him in accordance with a direction under this section, the Secretary of State may, if he is of the opinion that the remedial measures contained in the action plan submitted to him are inadequate, notify the NCIS Service Authority and the Director General of NCIS of that opinion and of his reasons

for it.

(8) In forming an opinion for the purposes of subsection (7), the Secretary of State must consult with the Scottish Ministers.

(9) If the NCIS Service Authority is notified under subsection (7) -

(a) it shall consider, after consultation with the Director General of NCIS about the matters notified, whether to revise the action plan in the light of those matters; and

(b) if it does revise that plan, it shall send a copy of the revised plan to the Secretary of State.

(10) On giving a direction under this section to the NCIS Service Authority, the Secretary of State shall notify the Director General of NCIS that he has given that direction.

(11) The period within which a direction to submit an action plan must be complied with is such period of not less than four weeks and not more than twelve weeks after it is given as may be specified in the direction.

(12) The provision that a direction under this section may require to be included in an action plan to be submitted to the Secretary of State includes-

(a) provision setting out the steps that the NCIS Service Authority proposes should be taken in respect of the matters to which the direction relates and the performance targets the authority proposes should be met;

(b) provision setting out that Authority's proposals as to the times within which those steps are to be taken and those targets to be met and the means by which the success of the plan's implementation is to be measured;

(c) provision for the making of progress reports to the Secretary of State about the implementation of the action plan;

(d) provision as to the times at which, and the manner in which, any progress report is to be made; and

(e) provision for the duration of the plan and for it to cease to apply in the circumstances determined by the Secretary of State.

(13) Nothing in this section shall authorise the Secretary of State or the NCIS Service Authority to direct the inclusion in an action plan or draft action plan of any requirement to do or not to do anything in a particular case identified for the purposes of the requirement, or in relation to a particular person so identified.

(14) In this section references, in relation to a case in which there is already an action plan in force, to the submission of a plan to the Secretary of State include references to the submission of revisions of the existing plan; and the preceding provisions of this section shall have effect accordingly.

(15) The NCIS Service Authority shall comply with any direction given to it under this section.

(16) The Director General of NCIS shall comply with any direction given to him under this section.

(17) If the Secretary of State exercises his power to give a direction under this section-

- (a) he shall prepare a report on his exercise of that power;
- (b) he shall lay a copy of that report before Parliament; and
- (c) he shall send a copy of that report to the Scottish Ministers.

(18) The Scottish Ministers shall lay any copy of a report sent to them under subsection (17) before the Scottish Parliament.

(19) A report under subsection (17)-

- (a) shall be prepared at such time as the Secretary of State considers appropriate; and
- (b) may relate to more than one exercise of the power mentioned in that subsection.

(20) In this section "an inspection report" means a report

under section 54 of the Police Act 1996 (c. 16), section 33 of the Police (Scotland) Act 1967 (c. 77) or section 41 of the Police (Northern Ireland) Act 1998 (c. 32).

(21) Nothing in this section or in section 30 prevents the Secretary of State in the case of the same inspection report from exercising (whether in relation to the same matter or different matters or at the same time or at different times) both his powers under this section and his powers under that section."

(2) After section 76 there shall be inserted-

**"76A Power to give directions as to action plans**

(1) This section applies where a report made to the Secretary of State on an inspection under section 54 of the Police Act 1996 (c. 16) states-

(a) that, in the opinion of the person making the report, the whole or any part of the National Crime Squad is, whether generally or in particular respects, not efficient or not effective; or

(b) that, in that person's opinion, the whole or a part of the National Crime Squad will cease to be efficient or effective, whether generally or in particular respects, unless remedial measures are taken.

(2) If the Secretary of State considers that remedial measures are required in relation to any matter identified by the report, he may direct the NCS Service Authority to submit an action plan to him.

(3) An action plan is a plan setting out the remedial measures which the NCS Service Authority proposes to take in relation to the matters in respect of which the direction is given.

(4) If the NCS Service Authority is directed to submit an action plan, that authority shall direct the Director General of the National Crime Squad to prepare a draft of it and to submit it to the NCS Service Authority for that authority to consider.

(5) The NCS Service Authority, on considering a draft action plan submitted to it under subsection (4) may submit the plan to the Secretary of State, with or without modifications.

(6) If the NCS Service Authority proposes to make modifications to the draft of the action plan submitted under subsection (4), it must consult with the Director General of the National Crime Squad.

(7) On considering an action plan submitted to him in accordance with a direction under this section, the Secretary of State may, if he is of the opinion that the remedial measures contained in the action plan submitted to him are inadequate, notify the NCS Service Authority and the Director General of the National Crime Squad of that opinion and of his reasons for it.

(8) If the NCS Service Authority is notified under subsection (7) -

(a) it shall consider, after consultation with the Director General of the National Crime Squad about the matters notified, whether to revise the action plan in the light of those matters; and

(b) if it does revise that plan, it shall send a copy of the revised plan to the Secretary of State.

(9) On giving a direction under this section to the NCS Service Authority, the Secretary of State shall notify the Director General of the National Crime Squad that he has given that direction.

(10) The period within which a direction to submit an action plan must be complied with is such period of not less than four weeks and not more than twelve weeks after it is given as may be specified in the direction.

(11) The provision that a direction under this section may require to be included in an action plan to be submitted to the Secretary of State includes-

(a) provision setting out the steps that the NCS Service Authority proposes should be taken in respect of the matters to which the direction relates and the

performance targets the authority proposes should be met;

(b) provision setting out that Authority's proposals as to the times within which those steps are to be taken and those targets to be met and the means by which the success of the plan's implementation is to be measured;

(c) provision for the making of progress reports to the Secretary of State about the implementation of the action plan;

(d) provision as to the times at which, and the manner in which, any progress report is to be made; and

(e) provision for the duration of the plan and for it to cease to apply in the circumstances determined by the Secretary of State.

(12) Nothing in this section shall authorise the Secretary of State or the NCS Service Authority to direct the inclusion in an action plan or draft action plan of any requirement to do or not to do anything in a particular case identified for the purposes of the requirement, or in relation to a particular person so identified.

(13) In this section references, in relation to a case in which there is already an action plan in force, to the submission of a plan to the Secretary of State include references to the submission of revisions of the existing plan; and the preceding provisions of this section shall have effect accordingly.

(14) The NCS Service Authority shall comply with any direction given to it under this section.

(15) The Director General of the National Crime Squad shall comply with any direction given to him under this section.

(16) If the Secretary of State exercises his power to give a direction under this section-

(a) he shall prepare a report on his exercise of that power; and

(b) he shall lay that report before Parliament.

(17) A report under subsection (16)-

(a) shall be prepared at such time as the Secretary of State considers appropriate; and

(b) may relate to more than one exercise of the power mentioned in that subsection.

(18) Nothing in this section or in section 75 prevents the Secretary of State in the case of the same report under section 54 of the Police Act 1996 (c. 16) from exercising (whether in relation to the same matter or different matters or at the same time or at different times) both his powers under this section and his powers under section 75."

*Procedure for giving directions*

- 5 (1) After section 31A (which is inserted by paragraph 4(1)) there shall be inserted-

**"31B Procedure for giving directions by the Secretary of State**

(1) The Secretary of State shall not give a direction under section 30 or 31A unless-

(a) the NCIS Service Authority and the Director General of NCIS have each been given such information about the Secretary of State's grounds for proposing to give that direction as he considers appropriate for enabling them to make representations or proposals under the following paragraphs of this subsection;

(b) the NCIS Service Authority and the Director General of NCIS have each been given an opportunity of making representations about those grounds;

(c) the NCIS Service Authority has had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and

(d) the Secretary of State has considered any such representations and any such proposals.

(2) The Secretary of State may by regulations make further provision as to the procedure to be followed in cases where a proposal is made for the giving of a direction by him under section 30 or 31A.

(3) Before making any regulations under this section, the Secretary of State shall consult with-

- (a) the Scottish Ministers;
- (b) the NCIS Service Authority;
- (c) the Director General of NCIS;
- (d) persons whom he considers to represent the interests of police authorities in England and Wales;
- (e) persons whom he considers to represent the interests of chief officers of police of police forces in England and Wales; and
- (f) such other persons as he thinks fit.

(4) Regulations under this section may make different provision for different cases and circumstances.

(5) A statutory instrument containing regulations under this section shall not be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House.

### **31C Procedure for giving directions by the Scottish Ministers**

(1) The Scottish Ministers shall not give a direction under section 30 unless-

- (a) the NCIS Service Authority and the Director General of NCIS have each been given such information about the Scottish Ministers' grounds for proposing to give that direction as they consider appropriate for enabling them to make representations or proposals under the following paragraphs of this subsection;
- (b) the NCIS Service Authority and the Director General of NCIS have each been given an opportunity of making representations about those grounds;
- (c) the NCIS Service Authority has had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and
- (d) the Scottish Ministers have considered any such representations and any such proposals.

(2) The Scottish Ministers may by regulations make further provision as to the procedure to be followed in cases where a



proposal is made for the giving of a direction by them under section 30.

(3) Before making any regulations under this section, the Scottish Ministers shall consult with-

- (a) the Secretary of State;
- (b) the NCIS Service Authority;
- (c) the Director General of NCIS;
- (d) persons whom they consider to represent the interests of police authorities in Scotland;
- (e) persons whom they consider to represent the interests of chief constables of police forces in Scotland; and
- (f) such other persons as they think fit.

(4) Regulations under this section may make different provision for different cases and circumstances.

(5) A statutory instrument containing regulations under this section shall not be made unless a draft of the regulations has been laid before, and approved by a resolution of, the Scottish Parliament."

(2) In section 45 (orders and regulations under Part 1), after "Part" there shall be inserted "or of the Scottish Ministers to make regulations under this Part".

(3) After section 76A (which is inserted by paragraph 4(2)), there shall be inserted-

**"76B Procedure for giving directions under sections 75 and 76A**

(1) The Secretary of State shall not give a direction under section 75 or 76A unless-

- (a) the NCS Service Authority and the Director General of the National Crime Squad have each been given such information about the Secretary of State's grounds for proposing to give that direction as he considers appropriate for enabling them to make representations or proposals under the following paragraphs of this subsection;

(b) the NCS Service Authority and the Director General of the National Crime Squad have each been given an opportunity of making representations about those grounds;

(c) the NCS Service Authority has had an opportunity of making proposals for the taking of remedial measures that would make the giving of the direction unnecessary; and

(d) the Secretary of State has considered any such representations and any such proposals.

(2) The Secretary of State may by regulations make further provision as to the procedure to be followed in cases where a proposal is made for the giving of a direction by him under section 75 or 76A.

(3) Before making any regulations under this section, the Secretary of State shall consult with-

(a) the NCS Service Authority;

(b) the Director General of the National Crime Squad;

(c) persons whom he considers to represent the interests of police authorities;

(d) persons whom he considers to represent the interests of chief officers of police; and

(e) such other persons as he thinks fit.

(4) Regulations under this section may make different provision for different cases and circumstances.

(5) A statutory instrument containing regulations under this section shall not be made unless a draft of the regulations has been laid before Parliament and approved by a resolution of each House."

#### *National Crime Squad equipment*

6 (1) Section 80 shall become subsection (1) of that section, and in that section, after that subsection, there shall be inserted-

"(2) The Secretary of State may by regulations make any or all of the following provisions-

(a) provision requiring the National Crime Squad when

using equipment for the purposes specified in the regulations to use only-

(i) the equipment which is specified in the regulations;

(ii) equipment which is of a description so specified; or

(iii) equipment which is of a type approved by the Secretary of State in accordance with the regulations;

(b) provision requiring the National Crime Squad to keep available for use the equipment falling within paragraph (a)(i) to (iii) which is specified or described in, or approved in accordance with, the regulations;

(c) provision prohibiting the National Crime Squad from using equipment of a type approved as mentioned in paragraph (a)(iii) except-

(i) where the conditions subject to which the approval was given are satisfied; and

(ii) in accordance with the other terms of that approval;

(d) provision requiring equipment used the National Crime Squad to comply with such conditions as may be specified in the regulations, or as may be approved by the Secretary of State in accordance with the regulations;

(e) provision prohibiting the National Crime Squad from using equipment specified in the regulations, or any equipment of a description so specified.

(3) Before making regulations under this section, the Secretary of State shall consult with-

(a) the Service Authority for the National Crime Squad;

(b) the Director General of that Squad;

(c) persons whom the Secretary of State considers to represent the interests of police authorities;

(d) persons whom the Secretary of State considers to represent the interests of chief officers of police; and

(e) such other persons as the Secretary of State thinks fit.

(4) Regulations under this section may make different provision for different cases and circumstances.

(5) A statutory instrument containing any regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(6) In this section "equipment" includes-

- (a) vehicles; and
- (b) headgear and protective and other clothing."

*Procedures and practices of the National Crime Squad*

7 After section 80 there shall be inserted-

**"80A Regulation of procedures and practices**

(1) The Secretary of State may by regulations make provision requiring the National Crime Squad-

- (a) to adopt particular procedures or practices; or
- (b) to adopt procedures or practices of a particular description.

(2) Before making any regulations under this section, the Secretary of State shall seek advice from-

- (a) the chief inspector of constabulary; and
- (b) the Central Police Training and Development Authority.

(3) Before seeking advice under subsection (2) the Secretary of State shall consult about his proposal to do so with-

- (a) persons whom he considers to represent the interests of police authorities; and
- (b) persons whom he considers to represent the interests of chief officers of police.

(4) A request for the purposes of subsection (2) may specify a period within which the requested advice is to be provided; and, if a period is so specified, the requested advice must be provided within it.

(5) Before giving any advice in response to a request for the purposes of subsection (2), the Central Police Training and Development Authority ("the CPTDA") shall consult

with-

- (a) the NCS Service Authority;
- (b) the Director General of the National Crime Squad;
- (c) persons whom the CPTDA considers to represent the interests of police authorities;
- (d) persons whom the CPTDA considers to represent the interests of chief officers of police; and
- (e) such other persons as the CPTDA thinks fit.

(6) The Secretary of State shall not make any regulations under this section requiring the adoption of any procedure or practice unless-

- (a) he has, as respects that procedure or practice, received advice from the Central Police Training and Development Authority and has considered that advice; and
- (b) the advice of the chief inspector of constabulary states that that inspector is satisfied as to the matters mentioned in subsection (7); and
- (c) the Secretary of State himself is satisfied as to those matters.

(7) Those matters are-

- (a) that the adoption of that procedure or practice is necessary in order to facilitate the carrying out by members of the National Crime Squad and of any one or more police forces of joint or co-ordinated operations;
- (b) that the making of regulations is necessary for securing the adoption of that procedure or practice; and
- (c) that securing the adoption of that procedure or practice is in the national interest.

(8) Regulations under this section may make different provision for different cases and circumstances.

(9) A statutory instrument containing any regulations under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament."

## SCHEDULE

2

### Section 9

#### THE INDEPENDENT POLICE COMPLAINTS COMMISSION

##### *Chairman*

- 1 (1) The chairman of the Commission shall hold office as chairman of the Commission in accordance with the terms of his appointment.
  - (2) A person who has been sentenced to a term of imprisonment of three months or more shall not, at any time in the five years following the day on which he was sentenced, be appointed as chairman of the Commission; and an appointment made in contravention of this sub-paragraph shall have no effect.
  - (3) The appointment of the chairman of the Commission shall be for a term not exceeding five years; but the chairman shall be eligible for re-appointment at the end of his term of office.
  - (4) The chairman of the Commission may be removed from office by Her Majesty either-
    - (a) at his own request; or
    - (b) on being advised by the Secretary of State that there are grounds falling with sub-paragraph (5) for the removal of the chairman.
  - (5) The following are grounds for removing the chairman from office-
    - (a) that he has failed without reasonable excuse to carry out the functions of his office for a continuous period of three months;
    - (b) that he has become a person falling within one or more paragraphs of section 9(3);
    - (c) that he has, since his appointment, been sentenced to imprisonment for a term of three months or more;
    - (d) that he is a person who-
      - (i) has had a bankruptcy order made against him;
      - (ii) has had his estate sequestrated; or
      - (iii) has made a composition or arrangement with, or

granted a trust deed for, his creditors;

(e) that he is subject to-

(i) a disqualification order under the Company Directors Disqualification Act 1986 (c. 46) or under Part 2 of the Companies (Northern Ireland) Order 1989 (S.I. 1989/2404 (N.I. 18)); or

(ii) an order made under section 429(2)(b) of the Insolvency Act 1986 (c. 45) (failure to pay under county court administration order);

(f) that he has acted improperly in relation to his duties; or

(g) that he is otherwise unable or unfit to perform his duties.

(6) For the purposes of this paragraph a sentence of imprisonment for any term the whole or part of which is suspended shall be taken to be a sentence of imprisonment for the whole term.

*Ordinary members of the Commission*

2 (1) Subject to the provisions of this Schedule, a person shall hold office as an ordinary member in accordance with the terms of his appointment.

(2) An appointment as an ordinary member may be to whole or to part time membership of the Commission.

(3) A person who has been sentenced to a term of imprisonment of three months or more shall not, at any time in the five years following the day on which he is sentenced, be appointed as an ordinary member; and an appointment made in contravention of this sub-paragraph shall have no effect.

(4) A person shall not be appointed to be an ordinary member for a term of more than five years; but an ordinary member shall be eligible for re-appointment at the end of his term of office.

(5) An ordinary member may at any time resign his office as a member of the Commission by notice in writing to the Secretary of State.

(6) The Secretary of State may at any time remove a person from office as an ordinary member if he is satisfied that that person-

(a) has failed without reasonable excuse to carry out the

functions of his office for a continuous period of three months beginning not earlier than six months before that time;

(b) has become a person falling within one or more paragraphs of section 9(3);

(c) has, since his appointment, been sentenced to imprisonment for a term of three months or more;

(d) is a person who-

(i) has had a bankruptcy order made against him;

(ii) has had his estate sequestrated; or

(iii) has made a composition or arrangement with, or granted a trust deed for, his creditors;

(e) is subject to-

(i) a disqualification order under the Company Directors Disqualification Act 1986 (c. 46) or under Part 2 of the Companies (Northern Ireland) Order 1989 (S.I. 1989/2404 (N.I. 18)); or

(ii) an order made under section 429(2)(b) of the Insolvency Act 1986 (c. 45) (failure to pay under county court administration order);

(f) has acted improperly in relation to his duties; or

(g) is otherwise unable or unfit to perform his duties.

(7) For the purposes of this paragraph a sentence of imprisonment for any term the whole or part of which is suspended shall be taken to be a sentence of imprisonment for the whole term.

(8) In this paragraph "ordinary member" means a member of the Commission other than the chairman.

#### *Deputy Chairmen*

3 (1) The Secretary of State may appoint not more than two deputy chairmen of the Commission from amongst its members.

(2) A person who ceases to hold office as a member of the Commission shall cease at the same time to hold office as deputy chairman of the Commission.

(3) A person shall hold office as a deputy chairman of the Commission in accordance with the terms of his appointment.



(4) A deputy chairman of the Commission may at any time resign his office as a deputy chairman by notice in writing to the Secretary of State.

(5) A deputy chairman of the Commission who is reappointed as a member from the time that would otherwise have been the end of his term of office as a member shall cease to be a deputy chairman at that time unless he is also reappointed to that office.

*Remuneration, pensions etc. of members*

4 (1) The Secretary of State may pay, or make such payments towards the provision of, such remuneration, pensions, allowances or gratuities to or in respect of the chairman, deputy chairmen and members of the Commission, or any of them, as he may determine.

(2) Where-

(a) a person ceases, otherwise than on the expiry of his term of office, to hold office as chairman, deputy chairman or member of the Commission, and

(b) it appears to the Secretary of State that there are special circumstances which make it right for that person to receive compensation,

the Secretary of State may direct the Commission to make a payment to that person of such amount as the Secretary of State may determine.

*The Chief Executive*

5 (1) The Commission shall have a chief executive.

(2) Subject to sub-paragraphs (3) and (5), it shall be for the Commission to appoint the person to be its chief executive.

(3) The approval of the Secretary of State shall be required for any appointment by the Commission of a person to be its chief executive.

(4) Subject to sub-paragraph (5), the Commission's chief executive shall be appointed on such terms and conditions and shall have such functions as the Commission may, with the approval of the Secretary of State, determine.

(5) The first appointment of a person to be the chief executive of the Commission shall be made by the Secretary of State, instead of by the Commission; and the terms and conditions on which that appointment is made shall also be determined by the Secretary of State, instead of by the Commission.

*Staff*

6 (1) The Commission may appoint such employees, on such terms and conditions, as appear to it to be appropriate.

(2) The Commission may make arrangements with-

(a) the chief officer of police of any police force maintained for a police area in England and Wales,

(b) the chief constable of any police force maintained for a police area in Scotland, or

(c) the Chief Constable of the Police Service of Northern Ireland,

under which members of his force are engaged on temporary service with the Commission.

(3) The Commission may make such other arrangements for its staffing as it thinks fit.

(4) A member of a police force on temporary service with the Commission shall be under the direction and control of the Commission.

(5) The approval of the Secretary of State as to numbers and as to the terms and conditions of staff shall be required for the exercise by the Commission of its powers under this paragraph.

*Superannuation and insurance*

7 (1) Where a person who-

(a) is employed by the Commission, and

(b) is by reference to that employment a participant in a scheme under section 1 of the Superannuation Act 1972 (c. 11),

is appointed as the chairman or as a deputy chairman of the Commission or as a member of it, the Treasury may determine that his service in that office shall be treated for the purposes of the scheme as service as an employee of the Commission; and his rights under the scheme shall not be affected by anything done under paragraph 4.

(2) The Employers' Liability (Compulsory Insurance) Act 1969 (c. 57) shall not require insurance to be effected by the Commission.

*Liability for acts of seconded staff*

8 (1) The Commission shall be liable in respect of unlawful conduct of seconded constables in the carrying out, or purported carrying out, of their functions as members of the Commission's staff in the like manner as an employer is liable in respect of any unlawful conduct of his employees in the course of their employment.

(2) Accordingly, the Commission shall be treated in the case of any such unlawful conduct which is a tort, as a joint tortfeasor.

(3) In this paragraph "seconded constables" means persons serving as members of the Commission's staff without being employed by it.

*Power of Commission to set up regional offices*

9 If it appears to the Commission that it is necessary to do so in order to carry out its functions efficiently, the Commission may, with the consent of the Secretary of State, set up regional offices in places in England and Wales.

*Proceedings*

10 (1) The arrangements for the proceedings of the Commission (including the quorum for meetings and the establishment of committees) shall be such as the Commission may determine.

(2) The arrangements may include provision for the committees established under the arrangements to include members of the Commission's staff and other persons who are not members of the Commission.

(3) The arrangements may include provision for persons selected by the Commission to attend meetings of the Commission or of any

committee established by it.

(4) The Commission may-

(a) pay such remuneration and allowances as it may determine to members of committees established by it who are neither members of the Commission nor members of its staff; and

(b) make such payments for the reimbursement of expenses incurred by persons attending meetings in accordance with arrangements made by virtue of sub-paragraph (3) as it may determine.

(5) The arrangements may provide for the carrying out, under the general direction of the Commission, of any of the Commission's functions-

(a) by a committee established by the Commission;

(b) by one or more of the members of the Commission; or

(c) by the chief executive or by one or more members of the Commission's staff.

(6) The making of arrangements by virtue of sub-paragraph (5) shall require the consent of the Secretary of State.

11 The validity of any proceedings of the Commission or of any of its committees shall not be affected by-

(a) any defect in the appointment of the chairman, a deputy chairman or any member of the Commission; or

(b) any vacancy in the office of chairman or among the members of the Commission.

*Authentication of the Commission's seal*

12 The application of the seal of the Commission shall be authenticated by the signature of-

(a) any member of the Commission; or

(b) any other person who has been authorised by the Commission (whether generally or specially) for that purpose.

*Evidence of documents*

13 A document purporting to be-

- (a) duly executed by the Commission under its seal, or
- (b) signed on its behalf,

shall be received in evidence and shall, unless the contrary is shown, be taken to be so executed or signed.

*Payments by the Secretary of State*

14 The Secretary of State may pay to the Commission-

- (a) sums equal to any amounts paid or falling to be paid by it under any provision of this Act (other than paragraph 15); and
- (b) such other sums as appear to him to be appropriate for enabling it to meet the expenses incurred or to be incurred by it in the carrying out of its functions.

*Other receipts by the Commission*

15 (1) The Commission shall pay to the Secretary of State all sums received by it (otherwise than under paragraph 14) in the course of, or in connection with, the carrying out of its functions.

(2) Sub-paragraph (1) shall not apply where the Secretary of State so directs.

(3) Any sums received by the Secretary of State under this paragraph shall be paid into the Consolidated Fund.

*Borrowing*

16 The Commission shall not borrow money unless authorised to do so (whether generally or specially) by the Secretary of State.

*Accounts*

17 (1) The Commission shall-

- (a) keep proper accounts and proper records in relation to the accounts;
- (b) prepare in respect of each financial year of the Commission a statement of accounts in such form as the Secretary of State may direct; and
- (c) send copies of the statement to the Secretary of State and

the Comptroller and Auditor General before the end of August in the financial year of the Commission following that to which the statement relates.

(2) The Comptroller and Auditor General shall-

(a) examine, certify and report on every statement received by him by virtue of this paragraph; and

(b) lay copies of every such statement, and of his report on it, before Parliament.

*Financial year of the Commission*

18 The following are financial years of the Commission-

(a) the period beginning with the day on which the Commission is established and ending with 31st March falling next after that day; and

(b) every subsequent period of twelve months ending with 31st March.

## SCHEDULE

3

### Section 13

#### HANDLING OF COMPLAINTS AND CONDUCT MATTERS ETC.

##### PART 1

#### HANDLING OF COMPLAINTS

##### *Duties to preserve evidence relating to complaints*

1 (1) Where a complaint is made about the conduct of a chief officer, it shall be the duty of the police authority maintaining his force to secure that all such steps as are appropriate for the purposes of Part 2 of this Act are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to the conduct complained of.

(2) Where-

(a) a complaint is made to a chief officer about the conduct of a person under his direction and control, or

(b) a chief officer becomes aware that a complaint about the conduct of a person under his direction or control has been made to the Commission or to a police authority, the chief officer shall take all such steps as appear to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the conduct complained of.

(3) The chief officer's duty under sub-paragraph (2) must be performed as soon as practicable after the complaint is made or, as the case may be, he becomes aware of it.

(4) After that, he shall be under a duty, until he is satisfied that it is no longer necessary to do so, to continue to take the steps from time to time appearing to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the conduct complained of.

(5) It shall be the duty of a police authority to comply with all such directions as may be given to it by the Commission in relation to the performance of its duty under sub-paragraph (1).

(6) It shall be the duty of a chief officer to take all such specific steps for obtaining or preserving evidence relating to any conduct that is the subject-matter of a complaint as he may be directed to take for the purposes of this paragraph by the police authority maintaining his force or by the Commission.

*Initial handling and recording of complaints*

2 (1) Where a complaint is made to the Commission-

(a) it shall ascertain whether the complainant is content for the police authority or chief officer who is the appropriate authority to be notified of the complaint; and

(b) it shall give notification of the complaint to the appropriate authority if, and only if, the complainant is so content.

(2) Where a complaint is made to a police authority, it shall-

(a) determine whether or not it is itself the appropriate authority; and

(b) if it determines that it is not, give notification of the complaint to the person who is.

(3) Where a complaint is made to a chief officer, he shall-

(a) determine whether or not he is himself the appropriate authority; and

(b) if he determines that he is not, give notification of the complaint to the person who is.

(4) Where the Commission-

(a) is prevented by sub-paragraph (1)(b) from notifying any complaint to the appropriate authority, and

(b) considers that it is in the public interest for the subject-matter of the complaint to be brought to the attention of the appropriate authority and recorded under paragraph 11,

the Commission may bring that matter to the appropriate authority's attention under that paragraph as if it were a recordable conduct matter, and (if it does so) the following provisions of this Schedule shall have effect accordingly as if it were such a matter.

(5) Where the Commission, a police authority or a chief officer gives notification of a complaint under any of sub-paragraphs (1) to (3) or the Commission brings any matter to the appropriate authority's attention under sub-paragraph (4), the person who gave the notification or, as the case may be, the Commission shall notify the complainant-

(a) that the notification has been given and of what it contained; or

(b) that the matter has been brought to the appropriate authority's attention to be dealt with otherwise than as a complaint.

(6) Where-

(a) a police authority determines, in the case of any complaint made to the authority, that it is itself the appropriate authority,

(b) a chief officer determines, in the case of any complaint made to that chief officer, that he is himself the appropriate authority, or

(c) a complaint is notified to a police authority or chief officer under this paragraph,

the authority or chief officer shall record the complaint.



(7) Nothing in this paragraph shall require the notification or recording by any person of any complaint about any conduct if-

(a) that person is satisfied that the subject-matter of the complaint has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person whose conduct it was; or

(b) the complaint has been withdrawn.

*Failures to notify or record a complaint*

3 (1) This paragraph applies where anything which is or purports to be a complaint in relation to which paragraph (2) has effect is received by a police authority or chief officer (whether in consequence of having been made directly or of a notification under that paragraph).

(2) If the police authority or chief officer decides not to take action under paragraph (2) for notifying or recording the whole or any part of what has been received, the authority or chief officer shall notify the complainant of the following matters-

(a) the decision to take no action and, if that decision relates to only part of what was received, the part in question;

(b) the grounds on which the decision was made; and

(c) that complainant's right to appeal against that decision under this paragraph.

(3) The complainant shall have a right of appeal to the Commission against any failure by the police authority or chief officer to make a determination under paragraph 2 or to notify or record anything under that paragraph.

(4) On an appeal under this paragraph, the Commission shall-

(a) determine whether any action under paragraph 2 should have been taken in the case in question; and

(b) if the Commission finds in the complainant's favour, give such directions as the Commission considers appropriate to the police authority or chief officer as to the action to be taken for making a determination, or for notifying or recording what was received;

and it shall be the duty of a police authority or chief officer to comply with any directions given under paragraph (b).

(5) Directions under sub-paragraph (4)(b) may require action taken in pursuance of the directions to be treated as taken in accordance with any such provision of paragraph 2 as may be specified in the direction.

(6) The Commission-

(a) shall give notification both to the police authority or, as the case may be, the chief officer and to the complainant of any determination made by it under this paragraph; and

(b) shall give notification to the complainant of any direction given by it under this paragraph to the police authority or chief officer.

(7) The Secretary of State may by regulations make provision-

(a) for the form and manner in which appeals under this paragraph are to be brought;

(b) for the period within which any such appeal must be brought; and

(c) for the procedure to be followed by the Commission when dealing with or disposing of any such appeal.

*Reference of complaints to the Commission*

4 (1) It shall be the duty of the appropriate authority to refer a complaint to the Commission if-

(a) the complaint is one alleging that the conduct complained of has resulted in death or serious injury;

(b) the complaint is of a description specified for the purposes of this sub-paragraph in regulations made by the Secretary of State; or

(c) the Commission notifies the appropriate authority that it requires the complaint in question to be referred to the Commission for its consideration.

(2) In a case where there is no obligation under sub-paragraph (1) to make a reference, the appropriate authority may refer a complaint to the Commission if that authority considers that it would be appropriate to do so so by reason of-

(a) the gravity of the subject-matter of the complaint; or

(b) any exceptional circumstances.

(3) In a case in which a reference under sub-paragraph (1) or (2) is

neither made nor required to be made, a police authority may refer a complaint to the Commission if-

(a) it is one in relation to which the chief officer of police of the police force maintained by that authority is the appropriate authority; and

(b) the police authority considers that it would be appropriate to do so reason of-

(i) the gravity of the subject-matter of the complaint; or

(ii) any exceptional circumstances.

(4) Where there is an obligation under this paragraph to refer a complaint to the Commission, it must be so referred within such period as may be provided for by regulations made by the Secretary of State.

(5) Subject to sub-paragraph (7), the following powers-

(a) the power of the Commission by virtue of sub-paragraph (1)(c) to require a complaint to be referred to it, and

(b) the power of a police authority or chief officer to refer a complaint to the Commission under sub-paragraph (2) or (3),

shall each be exercisable at any time irrespective of whether the complaint is already being investigated by any person or has already been considered by the Commission.

(6) A police authority or chief officer which refers a complaint to the Commission under this paragraph shall give a notification of the making of the reference-

(a) to the complainant, and

(b) except in a case where it appears to that authority or chief officer that to do so might prejudice a possible future investigation of the complaint, to the person complained against.

(7) A complaint that has already been referred to the Commission under this paragraph on a previous occasion-

(a) shall not be required to be referred again under this paragraph unless the Commission so directs; and

(b) shall not be referred in exercise of any power conferred by this paragraph unless the Commission consents.

*Duties of Commission on references under paragraph 4*

- 5 (1) It shall be the duty of the Commission in the case of every complaint referred to it by a police authority or chief officer, to determine whether or not it is necessary for the complaint to be investigated.
- (2) Where the Commission determines under this paragraph that it is not necessary for a complaint to be investigated, it 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.
- (3) Where the Commission refers a complaint back under sub-paragraph (2), it shall give a notification of the making of the reference back-
- (a) to the complainant, and
  - (b) except in a case where it appears to the Commission that to do so might prejudice a possible future investigation of the complaint, to the person complained against.

*Handling of complaints by the appropriate authority*

- 6 (1) This paragraph applies where a complaint has been recorded by the appropriate authority unless the complaint-
- (a) is one which has been, or must be, referred to the Commission under paragraph 4; and
  - (b) is not for the time being either referred back to the authority under paragraph 5 or the subject of a determination under paragraph 15.
- (2) Subject to paragraph 7, the appropriate authority shall determine whether or not the complaint is suitable for being subjected to local resolution, and-
- (a) if it determines that it is so suitable and the complainant consents, it shall make arrangements for it to be so subjected; and
  - (b) in any other case, it shall make arrangements for the complaint to be investigated by that authority on its own behalf.
- (3) A determination that a complaint is suitable for being subjected to local resolution shall not be made unless either-

- (a) the appropriate authority is satisfied that the conduct complained of (even if it were proved) would not justify the bringing of any criminal or disciplinary proceedings; or
- (b) the Commission, in a case falling within sub-paragraph (4), has approved the use of local resolution.

(4) The Commission may approve the use of local resolution in the case of any complaint if, on an application by the appropriate authority, the Commission is satisfied-

- (a) that the following two conditions are fulfilled-
  - (i) that the conduct complained of (even if it were proved) would not justify the bringing of any criminal proceedings; and
  - (ii) that any disciplinary proceedings the bringing of which would be justified in respect of that conduct (even if it were proved) would be unlikely to result in a dismissal, a requirement to resign or retire, a reduction in rank or other demotion or the imposition of a fine;

or

- (b) that it will not be practicable (even if the complaint is thoroughly investigated) for either of the following to be brought-
  - (i) criminal proceedings in respect of the conduct to which it relates that would be likely to result in a conviction; or
  - (ii) disciplinary proceedings in respect of that conduct that would be likely to result in a dismissal, a requirement to resign or retire, a reduction in rank or other demotion or the imposition of a fine.

(5) No more than one application may be made to the Commission for the purposes of sub-paragraph (4) in respect of the same complaint.

(6) Before a complainant can give his consent for the purposes of this paragraph to the local resolution of his complaint he must have been informed of his rights of appeal under paragraph 9.

(7) A consent given for the purposes of this paragraph shall not be capable of being withdrawn at any time after the procedure for the local resolution of the complaint has been begun.

*Dispensation by the Commission from requirements of Schedule*

- 7 (1) If, in a case in which paragraph (6) applies, the appropriate authority considers-
- (a) that it should handle the complaint otherwise than in accordance with this Schedule or should take no action in relation to it, and
  - (b) that the complaint falls within a description of complaints specified in regulations made by the Secretary of State for the purposes of this paragraph,
- the appropriate authority may apply to the Commission, in accordance with the regulations, for permission to handle the complaint in whatever manner (if any) that authority thinks fit.
- (2) The appropriate authority shall notify the complainant about the making of the application under this paragraph.
- (3) Where such an application is made to the Commission, it shall, in accordance with regulations made by the Secretary of State-
- (a) consider the application and determine whether to grant the permission applied for; and
  - (b) notify its decision to the appropriate authority and the complainant.
- (4) Where an application is made under this paragraph in respect of any complaint, the appropriate authority shall not, while the application is being considered by the Commission, take any action in accordance with the provisions of this Schedule (other than under paragraph 1) in relation to that complaint.
- (5) Where the Commission gives permission under this paragraph to handle the complaint in whatever manner (if any) the appropriate authority thinks fit, the authority-
- (a) shall not be required by virtue of any of the provisions of this Schedule (other than paragraph 1) to take any action in relation to the complaint; but
  - (b) may handle the complaint in whatever manner it thinks fit, or take no action in relation to the complaint, and for the purposes of handling the complaint may take any step that it could have taken, or would have been required to take, but for the permission.

(6) Where the Commission determines that no permission should be granted under this paragraph-

(a) it shall refer the matter back to the appropriate authority for the making of a determination under paragraph 6(2); and

(b) the authority shall then make that determination.

(7) No more than one application may be made to the Commission under this paragraph in respect of the same complaint.

*Local resolution of complaints*

8 (1) The arrangements made by the appropriate authority for subjecting any complaint to local resolution may include the appointment of a person who-

(a) is serving with the police, and

(b) is under the direction and control of the chief officer of police of the relevant force,

to secure the local resolution of the complaint.

(2) The Secretary of State may by regulations make provision-

(a) for the different descriptions of procedures that are to be available for dealing with a complaint where it is decided it is to be subjected to local resolution;

(b) for requiring a person complained against in a case in which the complaint is subjected to local resolution to be given an opportunity of commenting, in such manner as may be provided for in the regulations, on the complaint;

(c) for requiring that, on the making of an application in accordance with the regulations, a record of the outcome of any procedure for the local resolution of any complaint is to be given to the complainant.

(3) A statement made by any person for the purposes of the local resolution of any complaint shall not be 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 local resolution.

(4) If, after attempts have been made to resolve a complaint using local resolution, it appears to the appropriate authority-

(a) that the resolution of the complaint in that manner is impossible, or

(b) that the complaint is, for any other reason, not suitable for such resolution,

it shall make arrangements for the complaint to be investigated by that authority on its own behalf.

(5) The local resolution of any complaint shall be discontinued if-

(a) any arrangements are made under sub-paragraph (4);

(b) the Commission notifies the appropriate authority that it requires the complaint to be referred to the Commission under paragraph 4; or

(c) the complaint is so referred otherwise than in pursuance of such a notification.

(6) A person who has participated in any attempt to resolve a complaint using local resolution shall be disqualified for appointment under any provision of this Schedule to investigate that complaint, or to assist with the carrying out of the investigation of that complaint.

#### *Appeals relating to local resolution*

9 (1) Subject to sub-paragraph (2), a complainant whose complaint has been subjected to local resolution shall have a right of appeal to the Commission against the conduct of the local resolution of that complaint.

(2) The only matter that shall fall to be determined on an appeal under this paragraph is whether there have been any contraventions of the procedural requirements relating to the local resolution of the complaint.

(3) Where an appeal is brought under this paragraph, it shall be the duty of the Commission to give both-

(a) the person complained against, and

(b) the appropriate authority,

an opportunity of making representations about the matters to which the appeal relates.

(4) On an appeal under this paragraph, the Commission shall



determine whether there have been any contraventions of the procedural requirements relating to the local resolution of the complaint.

(5) Where the Commission finds in the complainant's favour on an appeal under this paragraph-

(a) it shall give such directions as the Commission considers appropriate to the appropriate authority as to the future handling of the complaint; and

(b) it shall be the duty of the appropriate authority to comply with any directions given to it under this sub-paragraph.

(6) Where the Commission determines for the purposes of sub-paragraph (5) that the future handling of the complaint should include an investigation, paragraph 15 shall apply as it applies in the case of a determination mentioned in sub-paragraph (1) of that paragraph.

(7) The Commission-

(a) shall give notification to the appropriate authority, to the complainant and to the person complained against of any determination made by it under this paragraph; and

(b) shall give notification to the complainant and to the person complained against of any direction given by it under this paragraph to the appropriate authority.

(8) The Secretary of State may by regulations make provision-

(a) for the form and manner in which appeals under this paragraph are to be brought;

(b) for the period within which any such appeal must be brought; and

(c) for the procedure to be followed by the Commission when dealing with or disposing of any such appeal.

PART 2

HANDLING OF CONDUCT MATTERS

*Conduct matters arising in civil proceedings*

10 (1) This paragraph applies where-

(a) a police authority or chief officer has received notification (whether or not under this paragraph) that civil proceedings relating to any matter have been brought by a member of the public against that authority or chief officer, or it otherwise appears to a police authority or chief officer that such proceedings are likely to be so brought; and

(b) it appears to that authority or chief officer (whether at the time of the notification or at any time subsequently) that those proceedings involve or would involve a conduct matter.

(2) The authority or chief officer-

(a) shall consider whether it or, as the case may be, he is the appropriate authority in relation to the conduct matter in question; and

(b) if it or he is not, shall notify the person who is the appropriate authority about the proceedings, or the proposal to bring them, and about the circumstances that make it appear as mentioned in sub-paragraph (1)(b).

(3) Where a police authority or chief officer determines for the purposes of this paragraph that it or, as the case may be, he is the appropriate authority in relation to any conduct matter, it or he shall record that matter.

(4) Where the appropriate authority records any matter under this paragraph it-

(a) shall first determine whether the matter is one which it is required to refer to the Commission under paragraph 13 or is one which it would be appropriate to so refer; and

(b) if it is not required so to refer the matter and does not do so, may deal with the matter in such other manner (if any) as it may determine.

(5) Nothing in sub-paragraph (3) shall require the appropriate authority to record any conduct matter if it is satisfied that the matter has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.

(6) For the purposes of this paragraph civil proceedings involve a conduct matter if-

(a) they relate to such a matter; or

(b) they are proceedings that relate to a matter in relation to which a conduct matter, or evidence of a conduct matter, is or may be relevant.

(7) The Secretary of State may by regulations provide for the times at which, or the periods within which, any requirement of this paragraph is to be complied with; and the period from which any such period is to run shall be such time as may be specified in those regulations or as may be determined in a manner set out in the regulations.

*Recording etc. of conduct matters in other cases*

11 (1) Where-

(a) a conduct matter comes (otherwise than as mentioned in paragraph 10) to the attention of the police authority or chief officer who is the appropriate authority in relation to that matter, and

(b) it appears to the appropriate authority that the conduct involved in that matter falls within sub-paragraph (2),

it shall be the duty of the appropriate authority to record that matter.

(2) Conduct falls within this sub-paragraph if (assuming

it to have taken place)-

- (a) it appears to have resulted in the death of any person or in serious injury to any person;
- (b) a member of the public has been adversely affected by it; or
- (c) it is of a description specified for the purposes of this sub-paragraph in regulations made by the Secretary of State.

(3) Where the appropriate authority records any matter under this paragraph it-

- (a) shall first determine whether the matter is one which it is required to refer to the Commission under paragraph (13) or is one which it would be appropriate to so refer; and
- (b) if it is not required so to refer the matter and does not do so, may deal with the matter in such other manner (if any) as it may determine.

(4) Nothing in sub-paragraph (1) shall require the appropriate authority to record any conduct matter if it is satisfied that the matter has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.

(5) If it appears to the Commission-

- (a) that any matter that has come to its attention is a recordable conduct matter, but
- (b) that that matter has not been recorded by the appropriate authority,

the Commission may direct the appropriate authority to record that matter; and it shall be the duty of that authority to comply with the direction.

*Duties to preserve evidence relating to conduct matters*

- 12 (1) Where a recordable conduct matter that relates to the conduct of a chief officer comes to the attention of the police authority maintaining his force, it shall be the duty of that authority to secure that all such steps as are appropriate for the purposes of Part 2 of this Act are taken, both

initially and from time to time after that, for obtaining and preserving evidence relating to that matter.

(2) Where a chief officer becomes aware of any recordable conduct matter relating to the conduct of a person under his direction and control, it shall be his duty to take all such steps as appear to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to that matter.

(3) The chief officer's duty under sub-paragraph (2) must be performed as soon as practicable after he becomes aware of the matter in question.

(4) After that, he shall be under a duty, until he is satisfied that it is no longer necessary to do so, to continue to take the steps from time to time appearing to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the matter.

(5) It shall be the duty of a police authority to comply with all such directions as may be given to it by the Commission in relation to the performance of any duty imposed on it by virtue of sub-paragraph (1).

(6) It shall be the duty of the chief officer to take all such specific steps for obtaining or preserving evidence relating to any recordable conduct matter as he may be directed to take for the purposes of this paragraph by the police authority maintaining his force or by the Commission.

*Reference of conduct matters to the Commission*

13 (1) It shall be the duty of a police authority or a chief officer to refer a recordable conduct matter to the Commission if, in a case (whether or not falling within paragraph 10) in which the authority or chief officer is the appropriate authority-

(a) that matter relates to any incident or circumstances in or in consequence of which any person has died or suffered serious injury;

(b) that matter is of a description specified for the

purposes of this sub-paragraph in regulations made by the Secretary of State; or

(c) the Commission notifies the appropriate authority that it requires that matter to be referred to the Commission for its consideration.

(2) In any case where there is no obligation under sub-paragraph (1) to make a reference, the appropriate authority may refer a recordable conduct matter to the Commission if that authority considers that it would be appropriate to do so by reason of-

(a) the gravity of the matter; or

(b) any exceptional circumstances.

(3) In a case in which a reference under sub-paragraph (1) or (2) is neither made nor required to be made, a police authority maintaining any police force may refer any recordable conduct matter to the Commission if-

(a) it is one in relation to which the chief officer of police of that force is the appropriate authority; and

(b) the police authority considers that it would be appropriate to do so by reason of

(i) the gravity of the matter; or

(ii) any exceptional circumstances.

(4) Where there is an obligation under this paragraph to refer any matter to the Commission, it must be so referred within such period as may be provided for by regulations made by the Secretary of State.

(5) Subject to sub-paragraph (7), the following powers-

(a) the power of the Commission by virtue of sub-paragraph (1)(c) to require a matter to be referred to it, and

(b) the power of a police authority or chief officer to refer any matter to the Commission under sub-paragraph (2) or (3),

shall each be exercisable at any time irrespective of whether the matter is already being investigated by any person or has already been considered by the Commission.

(6) Where-

(a) a police authority or chief officer refers a matter to the Commission under this paragraph, and

(b) that authority or chief officer does not consider that to do so might prejudice a possible future investigation of that matter,

that authority or chief officer shall give a notification of the making of the reference to the person to whose conduct that matter relates.

(7) A matter that has already been referred to the Commission under this paragraph on a previous occasion-

(a) shall not be required to be referred again under this paragraph unless the Commission so directs; and

(b) shall not be referred in exercise of any power conferred by this paragraph unless the Commission consents.

*Duties of Commission on references under paragraph 13*

14 (1) It shall be the duty of the Commission, in the case of every recordable conduct matter referred to it by a police authority or chief officer under paragraph 13, to determine whether or not it is necessary for the matter to be investigated.

(2) Where the Commission determines under this paragraph that it is not necessary for a recordable conduct matter to be investigated, it 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.

(3) Where-

(a) the Commission refers a matter back to the appropriate authority under this paragraph, and

(b) the Commission does not consider that to do so might prejudice a possible future investigation of that matter,

the Commission shall give a notification of the making of the reference to the person to whose conduct that matter relates.

SCHEDULE 3, HANDLING OF COMPLAINTS AND CONDUCT MATTERS ETC. -  
*continued*

---

PART 3

INVESTIGATIONS AND SUBSEQUENT PROCEEDINGS

*Power of the Commission to determine the form of an investigation*

- 15 (1) This paragraph applies where-
- (a) a complaint or recordable conduct matter is referred to the Commission; and
  - (b) the Commission determines that it is necessary for the complaint or matter to be investigated.
- (2) It shall be the duty of the Commission to determine the form which the investigation should take.
- (3) In making a determination under sub-paragraph (2) the Commission shall have regard to the following factors-
- (a) the seriousness of the case; and
  - (b) the public interest.
- (4) The only forms which the investigation may take in accordance with a determination made under this paragraph are-
- (a) an investigation by the appropriate authority on its own behalf;
  - (b) an investigation by that authority under the supervision of the Commission;
  - (c) an investigation by that authority under the management of the Commission;
  - (d) an investigation by the Commission.



(5) The Commission may at any time make a further determination under this paragraph to replace an earlier one.

(6) Where a determination under this paragraph replaces an earlier determination under this paragraph, or relates to a complaint or matter in relation to which the appropriate authority has already begun an investigation on its own behalf, the Commission may give-

- (a) the appropriate authority, and
- (b) any person previously appointed to carry out the investigation,

such directions as it considers appropriate for the purpose of giving effect to the new determination.

(7) It shall be the duty of a person to whom a direction is given under sub-paragraph (6) to comply with it.

(8) The Commission shall notify the appropriate authority of any determination that it makes under this paragraph in relation to a particular complaint or recordable conduct matter.

*Investigations by the appropriate authority on its own behalf*

16 (1) This paragraph applies if the appropriate authority is required by virtue of

- (a) any determination made by that authority under paragraph 6(2) (whether following the recording of a complaint or on a reference back under paragraph 5(2)) or under paragraph 8(4), or
- (b) any determination made by the Commission under paragraph 15,

to make arrangements for a complaint or recordable conduct matter to be investigated by the appropriate authority on its own behalf.

(2) This paragraph also applies if

(a) a determination falls to be made by that authority under paragraph 10(4)(b), or 11(3)(b) or 14(2) in relation to any recordable conduct matter; and

(b) the appropriate authority determine that it is necessary for the matter to be investigated by the authority on its own behalf.

(3) Subject to sub-paragraph (4), it shall be the duty of the appropriate authority to 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 member of the National Criminal Intelligence Service or the National Crime Squad,

to investigate the complaint or matter.

(4) The person appointed under this paragraph to investigate any complaint or 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 the person nominated by the Secretary of State for appointment under this paragraph.

*Investigations supervised by the Commission*

17 (1) This paragraph applies where the Commission has determined that it should supervise the investigation by the appropriate authority of any complaint or recordable conduct matter.

(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 member of the National Criminal Intelligence Service or the National Crime Squad,

to investigate the complaint or matter.

(3) 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.

(4) Where a person has already been appointed to investigate the complaint or matter, or is selected under this sub-paragraph for appointment, and the Commission is not satisfied with that person, 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.

(5) Where a selection made in pursuance of a requirement under sub-paragraph (4) has been notified to the Commission, 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.

(6) A person appointed under this paragraph to investigate any complaint or 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 the person nominated by the Secretary of State for appointment under this paragraph.

(7) The person appointed to investigate the complaint or

matter shall comply with all such requirements in relation to the carrying out of that investigation as may, in accordance with regulations made for the purposes of this sub-paragraph by the Secretary of State, be imposed by the Commission in relation to that investigation.

*Investigations managed by the Commission*

18 (1) This paragraph applies where the Commission has determined that it should manage the investigation by the appropriate authority of any complaint or recordable conduct matter.

(2) Sub-paragraphs (2) to (6) of paragraph 17 shall apply as they apply in the case of an investigation which the Commission has determined is one that it should supervise.

(3) The person appointed to investigate the complaint or matter shall, in relation to that investigation, be under the direction and control of the Commission.

*Investigations by the Commission itself*

19 (1) This paragraph applies where the Commission has determined that it should itself carry out the investigation of a complaint or recordable conduct matter.

(2) The Commission shall designate both-

(a) a member of the Commission's staff to take charge of the investigation on behalf of the Commission, and

(b) all such other members of the Commission's staff as are required by the Commission to assist him.

(3) The person designated under sub-paragraph (2) to be the person to take charge 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 the person nominated by the Secretary of State to be so designated under that sub-paragraph.

(4) A member of the Commission's staff who-

(a) is designated under sub-paragraph (2) in relation to any investigation, but

(b) does not already, by virtue of section 97(8) of the 1996 Act, have all the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters,

shall, for the purposes of the carrying out of the investigation and all purposes connected with it, have all those powers and privileges throughout England and Wales and those waters.

(5) A member of the Commission's staff who is not a constable shall not, as a result of sub-paragraph (4), be treated as being in police service for the purposes of-

(a) section 280 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) (person in police service excluded from definitions of "worker" and "employee"); or

(b) section 200 of the Employment Rights Act 1996 (c. 18) (certain provisions of that Act not to apply to persons in police service).

(6) The Secretary of State may by order provide that such provisions of the 1984 Act relating to investigations of offences conducted by police officers as may be specified in the order shall apply, subject to such modifications as may be so specified, to investigations of offences conducted by virtue of this paragraph by members of the Commission's staff designated under sub-paragraph (2).

(7) References in this paragraph to the powers and privileges of a constable-

(a) are references to any power or privilege conferred by or under any enactment (including one passed after the passing of this Act) on a constable; and

(b) shall have effect as if every such power were exercisable, and every such privilege existed, throughout England and Wales and the adjacent United Kingdom waters (whether or not that is the case apart from this sub-paragraph).

(8) In this paragraph "United Kingdom waters" means the sea and other waters within the seaward limits of the United Kingdom's territorial sea.

*Restrictions on proceedings pending the conclusion of an investigation*

20 (1) No criminal or disciplinary proceedings shall be brought in relation to any matter which is the subject of an investigation in accordance with the provisions of this Schedule until a report on that investigation has been submitted to the Commission or to the appropriate authority under paragraph 22.

(2) Nothing in this paragraph shall prevent the bringing of criminal or disciplinary proceedings in respect of any conduct at any time after the discontinuance of the investigation in accordance with the provisions of this Schedule which relates to that conduct.

(3) The restrictions imposed by this paragraph in relation to the bringing of criminal proceedings shall not apply to the bringing of criminal proceedings by the Director of Public Prosecutions in any case in which it appears to him that there are exceptional circumstances which make it undesirable to delay the bringing of such proceedings.

*Power of the Commission to discontinue an investigation*

21 (1) If at any time appears to the Commission (whether on an application by the appropriate authority or otherwise) that a complaint or matter that is being investigated-

- (a) by the appropriate authority on its own behalf, or
- (b) under the supervision or management of the Commission,

is of a description of complaint or matter specified in regulations made by the Secretary of State for the purposes of this sub-paragraph, the Commission may by order require the discontinuance of the investigation.

(2) The Commission shall not discontinue any investigation that is being carried out in accordance with

paragraph 19 except in such cases as may be authorised by regulations made by the Secretary of State.

(3) Where the Commission makes an order under this paragraph or discontinues an investigation being carried out in accordance with paragraph 19, it shall give notification of the discontinuance-

(a) to the appropriate authority;

(b) to every person entitled to be kept properly informed in relation to the subject matter of the investigation under section 21; and

(c) in a case where the investigation that is discontinued is an investigation of a complaint, to the complainant.

(4) Where an investigation of a complaint or recordable conduct matter is discontinued in accordance with this paragraph-

(a) the Commission may give the appropriate authority directions to do any such things as it is authorised to direct by regulations made by the Secretary of State;

(b) the Commission may itself take any such steps of a description specified in regulations so made as it considers appropriate for purposes connected with the discontinuance of the investigation; and

(c) subject to the preceding paragraphs, neither the appropriate authority nor the Commission shall take any further action in accordance with the provisions of this Schedule in relation to that complaint or matter.

(5) The appropriate authority shall comply with any directions given to it under sub-paragraph (4).

#### *Final reports on investigations*

22 (1) On the completion of his investigation, a person appointed under paragraph 16 shall submit a report on it to the appropriate authority.

(2) On the completion of his investigation, a person

appointed under paragraph 17 or 18 shall-

- (a) submit a report on it to the Commission; and
- (b) send a copy of that report to the appropriate authority.

(3) On the completion of an investigation by the Commission itself, the person designated under paragraph 19 as the person in charge of the investigation shall submit a report on it to the Commission.

(4) A person submitting a report under this paragraph shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in his report as he thinks fit.

*Action by the Commission in response to an investigation report*

23 (1) This paragraph applies where-

- (a) a report on an investigation carried out under the management of the Commission is submitted to it under sub-paragraph (2) of paragraph 22; or
- (b) a report on an investigation carried out by a person designated by the Commission is submitted to it under sub-paragraph (3) of that paragraph.

(2) On receipt of the report, the Commission-

- (a) if it appears that the appropriate authority has not already been sent a copy of the report, shall send a copy of the report to that authority;
- (b) shall determine whether the report indicates that a criminal offence may have been committed by the person whose conduct was the subject-matter of the investigation;
- (c) if it determines that the report does so indicate, shall notify the Director of Public Prosecutions of the determination and send him a copy of the report; and
- (d) shall notify the appropriate authority of its determination under paragraph (b) and of any action taken by it under paragraph (c).



(3) The Director of Public Prosecutions shall notify the Commission of any decision of his to take, or not to take, action in respect of the matters dealt with in any report a copy of which has been sent to him under sub-paragraph (2)(c).

(4) It shall be the duty of the Commission to notify the persons mentioned in sub-paragraph (5) if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in a report copied to him under sub-paragraph (2)(c).

(5) Those persons are-

- (a) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21; and
- (b) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter under that section.

(6) Where the Commission-

- (a) has determined under sub-paragraph (2)(b) that there is no indication in the report that a criminal offence may have been committed,
- (b) is notified by the Director of Public Prosecutions, in any case in which it has sent him a copy of the report, that the Director proposes to take no action in respect any of the matters dealt with in the report, or
- (c) is satisfied that all criminal proceedings brought or likely to be brought in respect of matters dealt with in the report have been brought to a conclusion (apart from the bringing and determination of any appeal),

the Commission shall give a notification to the appropriate authority requiring it to determine what action (if any) it will itself take in respect of the matters dealt with in the report.

(7) On being required under sub-paragraph (6) to determine what action it will take in respect of the matters dealt with in the report the appropriate authority shall make

that determination and submit a memorandum to the Commission which-

- (a) sets out whether the appropriate authority is proposing to take any action in respect of the matters dealt with in the report;
- (b) if the appropriate authority is proposing to take any action, sets out what action it is proposing to take; and
- (c) if the appropriate authority has decided in relation to any person whose conduct is the subject-matter of the report that disciplinary proceedings should not be brought against that person, sets out its reasons for so deciding.

(8) On receipt of a memorandum under sub-paragraph (7), the Commission shall-

- (a) consider the memorandum and whether the appropriate authority is proposing to take the action that the Commission considers appropriate in respect of the matters dealt with in the report;
- (b) determine, in the light of its consideration of those matters, whether or not to make recommendations under paragraph 27; and
- (c) make such recommendations (if any) under that paragraph as it thinks fit.

(9) On the making of a determination under sub-paragraph (8)(b) the Commission shall give a notification-

- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
- (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.

(10) The notification required by sub-paragraph (9) is one setting out-

- (a) the findings of the report;
- (b) the Commission's determination under sub-paragraph (8)(b); and

(c) the action which the appropriate authority is to be recommended to take as a consequence of the determination.

(11) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the Commission by sub-paragraph (9) of this paragraph as they have effect in relation to the duties imposed on the Commission by that section.

(12) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (11), the Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (9) notification of the findings of the report by sending that person a copy of the report.

*Action by the appropriate authority in response to an investigation report*

24 (1) This paragraph applies where-

(a) a report of an investigation is submitted to the appropriate authority in accordance with paragraph 22(1); or

(b) a copy of a report on an investigation carried out under the supervision of the Commission is sent to the appropriate authority in accordance with paragraph 22(2).

(2) On receipt of the report or (as the case may be) of the copy, the appropriate authority-

(a) shall determine whether the report indicates that a criminal offence may have been committed by a person whose conduct was the subject-matter of the investigation; and

(b) if it determines that the report does so indicate, shall notify the Director of Public Prosecutions of the determination and send him a copy of the report.

(3) The Director of Public Prosecutions shall notify the appropriate authority of any decision of his to take, or not to take, action in respect of the matters dealt with in any report a copy of which has been sent to him under sub-

paragraph (2).

(4) It shall be the duty of the appropriate authority to notify the persons mentioned in sub-paragraph (5) if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in a report copied to him under sub-paragraph (2)(b).

(5) Those persons are-

- (a) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21; and
- (b) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter under that section.

(6) Where the appropriate authority-

- (a) has determined under sub-paragraph (2) that there is no indication in the report that a criminal offence may have been committed,
- (b) is notified by the Director of Public Prosecutions, in any case in which it has sent him a copy of the report, that the Director proposes to take no action in respect any of the matters dealt with in the report, or
- (c) is satisfied that all criminal proceedings brought or likely to be brought in respect of matters dealt with in the report have been brought to a conclusion (apart from the bringing and determination of any appeal),

the appropriate authority shall determine what action (if any) it will itself take in respect of the matters dealt with in the report.

(7) On the making of a determination under sub-paragraph (6) the appropriate authority shall give a notification-

- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section

21; and

(b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.

(8) The notification required by sub-paragraph (7) is one setting out-

(a) the findings of the report;

(b) whether the authority has determined under sub-paragraph (6) to take any action;

(c) the action (if any) which that authority has decided to take; and

(d) the complainant's right of appeal under paragraph 25.

(9) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the appropriate authority by sub-paragraph (7) of this paragraph as they have effect in relation to the duties imposed on the appropriate authority by that section.

(10) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (9), the appropriate authority shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (7) notification of the findings of the report by sending that person a copy of the report.

*Appeals to the Commission with respect to an investigation*

25 (1) This paragraph applies where a complaint has been subjected to-

(a) an investigation by the appropriate authority on its own behalf; or

(b) an investigation under the supervision of the Commission.

(2) The complainant shall have the following rights of appeal to the Commission-

(a) a right to appeal on the grounds that he has not been provided with adequate information-

- (i) about the findings of the investigation; or
- (ii) about any proposals of the appropriate authority to take, or not to take, action in consequence of the report;

(b) a right to appeal against the findings of the investigation; and

(c) a right of appeal against any proposal of the appropriate authority to take, or not to take, action in respect of any of the matters dealt with in the report of the investigation;

and it shall be the duty of the Commission to notify the appropriate authority, every person entitled to be kept properly informed in relation to the complaint under section 21 and the person complained against of any appeal brought under this paragraph.

(3) On the bringing of an appeal under this paragraph, the Commission may require the appropriate authority to submit a memorandum to the Commission which-

(a) sets out whether the appropriate authority is proposing to take any action in respect of the matters dealt with in the report;

(b) if the appropriate authority is proposing to take any action, sets out what action it is proposing to take; and

(c) if the appropriate authority has decided in relation to any person whose conduct is the subject-matter of the report that disciplinary proceedings should not be brought against that person, sets out its reasons for so deciding;

and it shall be the duty of the appropriate authority to comply with any requirement under this sub-paragraph.

(4) Where the Commission so requires on the bringing of any appeal under this paragraph in the case of an investigation by the appropriate authority on its own behalf, the appropriate authority shall provide the Commission with a copy of the report of the investigation.

(5) On an appeal under this paragraph, the Commission shall determine-

- (a) whether the complainant has been provided with adequate information about the matters mentioned in sub-paragraph (2)(a);
- (b) whether the findings of the investigation need to be reconsidered; and
- (c) whether the appropriate authority is proposing to take the action that the Commission considers appropriate in consequence of the report.

(6) If, on an appeal under this paragraph, the Commission determines that the complainant has not been provided with adequate information about any matter, the Commission shall give the appropriate authority all such directions as the Commission considers appropriate for securing that the complainant is properly informed.

(7) Nothing in sub-paragraph (6) shall authorise the Commission to require the disclosure of any information the disclosure of which to the appellant has been or is capable of being withheld by virtue of regulations made under section 20(5).

(8) If, on an appeal under this paragraph, the Commission determines that the findings of the investigation need to be reconsidered, it shall either-

- (a) review those findings without an immediate further investigation; or
- (b) direct that the complaint be re-investigated.

(9) If, on an appeal under this paragraph, the Commission determines that the appropriate authority is not proposing to take the action in consequence of the report that the Commission considers appropriate, the Commission shall-

- (a) determine, in the light of that determination, whether or not to make recommendations under paragraph 27; and
- (b) make such recommendations (if any) under that paragraph as it thinks fit.

(10) The Commission shall give notification of any determination under this paragraph-

- (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 Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.

(11) The Commission shall also give notification of any directions given to the appropriate authority under this paragraph-

- (a) to the complainant;
- (b) to every person entitled to be kept properly informed in relation to the complaint under section 21; and
- (c) except in a case where it appears to the Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.

(12) It shall be the duty of the appropriate authority to comply with any directions given to it under this paragraph.

(13) The Secretary of State may by regulations make provision-

- (a) for the form and manner in which appeals under this paragraph are to be brought;
- (b) for the period within which any such appeal must be brought; and
- (c) for the procedure to be followed by the Commission when dealing with or disposing of any such appeal.

*Reviews and re-investigations following an appeal*

- 26 (1) On a review under paragraph 25(8)(a) of the findings of an investigation the powers of the Commission shall be, according to its determination on that review, to do one or more of the following-



- (a) to uphold the findings in whole or in part;
- (b) to give the appropriate authority such directions-
  - (i) as to the carrying out by the appropriate authority of its own review of the findings,
  - (ii) as to the information to be provided to the complainant, and
  - (iii) generally as to the handling of the matter in future,as the Commission thinks fit;
- (c) to direct that the complaint be re-investigated.

(2) Where the Commission directs under paragraph 25 or sub-paragraph (1) that a complaint be re-investigated, it shall make a determination of the form that the re-investigation should take.

(3) Sub-paragraphs (3) to (7) of paragraph 15 shall apply in relation to a determination under sub-paragraph (2) as they apply in the case of a determination under that paragraph.

(4) The other provisions of this Schedule (including this paragraph) shall apply in relation to any re-investigation in pursuance of a direction under paragraph 25(8) or sub-paragraph (1) of this paragraph as they apply in relation to any investigation in pursuance of a determination under paragraph 15.

(5) The Commission shall give notification of any determination made by it under this paragraph-

- (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 Commission that to do so might prejudice any proposed re-investigation of the complaint, to the person complained against.

(6) The Commission shall also give notification of any directions given to the appropriate authority under this

paragraph -

- (a) to the complainant;
- (b) to every person entitled to be kept properly informed in relation to the complaint under section ;  
and
- (c) except in a case where it appears to the Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.

*Duties with respect to disciplinary proceedings*

27 (1) This paragraph applies where, in the case of any investigation, the appropriate authority-

- (a) has given, or is required to give, a notification under paragraph 24(7) of the action it is proposing to take in relation to the matters dealt with in any report of the investigation; or
- (b) has submitted, or is required to submit, a memorandum to the Commission under paragraph 23 or 25 setting out the action that it is proposing to take in relation to those matters.

(2) Subject to paragraph 20 and to any recommendations or directions under the following provisions of this paragraph, it shall be the duty of the appropriate authority-

- (a) to take the action which has been or is required to be notified or, as the case may be, which is or is required to be set out in the memorandum; and
- (b) in a case where that action consists of or includes the bringing of disciplinary proceedings, to secure that those proceedings, once brought, are proceeded with to a proper conclusion.

(3) Where this paragraph applies by virtue of sub-paragraph (1)(b), the Commission may make a recommendation to the appropriate authority in respect of any person serving with the police-

- (a) that disciplinary proceedings, or such disciplinary proceedings as may be specified in the recommendation, are brought against that person in

respect of the conduct which was the subject-matter of the investigation; or

(b) that any disciplinary proceedings brought against that person are modified so as to include such charges as may be so specified;

and it shall be the duty of the appropriate authority to notify the Commission whether it accepts the recommendation and (if it does) to set out in the notification the steps that it is proposing to take to give effect to it.

(4) If, after the Commission has made a recommendation under this paragraph, the appropriate authority does not take steps to secure that full effect is given to the recommendation-

(a) the Commission may direct the appropriate authority to take steps for that purpose; and

(b) it shall be the duty of the appropriate authority to comply with the direction.

(5) A direction under sub-paragraph (4) may, to such extent as the Commission thinks fit, set out the steps to be taken by the appropriate authority in order to give effect to the recommendation.

(6) Where the Commission gives the appropriate authority a direction under this paragraph, it shall supply the appropriate authority with a statement of its reasons for doing so.

(7) Where disciplinary proceedings have been brought in accordance with a recommendation or direction under this paragraph, it shall be the duty of the authority to ensure that they are proceeded with to a proper conclusion.

(8) The Commission may at any time withdraw a direction given under this paragraph; and sub-paragraph (7) shall not impose any obligation in relation to any time after the withdrawal of the direction.

(9) The appropriate authority shall keep the Commission informed-

(a) in a case in which this paragraph applies by

virtue of sub-paragraph (1)(b), of whatever action it takes in pursuance of its duty under sub-paragraph (2); and

(b) in every case of a recommendation or direction under this paragraph, of whatever action it takes in response to that recommendation or direction.

*Information for complainant about disciplinary recommendations*

28 (1) Where-

(a) the Commission makes recommendations under paragraph 27 in the case of an investigation of a complaint, and

(b) the appropriate authority notify the Commission that the recommendations have been accepted,

the Commission shall 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.

(2) Where in the case of an investigation of a complaint the appropriate authority-

(a) notify the Commission that it does not (either in whole or in part) accept recommendations made by the Commission under paragraph 27, or

(b) fails to take steps to give full effect to any such recommendations,

it shall be the duty of the Commission to determine what if any further steps to take under that paragraph.

(3) It shall be the duty of the Commission to 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 (2) not to take further steps under paragraph 27; and

(b) where they determine under that sub-paragraph to take further steps under that paragraph, of the outcome of the taking of those steps.

## SCHEDULE 4

### Section 38

#### POWERS EXERCISABLE BY POLICE CIVILIANS

##### PART 1

#### COMMUNITY SUPPORT OFFICERS

##### *Powers to issue fixed penalty notices*

1 (1) Where a designation applies this paragraph to any person, that person shall have the powers specified in subparagraph (2) in relation to any individual who he has reason to believe has committed a relevant fixed penalty offence at a place within the relevant police area.

(2) Those powers are the following powers so far as exercisable in respect of a relevant fixed penalty offence-

(a) the powers of a constable in uniform and of an authorised constable to give a penalty notice under Chapter 1 of Part 1 of the Criminal Justice and Police Act 2001 (c. 16) (fixed penalty notices in respect of offences of disorder);

(b) the power of a constable in uniform to give a person a fixed penalty notice under section 54 of the Road Traffic Offenders Act 1988 (c. 53) (fixed penalty notices) in respect of an offence under section 72 of the Highway Act 1835 (c. 50) (riding on a footway) committed by cycling;

(c) the power of an authorised officer of a local authority to give a notice under section 4 of the Dogs (Fouling of Land) Act 1996 (c. 20) (fixed penalty notices in respect of dog fouling); and

(d) the power of an authorised officer of a litter authority to give a notice under section 88 of the Environmental Protection Act 1990 (c. 43) (fixed penalty notices in respect of litter).

(3) In this paragraph "relevant fixed penalty offence", in relation to a designated person, means an offence which-

(a) is an offence by reference to which a notice may be given to a person in exercise of any of the powers

mentioned in sub-paragraph 1(2)(a) to (d); and  
(b) is specified or described in that person's  
designation as an offence he has been designated to  
enforce under this paragraph.

*Power to detain etc.*

2 (1) This paragraph applies if a designation applies it to any  
person.

(2) Where that person has reason to believe that another  
person has committed a relevant offence in the relevant  
police area, he may require that other person to give him his  
name and address.

(3) Where, in a case in which a requirement under sub-  
paragraph (2) has been imposed on another person-

(a) that other person fails to comply with the  
requirement, or

(b) the person who imposed the requirement has  
reasonable grounds for suspecting that the other  
person has given him a name or address that is false  
or inaccurate,

the person who imposed the requirement may require the  
other person to wait with him, for a period not exceeding  
thirty minutes, for the arrival of a constable.

(4) A person who has been required under sub-paragraph  
(3) to wait with a person to whom this Part of this Schedule  
applies may, if requested to do so, elect that (instead of  
waiting) he will accompany the person imposing the  
requirement to a police station in the relevant police area.

(5) A person who-

(a) fails to comply with a requirement under sub-  
paragraph (2),

(b) makes off while subject to a requirement under  
sub-paragraph (3), or

(c) makes off while accompanying a person to a  
police station in accordance with an election under  
sub-paragraph (4),

is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(6) In this paragraph "relevant offence", in relation to a person to whom this paragraph applies, means any offence which is-

(a) a relevant fixed penalty offence for the purposes of the application of paragraph 1 to that person; or

(b) an offence the commission of which appears to that person 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;

but a designation applying this paragraph to any person may provide that an offence is not to be treated as a relevant offence by virtue of paragraph (b) unless it satisfies such other conditions as may be specified in the designation.

*Power to require name and address of person acting in an anti-social manner*

3 (1) Where a designation applies this paragraph to any person, that person shall, in the relevant police area, have the powers of a constable in uniform under section 50 to require a person whom he has reason to believe to have been acting, or to be acting, in an anti-social manner (within the meaning of section 1 of the Crime and Disorder Act 1998 (c. 37) (anti-social behaviour orders)) to give his name and address.

(2) Sub-paragraphs (3) to (5) of paragraph 2 apply in the case of a requirement imposed by virtue of sub-paragraph (1) as they apply in the case of a requirement under sub-paragraph (2) of that paragraph.

*Power to use reasonable force to detain person*

4 (1) This paragraph applies where a designation-

(a) applies this paragraph to a person to whom any or all of paragraphs 1 to 3 are also applied; and

(b) sets out the matters in respect of which that person has the power conferred by this paragraph.

(2) The matters that may be set out in a designation as the matters in respect of which a person has the power conferred by this paragraph shall be confined to-

(a) offences that are relevant penalty notice offences for the purposes of the application of paragraph 1 to the designated person;

(b) offences that are relevant offences for the purposes of the application of paragraph 2 to the designated person; and

(c) behaviour that constitutes acting in an anti-social manner (within the meaning of section 1 of the Crime and Disorder Act 1998 (c. 37) (anti-social behaviour orders)).

(3) In any case in which a person to whom this paragraph applies has imposed a requirement on any other person under paragraph 2(2) or 3(1) in respect of anything appearing to him to be a matter set out in the designation, he may use reasonable force to prevent that other person from making off while he is either-

(a) subject to a requirement imposed in that case by the designated person under sub-paragraph (3) of paragraph 2; or

(b) accompanying the designated person to a police station in accordance with an election made in that case under sub-paragraph (4) of that paragraph.

*Alcohol consumption in designated public places*

5 Where a designation applies this paragraph to any person, that person shall, within the relevant police area, have the powers of a constable under section 12 of the Criminal Justice and Police Act 2001 (c. 16) (alcohol consumption in public places)-

(a) to impose a requirement under subsection (2) of that section; and

(b) to dispose under subsection (3) of that section of



anything surrendered to him;

and that section shall have effect in relation to the exercise of those powers by that person as if the references to a constable in subsections (1) and (5) were references to that person.

*Confiscation of alcohol*

- 6 Where a designation applies this paragraph to any person, that person shall, within the relevant police area, have the powers of a constable under section 1 of the Confiscation of Alcohol (Young Persons) Act 1997 (c. 33) (confiscation of intoxicating liquor)-

(a) to impose a requirement under subsection (1) of that section; and

(b) to dispose under subsection (2) of that section of anything surrendered to him;

and that section shall have effect in relation to the exercise of those powers by that person as if the references to a constable in subsections (1) and (4) (but not the reference in subsection (5) (arrest)) were references to that person.

*Confiscation of tobacco etc.*

- 7 Where a designation applies this paragraph to any person, that person shall, within the relevant police area, have-

(a) the power to seize anything that a constable in uniform has a duty to seize under subsection (3) of section 7 of the Children and Young Persons Act 1933 (c. 12) (seizure of tobacco etc. from young persons); and

(b) the power to dispose of anything that a constable may dispose of under that subsection;

and the power to dispose of anything shall be a power to dispose of it in such manner as the police authority may direct.

*Entry to save life or limb or prevent serious damage to property*

- 8 Where a designation applies this paragraph to any person, that person shall have the powers of a constable under section 17 of the 1984 Act to enter and search any premises in the relevant police area for the purpose of saving life or limb or preventing serious damage to property.

*Seizure of vehicles used to cause alarm etc.*

- 9 (1) Where a designation applies this paragraph to any person-
- (a) that person shall, within the relevant police area, have all the powers of a constable in uniform under section 59 of this Act which are set out in subsection (3) of that section; and
  - (b) references in that section to a constable, in relation to the exercise of any of those powers by that person, are references to that person.
- (2) A person to whom this paragraph applies shall not enter any premises in exercise of the power conferred by section 59(3)(c) except in the company, and under the supervision, of a constable.

*Abandoned vehicles*

- 10 Where a designation applies this paragraph to any person, that person shall have any such powers in the relevant police area as are conferred on persons designated under that section by regulations under section 99 of the Road Traffic Regulation Act 1984 (c. 27) (removal of abandoned vehicles).

*Power to stop vehicle for testing*

- 11 Where a designation applies this paragraph to any person, that person shall, within the relevant police area, have the power of a constable in uniform to stop a vehicle under subsection (3) of section 67 of the Road Traffic Act 1988 (c. 52) for the purposes of a test under subsection (1) of that section.

*Power to control traffic for purposes of escorting a load of exceptional dimensions*

12 (1) Where a designation applies this paragraph to any person, that person shall have, for the purpose of escorting a vehicle or trailer carrying a load of exceptional dimensions either to or from the relevant police area, the power of a constable engaged in the regulation of traffic in a road-

(a) to direct a vehicle to stop;

(b) to make a vehicle proceed in, or keep to, a particular line of traffic; and

(c) to direct pedestrians to stop.

(2) Sections 35 and 37 of the Road Traffic Act 1988 (offences of failing to comply with directions of constable engaged in regulation of traffic in a road) shall have effect in relation to the exercise of those powers for the purpose mentioned in sub-paragraph (1) by a person whose designation applies this paragraph to him as if the references to a constable engaged in regulation of traffic in a road were references to that person.

(3) The powers conferred by virtue of this paragraph may be exercised in any police area in England and Wales.

(4) In this paragraph "vehicle or trailer carrying a load of exceptional dimensions" means a vehicle or trailer the use of which is authorised by an order made by the Secretary of State under section 44(1)(d) of the Road Traffic Act 1988.

*Carrying out of road checks*

13 Where a designation applies this paragraph to any person, that person shall have the following powers in the relevant police area-

(a) the power to carry out any road check the carrying out of which by a police officer is authorised under section 4 of the 1984 Act (road checks); and

(b) for the purpose of exercising that power, the power conferred by section 163 of the Road Traffic Act 1988 (c. 52) (power of police to stop vehicles) on a constable in uniform to stop a vehicle.

*Cordoned areas*

- 14 Where a designation applies this paragraph to any person, that person shall, in relation to any cordoned area in the relevant police area, have all the powers of a constable in uniform under section 36 of the Terrorism Act 2000 (c. 11) (enforcement of cordoned area) to give orders, make arrangements or impose prohibitions or restrictions.

*Power to stop and search vehicles etc. in authorised areas*

- 15 (1) Where a designation applies this paragraph to any person-
- (a) that person shall, in any authorised area within the relevant police area, have all the powers of a constable in uniform by virtue of section 44(1)(a) and (d) and (2)(b) and 45(2) of the Terrorism Act 2000 (powers of stop and search)-
    - (i) to stop and search vehicles;
    - (ii) to search anything in or on a vehicle or anything carried by the driver of a vehicle or any passenger in a vehicle;
    - (iii) to search anything carried by a pedestrian; and
    - (iv) to seize and retain any article discovered in the course of a search carried out by him or by a constable by virtue of any provision of section 44(1) or (2) of that Act;
- and
- (b) the references to a constable in subsections (1) and (4) of section 45 of that Act (which relate to the exercise of those powers) shall have effect in relation to the exercise of any of those powers by that person as references to that person.
- (2) A person shall not exercise any power of stop, search or seizure by virtue of this paragraph except in the company, and under the supervision, of a constable.

PART 2

INVESTIGATING OFFICERS

*Search warrants*

- 16 Where a designation applies this paragraph to any person-
- (a) he may apply as if he were a constable for a warrant under section 8 of the 1984 Act (warrants for entry and search) in respect of any premises in the relevant police area;
  - (b) the persons to whom a warrant to enter and search any such premises may be issued under that section shall include that person;
  - (c) that person shall have the power of a constable under section 8(2) of that Act in any premises in the relevant police area to seize and retain things for which a search has been authorised under subsection (1) of that section;
  - (d) section 15 of that Act (safeguards) shall have effect in relation to the issue of such a warrant to that person as it has effect in relation to the issue of a warrant under section 8 of that Act to a constable;
  - (e) section 16 of that Act (execution of warrants) shall have effect in relation to any warrant to enter and search premises that is issued (whether to that person or to any other person) in respect of premises in the relevant police area as if references in that section to a constable included references to that person;
  - (f) section 19(6) of that Act (protection for legally privileged material from seizure) shall have effect in relation to the seizure of anything by that person by virtue of sub-paragraph (c) as it has effect in relation to the seizure of anything by a constable;
  - (g) section 20 of that Act (extension of powers of seizure to computerised information) shall have

effect in relation the power of seizure conferred on that person by virtue of sub-paragraph (c) as it applies in relation to the power of seizure conferred on a constable by section 8(2) of that Act;

(h) section 21(1) and (2) of that Act (provision of record of seizure) shall have effect in relation to the seizure of anything by that person in exercise of the power conferred on him by virtue of sub-paragraph (c) as if the references to a constable and to an officer included references to that person; and

(i) sections 21(3) to (8) and 22 of that Act (access, copying and retention) shall have effect in relation to anything seized by that person in exercise of that power, or taken away by him following the imposition of a requirement by virtue of sub-paragraph (g)-

(i) as they have effect in relation to anything seized in exercise of the power conferred on a constable by section 8(2) of that Act or taken away by a constable following the imposition of a requirement by virtue of section 20 of that Act; and

(ii) as if the references to a constable in subsections (3), (4) and (5) of section 21 included references to a person to whom this paragraph applies.

*Access to excluded and special procedure material*

17 Where a designation applies this paragraph to any person-

(a) he shall have the powers of a constable under section 9(1) of the 1984 Act (special provisions for access) to obtain access, in accordance with Schedule 1 to that Act and the following provisions of this paragraph, to excluded material and special procedure material;

(b) that Schedule shall have effect for the purpose of conferring those powers on that person as if -

(i) the references in paragraphs 1, 4, 5, 12 and 13 of that Schedule to a constable were references to that person; and

(ii) the references in paragraphs 12 and 14 of that Schedule to premises were references to

premises in the relevant police area;

(c) section 19(6) of that Act (protection for legally privileged material from seizure) shall have effect in relation to the seizure of anything by that person in exercise of the power conferred on him by paragraph 13 of Schedule 1 to that Act as it has effect in relation to the seizure of anything under that paragraph by a constable;

(d) section 20 of that Act (extension of powers of seizure to computerised information) shall have effect in relation the power of seizure conferred on that person by paragraph 13 of Schedule 1 to that Act as it applies in relation to the power of seizure conferred on a constable by that paragraph;

(e) section 21(1) and (2) of that Act (provision of record of seizure) shall have effect in relation to the seizure of anything by that person in exercise of the power conferred on him by paragraph 13 of Schedule 1 to that Act as if the references to a constable and to an officer included references to that person; and

(f) sections 21(3) to (8) and 22 of that Act (access, copying and retention) shall have effect in relation to anything seized by that person in exercise of that power or taken away by him following the imposition of a requirement by virtue of sub-paragraph (d), and to anything produced to him under paragraph 4(a) of Schedule 1 to that Act-

(i) as they have effect in relation to anything seized in exercise of the power conferred on a constable by paragraph 13 of that Schedule or taken away by a constable following the imposition of a requirement by virtue of section 20 of that Act or, as the case may be, to anything produced to a constable under paragraph 4(a) of that Schedule; and

(ii) as if the references to a constable in subsections (3), (4) and (5) of section 21 included references to a person to whom this paragraph applies.

*Entry and search after arrest*

18 Where a designation applies this paragraph to any person-

(a) he shall have the powers of a constable under section 18 of the 1984 Act (entry and search after arrest) to enter and search any premises in the relevant police area and to seize and retain anything for which he may search under that section;

(b) subsections (5) and (6) of that section (power to carry out search before arrested person taken to police station and duty to inform senior officer) shall have effect in relation to any exercise by that person of those powers as if the references in those subsections to a constable were references to that person;

(c) section 19(6) of that Act (protection for legally privileged material from seizure) shall have effect in relation to the seizure of anything by that person by virtue of sub-paragraph (a) as it has effect in relation to the seizure of anything by a constable;

(d) section 20 of that Act (extension of powers of seizure to computerised information) shall have effect in relation to the power of seizure conferred on that person by virtue of sub-paragraph (a) as it applies in relation to the power of seizure conferred on a constable by section 18(2) of that Act;

(e) section 21(1) and (2) of that Act (provision of record of seizure) shall have effect in relation to the seizure of anything by that person in exercise of the power conferred on him by virtue of sub-paragraph (a) as if the references to a constable and to an officer included references to that person; and

(f) sections 21(3) to (8) and 22 of that Act (access, copying and retention) shall have effect in relation to anything seized by that person in exercise of that power or taken away by him following the imposition of a requirement by virtue of sub-paragraph (d)-

(i) as they have effect in relation to anything seized in exercise of the power conferred on a constable by section 18(2) of that Act or taken away by a constable following the imposition of a requirement by virtue of section 20 of that Act; and

(ii) as if the references to a constable in subsections (3), (4) and (5) of section 21 included references to a person to whom this



paragraph applies.

*General power of seizure*

19 Where a designation applies this paragraph to any person-

(a) he shall, when lawfully on any premises in the relevant police area, have the same powers as a constable under section 19 of the 1984 Act (general powers of seizure) to seize things;

(b) he shall also have the powers of a constable to impose a requirement by virtue of subsection (4) of that section in relation to information accessible from such premises;

(c) subsection (6) of that section (protection for legally privileged material from seizure) shall have effect in relation to the seizure of anything by that person by virtue of sub-paragraph (a) as it has effect in relation to the seizure of anything by a constable;

(d) section 21(1) and (2) of that Act (provision of record of seizure) shall have effect in relation to the seizure of anything by that person in exercise of the power conferred on him by virtue of sub-paragraph (a) as if the references to a constable and to an officer included references to that person; and

(e) sections 21(3) to (8) and 22 of that Act (access, copying and retention) shall have effect in relation to anything seized by that person in exercise of that power or taken away by him following the imposition of a requirement by virtue of sub-paragraph (b)-

(i) as they have effect in relation to anything seized in exercise of the power conferred on a constable by section 19(2) or (3) of that Act or taken away by a constable following the imposition of a requirement by virtue of section 19(4) of that Act; and

(ii) as if the references to a constable in subsections (3), (4) and (5) of section 21 included references to a person to whom this paragraph applies.

*Access and copying in the case of things seized by constables*

- 20 Where a designation applies this paragraph to any person, section 21 of the 1984 Act (access and copying) shall have effect in relation to anything seized in the relevant police area by a constable as if the references to a constable in subsections (3), (4) and (5) of section 21 (supervision of access and photographing of seized items) included references to a person to whom this paragraph applies.

*Arrest at a police station for another offence*

- 21 (1) Where a designation applies this paragraph to any person, he shall have the power to make an arrest at any police station in the relevant police area in any case where an arrest-

(a) is required to be made under section 31 of the 1984 Act (arrest for a further offence of a person already at a police station); or

(b) would be so required if the reference in that section to a constable included a reference to a person to whom this paragraph applies.

(2) Section 36 of the Criminal Justice and Public Order Act 1994 (c. 33) (consequences of failure by arrested person to account for objects etc.) shall apply (without prejudice to the effect of any designation applying paragraph 23) in the case of a person arrested in exercise of the power exercisable by virtue of this paragraph as it applies in the case of a person arrested by a constable.

*Power to transfer persons into custody of investigating officers*

- 22 (1) Where a designation applies this paragraph to any person, the custody officer for a designated police station in the relevant police area may transfer or permit the transfer to him of a person in police detention for an offence which is being investigated by the person to whom this paragraph applies.

(2) A person into whose custody another person is transferred under sub-paragraph (1)-

(a) shall be treated for all purposes as having that

person in his lawful custody;

(b) shall be under a duty to prevent his escape; and

(c) shall be entitled to use reasonable force to keep that person in his custody.

(3) Where a person is transferred into the custody of a person to whom this paragraph applies, in accordance with sub-paragraph (1), subsections (2) and (3) of section 39 of the 1984 Act shall have effect as if-

(a) references to the transfer of a person in police detention into the custody of a police officer investigating an offence for which that person is in police detention were references to that person's transfer into the custody of the person to whom this paragraph applies; and

(b) references to the officer to whom the transfer is made and to the officer investigating the offence were references to the person to whom this paragraph applies.

*Power to require arrested person to account for certain matters*

23 Where a designation applies this paragraph to any person-

(a) he shall have the powers of a constable under sections 36(1)(c) and 37(1)(c) of the Criminal Justice and Public Order Act 1994 (c. 33) to request a person who-

(i) has been arrested by a constable, or by any person to whom paragraph 21 applies, and

(ii) is detained at any place in the relevant police area,

to account for the presence of an object, substance or mark or for the presence of the arrested person at a particular place; and

(b) the references to a constable in sections 36(1)(b) and (c) and (4) and 37(1)(b) and (c) and (3) of that Act shall have effect accordingly as including references to the person to whom this paragraph is applied.

*Extended powers of seizure*

24 Where a designation applies this paragraph to any person-

(a) the powers of a constable under Part 2 of the Criminal Justice and Police Act 2001 (c. 16) (extension of powers of seizure) that are exercisable in the case of a constable by reference to a power of a constable that is conferred on that person by virtue of the provisions of this Part of this Schedule shall be exercisable by that person by reference to that power to the same extent as in the case of a constable but in relation only to premises in the relevant police area and things found on any such premises; and

(b) section 56 of that Act (retention of property seized by a constable) shall have effect as if the property referred to in subsection (1) of that section included property seized by that person at any time when he was lawfully on any premises in the relevant police area.

SCHEDULE 4, POWERS EXERCISABLE BY POLICE CIVILIANS - *continued*

---

PART 3

DETENTION OFFICERS

*Attendance at police station for fingerprinting*

25 Where a designation applies this paragraph to any person, he shall, in respect of police stations in the relevant police area, have the power of a constable under section 27(1) of the 1984 Act (fingerprinting of suspects) to require a person to attend a police station in order to have his fingerprints taken.

*Non-intimate searches of detained persons*

26 (1) Where a designation applies this paragraph to any person, he shall have the powers of a constable under section 54 of the 1984 Act (non-intimate searches of

detained persons)-

(a) to carry out a search under that section of any person at a police station in the relevant police area or of any other person otherwise in police detention in that area; and

(b) to seize or retain, or cause to be seized or retained, anything found on such a search.

(2) Subsections (6C) and (9) of section 54 of that Act (restrictions on power to seize personal effects and searches to be carried out by a member of the same sex) shall apply to the exercise by a person to whom this paragraph is applied of any power exercisable by virtue of this paragraph as they apply to the exercise of the power in question by a constable.

*Searches and examinations to ascertain identity*

27 Where a designation applies this paragraph to any person, he shall have the powers of a constable under section 54A of the 1984 Act (searches and examinations to ascertain identity)-

(a) to carry out a search or examination at any police station in the relevant police area; and

(b) to take a photograph at any such police station of an identifying mark.

*Intimate searches of detained persons*

28 (1) Where a designation applies this paragraph to any person, he shall have the powers of a constable by virtue of section 55(6) of the 1984 Act (intimate searches) to carry out an intimate search of a person at any police station in the relevant police area.

(2) Subsection (7) of section 55 of that Act (no intimate search to be carried out by a constable of the opposite sex) shall apply to the exercise by a person to whom this paragraph applies of any power exercisable by virtue of this paragraph as it applies to the exercise of the power in question by a constable.

*Fingerprinting without consent*

29 Where a designation applies this paragraph to any person-

(a) he shall have, at any police station in the relevant police area, the power of a constable under section 61 of the 1984 Act (fingerprinting) to take fingerprints without the appropriate consent; and

(b) the requirement by virtue of subsection (7A)(a) of that section that a person must be informed by an officer that his fingerprints may be the subject of a speculative search shall be capable of being discharged, in the case of a person at such a station, by his being so informed by the person to whom this paragraph applies.

*Warnings about intimate samples*

30 Where a designation applies this paragraph to any person, the requirement by virtue of section 62(7A)(a) of the 1984 Act (intimate samples) that a person must be informed by an officer that a sample taken from him may be the subject of a speculative search shall be capable of being discharged, in the case of a person in a police station in the relevant police area, by his being so informed by the person to whom this paragraph applies.

*Non-intimate samples*

31 Where a designation applies this paragraph to any person-

(a) he shall have the power of a constable under section 63 of the 1984 Act (non-intimate samples), in the case of a person in a police station in the relevant police area, to take a non-intimate sample without the appropriate consent;

(b) the requirement by virtue of subsection (6) of that section (information about authorisation) that a person must be informed by an officer of the matters mentioned in that subsection shall be capable of being discharged, in the case of an authorisation in relation to a person in a police station in the relevant police area, by his being so informed by the person to whom this paragraph applies; and

(c) the requirement by virtue of subsection (8B)(a) of that section that a person must be informed by an officer that a sample taken from him may be the subject of a speculative search shall be capable of being discharged, in the case of a person in such a police station, by his being so informed by the person to whom this paragraph applies.

*Attendance at police station for the taking of a sample*

- 32 Where a designation applies this paragraph to any person, he shall, as respects any police station in the relevant police area, have the power of a constable under subsection (4) of section 63A of the 1984 Act (supplementary provisions relating to fingerprints and samples) to require a person to attend a police station in order to have a sample taken.

*Photographing persons in police detention*

- 33 Where a designation applies this paragraph to any person, he shall, at police stations in the relevant police area, have the power of a constable under section 64A of the 1984 Act (photographing of suspects etc.) to take a photograph of a person detained at a police station.

SCHEDULE 4, POWERS EXERCISABLE BY POLICE CIVILIANS - *continued*

---

PART 4

ESCORT OFFICERS

*Power to take an arrested person to a police station*

- 34 (1) Where a designation applies this paragraph to any person-

(a) the persons who, in the case of a person arrested by a constable in the relevant police area, are authorised for the purposes of subsection (1) of section 30 of the 1984 Act (procedure on arrest of person elsewhere than at a police station) to take the

person arrested to a police station in that area shall include that person;

(b) that section shall have effect in relation to the exercise by that person of the power conferred by virtue of paragraph (a) as if the references to a constable in subsections (3), (4)(a) and (10) (but not the references in subsections (5) to (9)) included references to that person; and

(c) a person who is taking another person to a police station in exercise of the power conferred by virtue of paragraph (a)-

(i) shall be treated for all purposes as having that person in his lawful custody;

(ii) shall be under a duty to prevent his escape; and

(iii) shall be entitled to use reasonable force to keep that person in his charge.

(2) Without prejudice to any designation under paragraph 26, where a person has another in his lawful custody by virtue of sub-paragraph (1) of this paragraph-

(a) he shall have the same powers under subsections (6A) and (6B) of section 54 of the 1984 Act (non-intimate searches) as a constable has in the case of a person in police detention-

(i) to carry out a search of the other person; and

(ii) to seize or retain, or cause to be seized or retained, anything found on such a search;

(b) subsections (6C) and (9) of that section (restrictions on power to seize personal effects and searches to be carried out by a member of the same sex) shall apply to the exercise by a person to whom this paragraph is applied of any power exercisable by virtue of this sub-paragraph as they apply to the exercise of the power in question by a constable.

*Escort of persons in police detention*

35 (1) Where a designation applies this paragraph to any person, that person may be authorised by the custody officer for any designated police station in the relevant police area to escort a person in police detention-



- (a) from that police station to another police station in that or any other police area; or
- (b) from that police station to any other place specified by the custody officer and then either back to that police station or on to another police station in that area or in another police area.

(2) Where a designation applies this paragraph to any person, that person may be authorised by the custody officer for any designated police station outside the relevant police area to escort a person in police detention-

- (a) from that police station to a designated police station in that area; or
- (b) from that police station to any place in that area specified by the custody officer and either back to that police station or on to another police station (whether in that area or elsewhere).

(3) A person who is escorting another in accordance with an authorisation under sub-paragraph (1) or (2)-

- (a) shall be treated for all purposes as having that person in his lawful custody;
- (b) shall be under a duty to prevent his escape; and
- (c) shall be entitled to use reasonable force to keep that person in his charge.

(4) Without prejudice to any designation under paragraph 26, where a person has another in his lawful custody by virtue of sub-paragraph (3) of this paragraph-

(a) he shall have the same powers under subsections (6A) and (6B) of section 54 of the 1984 Act (non-intimate searches) as a constable has in the case of a person in police detention-

- (i) to carry out a search of the other person; and
- (ii) to seize or retain, or cause to be seized or retained, anything found on such a search;

(b) subsections (6C) and (9) of that section (restrictions on power to seize personal effects and searches to be carried out by a member of the same sex) shall apply to the exercise by a person to whom

this paragraph is applied of any power exercisable by virtue of this sub-paragraph as they apply to the exercise of the power in question by a constable.

(5) Section 39(2) of that Act (responsibilities of custody officer transferred to escort) shall have effect where the custody officer for any police station transfers or permits the transfer of any person to the custody of a person who by virtue of this paragraph has lawful custody outside the police station of the person transferred as it would apply if the person to whom this paragraph applies were a police officer.

PART  
5

INTERPRETATION OF SCHEDULE

36 (1) In this Schedule "the relevant police area"-

(a) in relation to a designation under section 38 or 39 by the chief officer of any police force, means the police area for which that force is maintained; and

(b) in relation to a designation under section 38 by a Director General, means England and Wales.

(2) In this Schedule "a designation" means a designation under section 38.

(3) In Parts 3 and 4 of this Schedule "a designation" also includes a designation under section 39.

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

## SCHEDULE

### 5

#### Section 41

##### POWERS EXERCISABLE BY ACCREDITED PERSONS

###### *Power to issue fixed penalty notices*

- 1 (1) An accredited person whose accreditation specifies that this paragraph applies to him shall have the powers specified in sub-paragraph (2) in relation to any individual who he has reason to believe has committed or is committing a relevant fixed penalty offence at a place within the relevant police area.
  - (2) Those powers are the following powers so far as exercisable in respect of a relevant offence-
    - (a) the power of a constable in uniform to give a person a fixed penalty notice under section 54 of the Road Traffic Offenders Act 1988 (c. 53) (fixed penalty notices) in respect of an offence under section 72 of the Highway Act 1835 (c. 50) (riding on a footway) committed by cycling;
    - (b) the power of an authorised officer of a local authority to give a notice under section 4 of the Dogs (Fouling of Land) Act 1996 (c. 20) (fixed penalty notices in respect of dog fouling); and
    - (c) the power of an authorised officer of a litter authority to give a notice under section 88 of the Environmental Protection Act 1990 (c. 43) (fixed penalty notices in respect of litter).
  - (3) In this paragraph "relevant fixed penalty offence", in relation to an accredited person, means an offence which-
    - (a) is an offence by reference to which a notice may be given to a person in exercise of any of the powers mentioned in sub-paragraph (2)(a) to (c); and
    - (b) is specified or described in that person's accreditation as an offence he has been accredited to enforce.

###### *Power to require giving of name and address*

- 2 (1) Where an accredited person whose accreditation specifies that this paragraph applies to him has reason to believe that another person has

committed a relevant offence in the relevant police area, he may require that other person to give him his name and address.

(2) A person who fails to comply with a requirement under sub-paragraph (1) is guilty of an offence and shall be liable, on summary conviction, to a fine not exceeding level 3 on the standard scale.

(3) In this paragraph "relevant offence", in relation to any accredited person, means any offence which is-

(a) a relevant fixed penalty offence for the purposes of any powers exercisable by the accredited person by virtue of paragraph 1; or

(b) an offence the commission of which appears to the accredited person 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;

but the accreditation of an accredited person may provide that an offence is not to be treated as a relevant offence by virtue of paragraph (b) unless it satisfies such other conditions as may be specified in the accreditation.

*Power to require name and address of person acting in an anti-social manner*

- 3 An accredited person whose accreditation specifies that this paragraph applies to him shall, in the relevant police area, have the powers of a constable in uniform under section 50 to require a person whom he has reason to believe to have been acting, or to be acting, in an anti-social manner (within the meaning of section 1 of the Crime and Disorder Act 1998 (c. 37) (anti-social behaviour orders)) to give his name and address.

*Alcohol consumption in designated public places*

- 4 An accredited person whose accreditation specifies that this paragraph applies to him shall, within the relevant police area, have the powers of a constable under section 12 of the Criminal Justice and Police Act 2001 (c. 16) (alcohol consumption in public places)-

(a) to impose a requirement under subsection (2) of that section; and

(b) to dispose under subsection (3) of that section of anything surrendered to him;

and that section shall have effect in relation to the exercise of those powers by that person as if the references to a constable in subsections (1) and (5) were references to the accredited person.

*Confiscation of alcohol*

- 5 An accredited person whose accreditation specifies that this paragraph applies to him shall, within the relevant police area, have the powers of a constable under section 1 of the Confiscation of Alcohol (Young Persons) Act 1997 (c. 33) (confiscation of intoxicating liquor)-

(a) to impose a requirement under subsection (1) of that section; and

(b) to dispose under subsection (2) of that section of anything surrendered to him;

and that section shall have effect in relation to the exercise of those powers by that person as if the references to a constable in subsections (1) and (4) (but not the reference in subsection (5) (arrest)) were references to the accredited person.

*Confiscation of tobacco etc.*

- 6 (1) An accredited person whose accreditation specifies that this paragraph applies to him shall, within the relevant police area, have -

(a) the power to seize anything that a constable in uniform has a duty to seize under subsection (3) of section 7 of the Children and Young Persons Act 1933 (c. 12) (seizure of tobacco etc. from young persons); and

(b) the power to dispose of anything that a constable may dispose of under that subsection;

and the power to dispose of anything shall be a power to dispose of it in such manner as the relevant employer of the accredited person may direct.

(2) In this paragraph "relevant employer", in relation to an accredited person, means the person with whom the chief officer of police for the relevant police area has entered into arrangements under section 40.

*Abandoned vehicles*

- 7 An accredited person whose accreditation specifies that this paragraph applies to him shall have all such powers in the relevant police area as are conferred on accredited persons by regulations under section 99 of the Road Traffic Regulation Act 1984 (c. 27) (removal of abandoned vehicles).

*Power to stop vehicle for testing*

- 8 A person whose accreditation specifies that this paragraph applies to him shall, within the relevant police area, have the power of a constable in uniform to stop a vehicle under subsection (3) of section 67 of the Road Traffic Act 1988 (c. 52) for the purposes of a test under subsection (1) of that section.

*Power to control traffic for purposes of escorting a load of exceptional dimensions*

- 9 (1) A person whose accreditation specifies that this paragraph applies to him shall have, for the purpose of escorting a vehicle or trailer carrying a load of exceptional dimensions either to or from the relevant police area, the power of a constable engaged in the regulation of traffic in a road-

(a) to direct a vehicle to stop;

(b) to make a vehicle proceed in, or keep to, a particular line of traffic; and

(c) to direct pedestrians to stop.

(2) Sections 35 and 37 of the Road Traffic Act 1988 (offences of failing to comply with directions of constable engaged in regulation of traffic in a road) shall have effect in relation to the exercise of those powers for the purpose mentioned in sub-paragraph (1) by a person whose accreditation specifies that this paragraph applies to him as if the references to a constable engaged in regulation of traffic in a road were references to that person.

(3) The powers conferred by virtue of this paragraph may be exercised in any police area in England and Wales.

(4) In this paragraph "vehicle or trailer carrying a load of exceptional dimensions" means a vehicle or trailer the use of which is authorised by an order made by the Secretary of State under section

44(1)(d) of the Road Traffic Act 1988.

*Meaning of "relevant police area"*

- 10 In this Schedule "the relevant police area", in relation to an accredited person, means the police area for which the police force whose chief officer granted his accreditation is maintained.

SCHEDULE

6

Section 48

SPECIFIC OFFENCES WHICH ARE ARRESTABLE OFFENCES

The following is the Schedule inserted in the 1984 Act after Schedule 1-

"SCHEDULE 1A

SPECIFIC OFFENCES WHICH ARE ARRESTABLE OFFENCES

*Customs and Excise Acts*

- 1 An offence for which a person may be arrested under the customs and excise Acts (within the meaning of the Customs and Excise Management Act 1979 (c. 2)).

*Official Secrets Act 1920*

- 2 An offence under the Official Secrets Act 1920 (c. 75) which is not an arrestable offence by virtue of the term of imprisonment for which a person may be sentenced in respect of them.

*Prevention of Crime Act 1953*

- 3 An offence under section 1(1) of the Prevention of Crime Act 1953 (c. 14) (prohibition of carrying offensive weapons without lawful authority or excuse).

*Sexual Offences Act 1956*

- 4 An offence under-
- (a) section 22 of the Sexual Offences Act 1956 (c. 69) (causing prostitution of women; or
  - (b) section 23 of that Act (procurement of girl under 21).

*Obscene Publications Act 1959*

- 5 An offence under section 2 of the Obscene Publications Act 1959 (c. 66) (publication of obscene matter).

*Theft Act 1968*

- 6 An offence under-

- (a) section 12(1) of the Theft Act 1968 (c. 60) (taking motor vehicle or other conveyance without authority etc.); or
- (b) section 25(1) of that Act (going equipped for stealing etc.).

*Theft Act 1978*

- 7 An offence under section 3 of the Theft Act 1978 (c. 31) (making off without payment).

*Protection of Children Act 1978*

- 8 An offence under section 1 of the Protection of Children Act 1978 (c. 37) (indecent photographs and pseudo-photographs of children).

*Wildlife and Countryside Act 1981*

- 9 An offence under section 1(1) or (2) or 6 of the Wildlife and Countryside Act 1981 (c. 69) (taking, possessing, selling etc. of wild birds) in respect of a bird included in Schedule 1 to that Act or any part of, or anything derived from, such a bird.

- 10 An offence under-



- (a) section 1(5) of the Wildlife and Countryside Act 1981 (disturbance of wild birds);
- (b) section 9 or 13(1)(a) or (2) of that Act (taking, possessing, selling etc. of wild animals or plants); or
- (c) section 14 of that Act (introduction of new species etc.).

*Civil Aviation Act 1982*

- 11 An offence under section 39(1) of the Civil Aviation Act 1982 (c. 16) (trespass on aerodrome).

*Aviation Security Act 1982*

- 12 An offence under section 21C(1) or 21D(1) of the Aviation Security Act 1982 (c. 36) (unauthorised presence in a restricted zone or on an aircraft).

*Sexual Offences Act 1985*

- 13 An offence under section 1 of the Sexual Offences Act 1985 (c. 44) (kerb-crawling).

*Public Order Act 1986*

- 14 An offence under section 19 of the Public Order Act 1986 (c. 64) (publishing etc. material likely to stir up racial or religious hatred).

*Criminal Justice Act 1988*

- 15 An offence under-
  - (a) section 139(1) of the Criminal Justice Act 1988 (c. 33) (offence of having article with a blade or point in public place); or
  - (b) section 139A(1) or (2) of that Act (offence of having article with a blade or point or offensive weapon on school premises).

*Road Traffic Act 1988*

- 16 An offence under section 103(1)(b) of the Road Traffic Act

1988 (c. 52) (driving while disqualified).

- 17 An offence under subsection (4) of section 170 of the Road Traffic Act 1988 (failure to stop and report an accident) in respect of an accident to which that section applies by virtue of subsection (1)(a) of that section (accidents causing personal injury).

*Official Secrets Act 1989*

- 18 An offence under any provision of the Official Secrets Act 1989 (c. 6) other than subsection (1), (4) or (5) of section 8 of that Act.

*Football Spectators Act 1989*

- 19 An offence under section 14J or 21C of the Football Spectators Act 1989 (c. 37) (failing to comply with requirements imposed by or under a banning order or a notice under section 21B).

*Football (Offences) Act 1991*

- 20 An offence under any provision of the Football (Offences) Act 1991 (c. 19).

*Criminal Justice and Public Order Act 1994*

- 21 An offence under-
- (a) section 60AA(7) of the Criminal Justice and Public Order Act 1994 (c. 33) (failing to comply with requirement to remove disguise);
  - (b) section 166 of that Act (sale of tickets by unauthorised persons); or
  - (c) section 167 of that Act (touting for car hire services).

*Police Act 1996*

- 22 An offence under section 89(1) of the Police Act 1996 (c. 16) (assaulting a police officer in the execution of his duty or a person assisting such an officer).

*Protection from Harassment Act 1997*

- 23 An offence under section 2 of the Protection from Harassment Act 1997 (c. 40) (harassment).

*Crime and Disorder Act 1998*

- 24 An offence falling within section 32(1)(a) of the Crime and Disorder Act 1998 (c. 37) (racially or religiously aggravated harassment).

*Criminal Justice and Police Act 2001*

- 25 An offence under-
- (a) section 12(4) of the Criminal Justice and Police Act 2001 (c. 16) (failure to comply with requirements imposed by constable in relation to consumption of alcohol in public place); or
  - (b) section 46 of that Act (placing of advertisements in relation to prostitution)."

SCHEDULE

7

Section 107

MINOR AND CONSEQUENTIAL AMENDMENTS

*Police (Scotland) Act 1967*

- 1 (1) In subsection (1) of section 38A of the Police (Scotland) Act 1967 (c. 77) (police officers engaged on service outside their force), after paragraph (aa)[a] there shall be inserted-

"(ab)[a] temporary service on which a person is engaged in accordance with arrangements made under paragraph 6(2) of Schedule 2 to the Police Reform Act 2002 (c. 30) (service with the Independent Police Complaints Commission);".

- (2) In subsection (6)(a) of that section, after "paragraph (a)," there shall be inserted "(aa),".

*Superannuation Act 1972*

- 2 (1) In Schedule 1 to the Superannuation Act 1972 (c. 11) (kinds of employment to which that Act applies), at the appropriate place in the entries under the heading "Royal Commissions and other Commissions", there shall be inserted-

"Independent Police Complaints Commission."

- (2) In that Schedule, in the entries under the heading "Other bodies", the words "Police Complaints Authority." shall be omitted.

*Juries Act 1974*

- 3 In Part 1 of Schedule 1 to the Juries Act 1974 (c. 23) (ineligibility for jury service), in Group B, after the entry relating to the Criminal Cases Review Commission there shall be inserted-

"Chairman and members of the Independent Police Complaints Commission and any member of its staff who is not otherwise ineligible."

*Rehabilitation of Offenders Act 1974*

- 4 In section 7(2)(bb) of the Rehabilitation of Offenders Act 1974 (c. 53) (limitations on rehabilitations under Act etc.), for "a sex offender order under section 2 or, as the case may be, 20" there shall be substituted "an order under section 2, 2A or 20".

*House of Commons Disqualification Act 1975*

- 5 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified)-
- (a) at the appropriate place, there shall be inserted-
- "The Independent Police Complaints Commission."; and
- (b) the words "The Police Complaints Authority." shall be omitted.

*Northern Ireland Assembly Disqualification Act 1975*

- 6 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified)-
- (a) at the appropriate place, there shall be inserted-
- "The Independent Police Complaints Commission."; and
- (b) the words "The Police Complaints Authority." shall be omitted.

*The Police Pensions Act 1976*

- 7 (1) Section 11 of the Police Pensions Act 1976 (c. 35) (interpretation) shall be amended as follows.

(2) In subsection (2) (meaning of "police authority" in relation to pensions)-

- (a) in paragraph (b), for "(c)", in the second place where it occurs, there shall be substituted "(ba)";
- (b) after paragraph (b) there shall be inserted-
- "(ba) in relation to service of the kind described in section 97(1)(aa) of the Police Act 1996 (c. 16) or section 38A(1)(aa) of the Police (Scotland) Act 1967 (c. 77), it means the Independent Police Complaints

Commission;"

(c) in paragraph (c), for "subsection (ba) or (bc) above" there shall be substituted "paragraph (ba) or (bc) of subsection (1)";

(d) in paragraph (d), for "subsection (bb) or (bd) above" there shall be substituted "paragraph (bb) or (bd) of subsection (1)";

(e) in paragraph (da), for "subsection (be)" there shall be substituted "subsection (1)(be)".

(3) In subsection (5) of that section, in the definition of "central service", in each of paragraphs (a) and (b), after "paragraph" there shall be inserted "(aa)".

(4) After that subsection, there shall be inserted-

"(6) References in this Act to the Director General of the National Criminal Intelligence Service and to his service have effect only in relation to cases in which the person in question was a serving police officer for the purposes of section 6 of the Police Act 1997 (c. 50) immediately before his appointment to that office took effect."

*Rehabilitation of Offenders (Northern Ireland) Order 1978*

8 In Article 8(2) of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/ 1908 (N.I. 27)) (limitations on rehabilitation under Order etc.), after sub-paragraph (b) there shall be inserted-

"(bb) in any proceedings on an application for an order under Article 6 or 6A of the Criminal Justice (Northern Ireland) Order 1998 (S.I. 1998/ 2839 (N.I. 20)) or in any appeal against the making of such an order;"

*The 1984 Act*

9 (1) In section 18(5) of the 1984 Act (power of constable to conduct search of an arrested person's premises before taking him to a police station), for "taking the person" there shall be substituted "the person is taken".

(2) In section 54A(6) of that Act (persons entitled to carry out search or examination or to take photographs), for paragraphs (a) and (b) and the words after paragraph (b) there shall be substituted "constables".

(3) In section 61 of that Act (fingerprinting), before subsection (9) there shall be inserted-

"(8B) The power to take the fingerprints of a person detained at a police station without the appropriate consent shall be exercisable by any constable."

(4) In section 63 of that Act (non-intimate samples), after subsection (9) there shall be inserted-

"(9ZA) The power to take a non-intimate sample from a person without the appropriate consent shall be exercisable by any constable."

(5) In section 64A(3) of that Act (persons entitled to photograph detainees), for paragraphs (a) and (b) and the words after paragraph (b) there shall be substituted "constables".

(6) In subsection (7B) of section 67 of that Act (limited effect of modification of code of practice), in paragraph (c) for "order" there shall be substituted "code".

(7) After subsection (9) of that section there shall be inserted-

"(9A) Persons on whom powers are conferred by-

(a) any designation under section 38 or 39 of the Police Reform Act 2002 (c. 30) (police powers for police authority employees), or

(b) any accreditation under section 41 of that Act (accreditation under community safety accreditation schemes),

shall have regard to any relevant provision of a code of practice to which this section applies in the exercise or performance of the powers and duties conferred or imposed on them by that designation or accreditation."

(8) In subsection (10) of that section (failure to comply with codes not to render a person liable to civil or criminal proceedings), after paragraph (b) there shall be inserted", or

(c) of a person designated under section 38 or 39 or accredited under section 41 of the Police Reform Act 2002 (c. 00) to have regard to any relevant provision of such a code in the exercise or performance of the powers and duties conferred or imposed on him by that designation or accreditation,".

(9) In section 118, at the beginning of subsection (2) (meaning of persons in police detention) there shall be inserted "Subject to subsection (2A)"; and after that subsection there shall be inserted-

"(2A) Where a person is in another's lawful custody by virtue of paragraph 22, 34(1) or 35(3) of Schedule 4 to the Police Reform Act 2002, he shall be treated as in police detention."

*Prosecution of Offences Act 1985*

- 10 In section 3(2) of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director of Public Prosecutions), after paragraph (b) there shall be inserted-

"(ba) to institute and have the conduct of any criminal proceedings in any case where the proceedings relate to the subject-matter of a report a copy of which has been sent to him under paragraph 23 or 24 of Schedule 3 to the Police Reform Act 2002 (c. 30) (reports on investigations into conduct of persons serving with the police);".

*Road Traffic Act 1988*

- 11 (1) Section 103 of the Road Traffic Act 1988 (c. 52) (obtaining licence, or driving, while disqualified) shall be amended as follows.

(2) Subsection (3) shall cease to have effect.

(3) In subsection (4), for "Subsections (1) and (3) above do" there shall be substituted "Subsection (1) above does".

(4) In subsection (5), for "Subsections (1)(b) and (3) above do" there shall be substituted "Subsection (1)(b) above does".

(5) In subsection (6), for "subsections (1) and (3)" there shall be



substituted "subsection (1)".

- 12 In section 183(1) of the Road Traffic Act 1988 (application to the Crown), in paragraph (c), the words ", except section 103(3)" shall be omitted.

*Aviation and Maritime Security Act 1990*

- 13 In section 22(4) of the Aviation and Maritime Security Act 1990 (c. 31) (persons entitled to exercise certain powers in relation to private dwelling), in paragraph (b)(i), for the words from "Police Complaints Authority" to the end of the sub-paragraph there shall be substituted "Independent Police Complaints Commission under section 26 of the Police Reform Act 2002 (c. 00); or".

*The 1996 Act*

- 14 In section 8 of the 1996 Act (local policing plans), after subsection (4) there shall be inserted-

"(4A) It shall be the duty of a police authority and of a chief constable, in preparing, issuing or submitting any plan or draft plan under this section, to have regard to any general guidance given by the Secretary of State with respect to local policing plans and the drafts of such plans.

(4B) Before giving any guidance under subsection (4A), the Secretary of State shall consult with-

(a) persons whom he considers to represent the interests of police authorities;

(b) persons whom he considers to represent the interests of chief officers of police; and

(c) such other persons as he thinks fit."

- 15 In section 54 of the 1996 Act (appointment and functions of inspectors of constabulary), before subsection (3) there shall be inserted-

"(2D) It shall be the duty of the chief inspector of constabulary-

(a) to enter into arrangements with the Independent Police Complaints Commission for the purpose of

securing cooperation, in the carrying out of their respective functions, between the inspectors of constabulary and that Commission; and

(b) to ensure that inspectors of constabulary provide that Commission with all such assistance and co-operation as may be required by those arrangements or as otherwise appears to the chief inspector to be appropriate for facilitating the carrying out by that Commission of its functions."

16 (1) Section 62 of that Act (consultation on terms and conditions for certain appointments) shall be amended as follows.

(2) In subsection (1B), the words "6 or" shall be omitted.

(3) After that subsection, there shall be inserted-

"(1C) Before determining the terms and conditions on which the Director General of the National Criminal Intelligence Service is to be appointed, the Secretary of State shall-

(a) consult the Police Negotiating Board for the United Kingdom about any term or condition which would, if the person appointed were to be a serving police officer, relate to any of the matters mentioned in section 61(1) (other than pensions), and

(b) take into consideration any recommendations made by the Board;

and in this subsection "serving police officer" has the same meaning as in section 6 of the Police Act 1997 (c. 50)."

17 In section 63(3) of that Act (consultation with Police Advisory Board for England and Wales before exercise of certain powers), after paragraph (c) there shall be inserted", or

(d) regulations under Part 2 of the Police Reform Act 2002 (c. 30) ,".

18 In section 87 of that Act (guidance concerning disciplinary proceedings), for subsection (2) there shall be substituted-

"(1A) The Secretary of State may also issue guidance to the Independent Police Complaints Commission concerning the

discharge of its functions under any regulations under section 50 in relation to disciplinary proceedings.

(2) Nothing in this section shall authorise the issuing of any guidance about a particular case.

(3) It shall be the duty of every person to whom any guidance under this section is issued to have regard to that guidance in discharging the functions to which the guidance relates.

(4) A failure by a person to whom guidance under this section is issued to have regard to the guidance shall be admissible in evidence in any disciplinary proceedings or on any appeal from a decision taken in any such proceedings.

(5) In this section "disciplinary proceedings" means any proceedings under any regulations under section 50 that are identified as disciplinary proceedings by those regulations."

- 19 (1) In subsection (1) of section 97 of that Act (police officers engaged on service outside their force), after paragraph (a) there shall be inserted-

"(aa) temporary service on which a person is engaged in accordance with arrangements made under paragraph 6(2) of Schedule 2 to the Police Reform Act 2002 (c. 30) ;".

(2) In subsection (6)(a) of that section, after "paragraph (a)," there shall be inserted "(aa),".

(3) In subsection (8) of that section, after "paragraph" there shall be inserted "(aa),".

*Justices of the Peace Act 1997*

- 20 After section 64 of the Justices of the Peace Act 1997 (c. 25) there shall be inserted-

**"64A Disqualifying offices**

The person who is the chairman of the Independent Police

Complaints Commission an any person who is otherwise a member of that Commission or a member of its staff is disqualified for being appointed or acting as a justice of the peace."

*The 1997 Act*

- 21 (1) In section 46 of the 1997 Act (interpretation of Part 1), before the definition of "financial year" there shall be inserted-

""British Transport Police Force" means the force of constables appointed under section 53 of the British Transport Commission Act 1949 (c. xxix);".

- (2) In section 52 of the 1997 Act (appointment of Director General of NCS), after subsection (5) there shall be inserted-

"(5A) The Director General shall not be attested as a constable under subsection (5) if he had already been attested as a constable in England and Wales, and still held that office, immediately before his appointment took effect."

- (3) In section 90 of the 1997 Act (interpretation of Part 2), before the definition of "financial year" there shall be inserted-

""British Transport Police Force" means the force of constables appointed under section 53 of the British Transport Commission Act 1949;".

*Police (Northern Ireland) Act 1998*

- 22 (1) In subsection (1) of section 27 of the Police (Northern Ireland) Act 1998 (c. 32) (police officers engaged on service outside the Police Service of Northern Ireland), after paragraph (a) there shall be inserted-

"(aa) temporary service on which a member of the police force is engaged in accordance with arrangements made under paragraph 6(2) of Schedule 2 to the Police Reform Act 2002 (c. 00);".

- (2) In subsection (5)(b) of that section, for "subsection (1)(b)" there shall be substituted "subsection (1)(aa), (b)".

*Freedom of Information Act 2000*

23 In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36)  
(public bodies for the purposes of that Act)-

(a) at the appropriate place, there shall be inserted-

"The Independent Police Complaints Commission."; and

(b) the words "The Police Complaints Authority." shall be  
omitted.

*Criminal Justice and Police Act 2001*

24 In section 88(7) of the Criminal Justice and Police Act 2001 (c. 16)

24 the Central Police Training and Development Authority to provide training for persons other than persons serving or employed for policing purposes in England and Wales), after paragraph (a) there shall be inserted-

"(aa) members of the staff of the Independent Police Complaints Commission;"

SCHEDULE

8

Section 107

REPEALS

<i>Short title and chapter</i>	<i>Extent of repeal</i>
Superannuation Act 1972 (c. 11)	In Schedule 1, in the entries under the heading "Other bodies", the words "Police Complaints Authority."
House of Commons Disqualification Act 1975 (c. 24)	In Part 2 of Schedule 1, the words "Police Complaints Authority."
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Part 2 of Schedule 1, the words "The Police Complaints Authority."
Road Traffic Regulation Act 1984 (c. 27)	In section 96(3)- (a) in the words before paragraph (a), the words "163"; and (b) paragraph (c) and the word "or" immediately preceding it.
Police and Criminal Evidence Act 1984 (c. 60)	In section 67(10), the word "or" after paragraph (a).
Housing Act 1985 (c. 68)	In section 4(e), the words "the Metropolitan Police Authority".
Housing Act 1988 (c. 50)	In paragraph 12(2)(g) of Schedule 1, the words "and the Metropolitan Police

Road Traffic Act 1988 (c. 52)	Section 103(3). In section 183(1)(c), the words ", except section 103(3)".
Road Traffic Offenders Act 1988 (c. 53)	In section 34(3), the word "and" after paragraph (a).
Official Secrets Act 1989 (c. 6)	Section 11(1).
Criminal Justice and Public Order Act 1994 (c. 33)	Section 54(5).
Police Act 1996 (c. 16)	Section 42(5). In section 62(1B), the words "6 or". Section 63(3)(b). Chapter 1 of Part 4. Section 86. In section 105(2), the words from "paragraph 8" to "that paragraph);". In Schedule 2, paragraph 25. In Schedule 2A, paragraph 20. Schedule 5.
Employment Rights Act 1996 (c. 18)	In section 200(1), the words "Part IVA," and "47B".
Protection from Harassment Act 1997 (c. 40)	Section 2(3).
Police (Health and Safety) Act 1997 (c. 42)	Section 5.
Police Act 1997 (c. 50)	Section 6(3). In section 9, in subsection (2)(b), the words from "to which" to "applies". Section 9A(2).



	<p>Section 39(3).  Section 42(6)(a).  In section 55, in subsection (2)(b), the words from "to which" to "applies".  Section 55A(2).</p>
Public Interest Disclosure Act 1998 (c. 23)	Section 13.
Police (Northern Ireland) Act 1998 (c. 32)	In Schedule 4, sub-paragraphs (2) to (4) of paragraph 22, and sub-paragraph (9) of that paragraph, the words "and 55(3)(c)".
Crime and Disorder Act 1998 (c. 37)	<p>In section 1-</p> <p>(a) the words after paragraph (b) of subsection (1); and</p> <p>(b) subsection (2).</p> <p>In section 5(1), the word "and" at the end of paragraph (a).  Section 32(2).  Section 84(2).</p>
Football (Offences and Disorder) Act 1999 (c. 21)	<p>Section 1(2)(f).  Section 8(3) and (4).</p>
Local Government Act 1999 (c. 27)	Section 24(3).
Greater London Authority Act 1999 (c. 29)	In Schedule 27, paragraphs 51, 59, 90 and 97 to 99.
Police (Northern Ireland) Act 2000 (c. 32)	In Schedule 6, paragraph 20(4).
Freedom of Information Act 2000 (c. 36)	In Part 6 of Schedule 1, the words "The Police Complaints Authority".
Countryside and Rights of Way Act 2000 (c. 37)	In Schedule 12, paragraph 13.

Criminal Justice and Court Services Act 2000 (c. 43)	In Schedule 7, in paragraph 151, the words "5(2)(b)".
Criminal Justice and Police Act 2001 (c. 16)	Section 12(6). Section 46(6). Section 71. Section 80(2). Section 122(3). Section 123(3). Section 125(4)(b). In Schedule 6, paragraph 74.
Anti-Terrorism, Crime and Security Act 2001 (c. 24)	Section 82(1). Section 94(3).