

POLICE AND FIRE REFORM (SCOTLAND) BILL

EXPLANATORY NOTES

(AND OTHER ACCOMPANYING DOCUMENTS)

CONTENTS

1. As required under Rule 9.3 of the Parliament's Standing Orders, the following documents are published to accompany the Police and Fire Reform (Scotland) Bill introduced in the Scottish Parliament on 16 January 2012:

- Explanatory Notes;
- a Financial Memorandum;
- a Scottish Government Statement on legislative competence; and
- the Presiding Officer's Statement on legislative competence.

A Policy Memorandum is printed separately as SP Bill 8–PM.

EXPLANATORY NOTES

INTRODUCTION

2. These Explanatory Notes have been prepared by the Scottish Government in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by the Parliament.

3. The Notes should be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a section or schedule, or a part of a section or schedule, does not seem to require any explanation or comment, none is given.

THE BILL

4. The purpose of the Bill is to create a single police service and a single fire and rescue service. The Bill sets out the governance arrangements and framework for the new services. In addition, it provides:

- a modern purpose for the police service and updated oath for constables. For fire, the Scottish Government intends that a new purpose will be included in a new fire and rescue framework;
- a statutory framework for the delivery of police and fire and rescue services and appropriate scrutiny and oversight arrangements; and
- arrangements for the transfer of existing officers and staff to both services.

5. The Bill also places the arrangements for independent custody visiting in Scotland on a statutory footing. It ensures that independent custody visiting in Scotland complies with the Optional Protocol to the Convention against Torture.

6. To facilitate the establishment of single services the Bill abolishes the existing unitary police and fire authorities (Fife and Dumfries and Galloway) and the 6 joint police and joint fire boards which are established by amalgamation schemes made under the provisions of the Police (Scotland) Act 1967 and the Fire (Scotland) Act 2005 by bringing together a number of local authorities (who are individual police and fire authorities under the enabling legislation) to form joint boards.

7. A more detailed explanation of the Bill's purpose can be found in the Policy Memorandum, which also explains the thinking and policy intentions that underpin it.

8. The Bill is in 3 parts. Part 1 deals with police, and has 17 Chapters and 98 sections. Part 2 deals with fire and rescue, and has 21 sections and Part 3 deals with general provisions with 6 sections. The Bill also includes 7 Schedules setting out the detailed arrangements in relation to a number of areas covered by the Bill.

Part 1 Police Reform

9. **Part 1** largely replaces the legislation underpinning policing in Scotland, the Police (Scotland) Act 1967, and puts in place a new modernised framework for policing. The Bill also repeals Part 1, Chapter 1 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 which established the Scottish Police Services Authority (SPSA) and the Scottish Crime and Drug Enforcement Agency (SCDEA). It amends Part 1, Chapter 2 of that Act which established the Police Complaints Commissioner for Scotland to rename it and extend the provisions in that part to provide for more robust scrutiny of policing. Specifically, it makes provision for:

- The establishment and way of working of the Scottish Police Authority (SPA), responsible for the governance, oversight and maintenance of the Police Service, for holding the Chief Constable to account, and for providing forensic services. The Bill will also give the Scottish Ministers power to direct the SPA, but not the Chief Constable (**Chapters 1 and 3** and **Schedule 1**);
- The responsibilities of the Chief Constable for the direction and control and day to day administration of the Police Service of Scotland (the Police Service), the allocation and deployment of resources received from the SPA, and ensuring adequate arrangements for the policing of each local authority area. The Bill also makes clear that the Chief Constable must account to the SPA (**Chapter 2**);
- An updated oath, a restatement and reframing of the functions and duties of constables, and provision for the terms and conditions of service of constables and police cadets, as well as that of police staff, police custody and security offices and constables from another jurisdiction on temporary service with the Police Service (**Chapter 2** and **Schedule 2**). In addition, the Bill gives the Scottish Ministers power to make regulations on a range of issues concerning the governance, administration and conditions of service of constables and police cadets (**Chapter 8**);
- A statement of the policing principles to which the Scottish Ministers, SPA and the Chief Constable must have regard when setting the strategic direction for the service and commanding constables, as well as detailed arrangements for the strategic police plan and annual police plan. It obliges the SPA to involve the Chief Constable in preparing these (**Chapter 4**);
- A statutory duty on the SPA and the Chief Constable to make arrangements which secure best value for the SPA and the Police Service (**Chapter 5**);
- Reporting on and examining policing matters, including placing specific obligations on the SPA to produce an annual report. It also provides for the preparation and submission of accounts and arrangements for audit, enables the Auditor General for Scotland to initiate examinations into the delivery of best value, and places a duty on the Auditor General and Her Majesty's Inspectors of Constabulary in Scotland (HMICS) to work together (**Chapter 6**);
- The Chief Constable to make arrangements for local policing, including establishing a new formal statutory relationship with each local authority (**Chapter 7**);
- Arrangements for police appeals tribunals in disciplinary cases where the processes of review or appeal have been exhausted (**Chapter 9** and **Schedule 3**);

- A new independent investigatory capacity outside the Police Service (the Police Investigations and Review Commissioner (PIRC)) to deal with the most serious cases and where it is in the public interest to have an independent investigation (**Chapter 10**);
- Inspection of the SPA and the Police Service by HMICS, which will retain its existing powers and also be able to examine the delivery of best value. It also requires the Scottish Ministers to lay HMICS inspection or inquiry reports before the Scottish Parliament (**Chapter 11**);
- A requirement on the SPA and the Police Service, and on the HMICS, Auditor General and PIRC to work together (**Chapter 12**);
- The Scottish Ministers to pay a grant directly to the Scottish Police Authority (**Chapter 14**). The SPA and Chief Constable will also be able to charge for goods and services provided by the SPA or police service (**Chapter 13**);
- A number of offences (**Chapter 15**);
- Independent Custody Visiting (**Chapter 16**); and
- The transfer of officers, staff and assets from the existing unitary authorities, joint boards and SPSA to the new service (**Chapter 17 and Schedule 4**).

Part 2 Fire Reform

10. **Part 2** amends the Fire (Scotland) Act 2005 to establish the Scottish Fire and Rescue Service and transfers to it fire-fighting, fire safety and other functions under that Act. Specifically, it makes provision for:

- The establishment and way of working of the Scottish Fire and Rescue Service (SFRS), responsible for the delivery of fire and rescue functions, and for employing the Chief Officer, fire-fighters and other staff. The Bill will also give the Scottish Ministers power to direct SFRS. (**Sections 99, inserting new Schedule 1A, and 116**);
- Fire and rescue functions in the Fire (Scotland) Act 2005 and the Fire (Additional Function) Scotland Order 2005 to be the responsibility of SFRS, and for SFRS to carry out those functions (**Sections 100 – 110**);
- SFRS to have a specific statutory duty to make arrangements which secure best value (**Section 111**);
- SFRS to produce, publish and review a strategic plan (**Section 112**);
- SFRS to make arrangements for local fire and rescue services, including establishing a formal statutory relationship with each local authority (**Section 113**);
- Monitoring and scrutiny of fire and rescue matters, including placing a specific duty on SFRS to produce an annual report, to prepare and submit for audit accounts and to provide information to the Scottish Ministers. (**Sections 100 (paragraph 16 of inserted schedule 1A), 114 and 115**);

These documents relate to the Police and Fire Reform (Scotland) Bill (SP Bill 8) as introduced in the Scottish Parliament on 16 January 2012

- Inspection of SFRS by newly established Inspectors of the Scottish Fire and Rescue Service. It also provides for reports by the Chief Inspector to SFRS, the Scottish Ministers and the Scottish Parliament (**Section 117**); and
- The transfer of fire-fighters and other staff and assets from the existing unitary authorities, joint boards and the Scottish Ministers to the new service (**Section 118** and **Schedule 5**).

Part 3: General

11. **Part 3** makes a number of general provisions relating to subordinate legislation, minor and consequential amendments to other legislation and commencement.

PART 1 – POLICE REFORM

CHAPTER 1 - THE SCOTTISH POLICE AUTHORITY

12. **Section 1** provides for the establishment of a new corporate body, the Scottish Police Authority (SPA).

13. **Schedule 1** to the Bill, which is introduced by **section 1**, establishes the SPA as independent from the Crown, and makes provision regarding its constitution, membership, remuneration and location. **Paragraphs 2 – 6** provide that the SPA will consist of between 7 and 11 members, though that number may be varied by order made by the Scottish Ministers which would be subject to negative procedure in the Scottish Parliament. Members must be appointed by Ministers on the basis of relevant skills and expertise to govern the Police Service and hold the Chief Constable to account. All appointments will be regulated under the Public Appointments Commissioner for Scotland: Code of Practice for Ministerial Appointments to Public Bodies in Scotland (“the Code”). The Scottish Ministers are to be responsible for appointing the Chair of the SPA, and members of the SPA must elect one of them to act as Deputy. These paragraphs also set out the length of term members and the chairing member can serve; that Ministers can remove members under certain circumstances; and provide a list of people disqualified from membership of the SPA.

14. **Paragraphs 7 – 9 of Schedule 1** make provision for the SPA to appoint staff to assist in carrying out its functions, and to second police officers from police services across the United Kingdom to assist in carrying out its functions. They also make provision regarding the terms and conditions on which the SPA’s staff are employed. **Paragraphs 10 – 13 of Schedule 1** set out rules regarding the establishment of committees and sub-committees by the SPA, its procedures, delegation of functions (although the SPA will still retain responsibility for the performance of those functions and remain able to perform them), and location of SPA and Police Service office Headquarters (which are subject to the approval of the Scottish Ministers). **Part 2 of Schedule 1** makes consequential amendments flowing from the establishment of the SPA as a new Scottish public body.

15. **Section 2** sets out that the SPA’s main functions are to maintain the Police Service of Scotland (the Police Service), to promote and support continuous improvement in, and hold the Chief Constable to account for, the policing of Scotland. The SPA will also have additional

functions conferred on it by this, or any other, enactment. The SPA must try to carry out these functions in a way that is proportionate, accountable and transparent and consistent with best practice.

16. On the first of these roles, **Section 3** provides that the SPA has a specific obligation to pay constables pay, allowances and expenses, in accordance with the regulations made under **section 49** of the Bill. It also gives the SPA a broad power to provide and maintain anything necessary or desirable for carrying out police functions.

17. **Section 4** allows the SPA to do anything it considers appropriate for carrying out its functions. This includes specific power to: enter into contracts; borrow money; acquire and dispose of land and other property; accept gifts of money and gifts or loans of other property; form or promote companies; and compulsorily purchase land. The power to borrow money and to purchase land compulsorily is subject to Ministerial consent and, in relation to borrowing money, the Scottish Ministers can set any conditions they consider appropriate, and their agreement can be given in relation to a particular case or class of cases.

18. **Section 5** places an obligation on the SPA to comply with any direction given by the Scottish Ministers. The Scottish Ministers may not give directions in relation to specific policing operations. The Ministerial direction must be published and laid before the Scottish Parliament. Ministers will also have powers to vary or revoke such directions, which must be published and laid in the same way.

CHAPTER 2 – THE POLICE SERVICE OF SCOTLAND

19. This Chapter makes a number of provisions relating to the Police Service of Scotland. Police officers are office holders not employees and their terms and conditions of service are set out in statute rather than being governed primarily by employment law. It is for this reason that the legislation has to set out detailed arrangements for the establishment of the Police Service and the appointment etc. of constables, and the provisions in this Chapter largely replicate those in the 1967 Act relating to the appointment of constables. Any differences in approach are set out below. **Section 6** establishes the Police Service of Scotland as a constabulary comprising a constable holding the office of Chief Constable, one or more holding the office of deputy chief constable, one or more holding the office of assistant chief constable, and constables. It makes detailed provision for the terms and conditions of members of the constabulary. It sets out the ranks a constable may hold, and makes provision for the appointment, role, functions, jurisdiction, duties, and powers of senior officers, regular constables and special constables, as well as making provision for dealing with offences committed by constables, such as failure to perform duty and failure to return equipment, and for the removal from office of senior officers in the interests of efficiency or effectiveness.

Constable: appointment, ranks and terms of office

20. **Section 7** requires the SPA to appoint the Chief Constable of the Police Service, one or more deputy chief constables and one or more assistant chief constables. The Chief Constable appointment is subject to approval by the Scottish Ministers. The SPA is required to consult the Chief Constable before appointing a deputy or assistant chief constable. Regular constables (i.e. any constables aside from senior officers) will be appointed by the Chief Constable (**Section 8**),

who may also appoint special constables (**Section 9**). Special constables are not paid, but may be entitled to allowances and other payments, which will be set out in regulations made under **section 49**. The main differences from the 1967 Act are that the Bill provides the flexibility to have more than one deputy chief constable and Ministerial agreement is only required before the SPA appoints the Chief Constable rather than all senior officers.

21. **Section 10** provides that, in order to be appointed as a constable, an individual has to have made a declaration before a Sheriff or Justice of the Peace. **Section 10(1)** sets out the new wording of the declaration, which is included on the face of the legislation for the first time, having previously been included in Police Regulations. The wording of the oath can be modified by the Scottish Ministers by order, which would be subject to affirmative procedure in the Scottish Parliament.

22. **Section 11** makes provision for constable ranks. It lists the ranks a constable may hold, and gives the Scottish Ministers a power to make regulations (which would be subject to affirmative resolution in the Scottish Parliament) to add or remove any rank below that of assistant chief constable, and lists the people the Scottish Ministers must consult before doing so. The order making power is a new provision intended to make it easier to add or remove ranks if either is necessary for operational efficiency. **Section 11(2)** provides that constables appointed to the offices of Chief Constable, deputy chief constable or assistant chief constable under **section 7** hold the same rank as the office to which they have been appointed. The Chief Constable is responsible for assigning and promoting individuals to ranks below that of assistant chief constable. A constable can only be demoted if the constable consents or it is done in accordance with the regulations made under **section 49**. **Section 12** provides that a constable holds and vacates office in accordance with those regulations, or any other enactment which makes such provision.

23. **Section 13** provides the SPA with a power to pay rewards to any constable below the rank of Chief Constable who it considers has performed their functions with exceptional diligence, or in an especially meritorious manner, or to any person who it deems to have contributed substantially to Scotland's policing. Such rewards are made on the recommendation of the Chief Constable.

24. **Section 14** provides the SPA with a power to require a Chief Constable, deputy chief constable or assistant chief constable to retire in the interests of efficiency or effectiveness. Before calling for this, the SPA must: give the senior officer an explanation of its reasons and an opportunity to make representations, and consider any representations made. In the case of the Chief Constable, it must consult the Scottish Ministers. A senior officer called on to retire in this way must retire from the date set by the SPA, or an earlier date agreed between them and the SPA.

25. **Section 15** makes provision for constables to be engaged in service outwith the Police Service on temporary service, with the consent of the Chief Constable. The Scottish Ministers can, by regulations, prescribe types of service as "temporary service", and make whatever further provision they consider appropriate. Constables on temporary service continue to hold the office of constable, but are not entitled to carry out the functions, or have the powers and privileges of, a constable, except in certain circumstances. Following such a period of temporary service,

constables are entitled to return to service in the Police Service at the rank they held previously. Their time spent on temporary service is treated as time served as a constable of the Police Service for pay purposes. These are only applicable if the constable does not become eligible for a pension, allowance or gratuity by virtue of regulations made under the Police Pensions Act 1976 or section 1 of the Police (Overseas Service) Act 1945 during the period of temporary service. Constables can be promoted during their time on temporary service, in which case they would return to the Police Service at the promoted rank and are treated as having served in that rank from the time of promotion for pay purposes. Although this provision largely repeats the current arrangements for temporary service it seeks to make it easier for officers to serve outwith the Police Service.

26. **Section 16** allows officers from the rest of the UK and the Crown Dependencies to carry out temporary service as officers in the Police Service, provided they take the oath (**section 10**). Such individuals are under the direction and control of the Chief Constable, and have all the powers, privileges and functions of a constable in Scotland. This is a new provision to facilitate the inward secondment of officers from outwith Scotland for short term postings.

Chief Constable

27. **Section 17** makes it clear that the Chief Constable is responsible, and must account to the SPA, for the policing of Scotland. The Chief Constable has the following responsibilities:

- Direction and control of the Police Service;
- The day to day administration of the Police Service and the allocation and deployment of resources received from the SPA;
- Involvement in the preparation of the strategic police plan, annual police plans and SPA's annual report;
- Seeking to secure continuous improvement in the policing of Scotland;
- Designation of local commanders and ensuring that adequate arrangements are in place for the policing of each local authority area; and
- To provide the SPA with information about the Police Service, policing and the state of crime.

28. When directing constables, police cadets and police staff, the Chief Constable must comply with any lawful instruction given by the appropriate prosecutor in relation to the investigation of offences, the Lord Advocate under section 12 of the Criminal Procedure (Scotland) Act 1995, the Lord Justice General or the sheriff principal for the area concerned. He or she must also seek to ensure that Scotland's policing is carried out with due regard to the policing principles set out at **section 32** and the recommendations made or guidance issued by the SPA on Scotland's policing, and in accordance with the strategic police priorities, any strategic police plan approved under **section 34**, and the most recent annual police plan published under **section 35**. Any recommendations or guidance made by the SPA must not be inconsistent with the strategic police priorities, the latest approved strategic police plan, the relevant annual police plan and any guidance or instructions issued to the Chief Constable by the Lord Advocate or a procurator fiscal in relation to the investigation or reporting of offences. This section largely brings together the current responsibilities of Chief Constables, updated to

reflect the establishment of the Police Service and the new planning and reporting regime established in this Bill. It also makes clear that the Chief Constable is accountable to the SPA for the policing of Scotland.

29. **Section 18** provides that the Chief Constable can delegate any of his or her functions to any other constable. He or she is however still responsible for the performance of those functions and remains able to perform them. The SPA is required to designate a deputy chief constable to perform the Chief Constable's functions if that office is vacant or if he or she is unable to perform their duties due to absence, illness or suspension. If the offices of chief constable and deputy chief constable are vacant or the holders are unable to perform their duties due to absence, illness or suspension, the SPA must designate an assistant chief constable to perform the Chief Constable's functions. Only one deputy chief constable or assistant chief constable can be designated to take on the functions of the Chief Constable at any particular time. This provision does not affect any restriction on delegation of the Chief Constable's functions contained in any other enactment.

Functions of Constables

30. **Sections 19 to 23** set out the functions, jurisdiction and duties of constables, including command and control. **Section 19** sets out that constables will have all of the functions conferred on them by this or any other enactment or by rule of law, and all the powers and privileges of a constable throughout Scotland. It also provides that senior officers and local commanders also have all of the additional functions conferred on them by this or any other enactment or by rule of law. **Section 20** sets out constables' general duties. These are largely a restatement of the duties placed on constables under the 1967 Act, restated and reframed to better reflect the role of modern policing. When taking lawful measures to bring offenders to justice, a constable must take every precaution to ensure that a person charged with an offence is not unreasonably or unnecessarily detained in custody.

31. **Section 21** makes clear that constables are subject to the direction and control of the Chief Constable in relation to the performance of their duties, as are police staff and police cadets (who may also be dismissed by the Chief Constable). A constable must carry out lawful orders and punctually and promptly perform all of the duties which fall to him or her.

32. **Section 22** updates two offences committed by constables: absence from duty without reasonable excuse or neglect or violation of duty (this also applies to police custody and security officers). **Section 23** provides for the offence of failing to return any relevant item requested to the SPA without reasonable excuse or the SPA's permission. An offence of failing to return any item on ceasing to be a constable, without reasonable excuse or the SPA's permission, is also provided. **Section 23** also creates a power for a Sheriff or Justice of the Peace to grant a warrant for the search and removal of any relevant items. A relevant item is anything issued to a constable for the carrying out of the constable's functions, e.g. police uniform. The penalty for the offences of being absent from duty and failure to return equipment is imprisonment for a period not exceeding 60 days or a fine not exceeding level 3 on the standard scale. The offence of neglect or violation of duty is subject to a maximum sentence of 5 years imprisonment or to a fine or to both if tried on indictment, or on summary conviction to imprisonment for a maximum term of 12 months or to a fine at the statutory maximum or both. This offence was only subject to summary proceedings under the 1967 Act.

Liability for Unlawful Conduct

33. **Section 24** provides for liability for unlawful conduct by constables in line with the provisions currently included in the 1967 Act. This is needed because police officers are office holders, not employees, and the usual liability arrangements whereby employers are liable for unlawful acts on the part of their employees do not apply. Specifically it provides that the Chief Constable will be liable for any unlawful conduct in the carrying out of their functions by (a) a constable under his or her direction and control or (b) a member of an international joint investigation team who is not a constable or member of SPA staff or police staff. The SPA must pay any damages or expenses awarded against the Chief Constable (or the person carrying out his or her functions if the office of Chief Constable is vacant) in any proceedings under this section, any expenses incurred by the Chief Constable and any sum required in relation to the settlement of any claim against the Chief Constable which has or might have given rise to such proceedings. The SPA can, if and to the extent that it thinks fit, pay any damages or expenses awarded against a constable in relation to unlawful conduct by them, any expenses incurred by them, and any sum required in connection with the settlement of any claim which has or may have given rise to such proceedings.

Police Cadets

34. **Section 25** allows the Chief Constable to appoint police cadets to undergo training with a view to becoming constables. Such cadets are to be treated as employees of the SPA as they are not attested officers under section 10 of the Bill and do not have the powers of a constable. They are however under the direction and control of the Chief Constable and are subject to regulations made under **section 49** in relation to their terms and conditions of service in line with the provisions in the 1967 Act.

Police Staff

35. **Sections 26 and 27** of this Chapter make provision for police staff. **Section 26** provides the SPA with a power to appoint people to assist constables in carrying out police functions. The Chief Constable has power to make such appointments on behalf of the SPA. Such people can be employed by the SPA or provided to the SPA under contract with a third party. Under **section 27** police staff may be employed on terms and conditions determined by the SPA and the SPA may pay or make arrangements for contributing to and paying pensions of police staff.

Police Custody and Security Officers

36. **Sections 28-30 and Schedule 2** set out the arrangements for police custody and security officers and for their certification, and put in place penalties for any person who knowingly provides false or misleading information in relation to certification. These provisions replicate those in the 1967 Act relating to police custody and security officers.

37. Under **section 28** the Chief Constable can certify a member of police staff to be authorised as a police custody and security officer. By virtue of **section 29(1)**, the Chief Constable can only do so if he or she is satisfied that the member of police staff is a fit and proper person to perform those functions and they have received suitable training to do so. The Chief Constable can suspend or revoke a certificate if it appears to him or her that the officer is

not fit and proper, otherwise the certificate continues until the specified date. The powers and duties of police custody and security officers are as set out in **Schedule 2**, as introduced by **section 28(3)**, and any other enactment or rule of law. They must be readily identifiable as such officers. **Section 30** makes it an offence for anyone to provide information enabling themselves or any other individual to be certified as a police custody and security officer if they know that or are reckless as to whether the information is false or misleading. The maximum sentence for anyone guilty of such an offence is a fine not exceeding level 4 on the standard scale.

CHAPTER 3 – FORENSIC SERVICES

38. This Chapter places a duty on the SPA to provide forensic services.

CHAPTER 4 – PRINCIPLES, PRIORITIES, OBJECTIVES AND PLANS

39. **Chapter 4** sets out the policing principles and new arrangements for setting priorities, objectives and planning. **Section 32** sets out the policing principles. The first principle, set out in **section 32(a)**, is that the main purpose of policing is to improve the safety and well-being of persons, localities and communities in Scotland. **Section 32(b)** states that the Police Service, working with others as appropriate, should seek to achieve that purpose by carrying out its functions in a way that (i) engages with, and is accessible to, local communities and (ii) promotes measures to prevent crime, harm and disorder.

40. **Section 33** allows the Scottish Ministers to determine strategic priorities for the SPA in relation to Scotland's policing or to the carrying out of the SPA's functions. **Sections 33(3)** and **33(4)** provide, respectively, that, before doing so, the Scottish Ministers must consult the SPA, persons whom they consider represent local authorities and any other persons they consider appropriate; and that they must have regard to the policing principles when determining strategic priorities. The Scottish Ministers are required to publish the strategic police priorities.

41. **Section 34** obliges the SPA to prepare a strategic police plan setting out the main objectives for the SPA and for Scotland's policing. That plan must be approved by the Scottish Ministers. It must: explain why each objective has been selected; describe what the SPA thinks it or the Police Service should do in order to achieve them; where reasonably practicable identify the outcomes against which they can be measured; and include any other material relating to the SPA or Police Service considered appropriate.

42. **Sections 34(3)** and **34(4)** set out the process for consulting on the draft plan, and list those who must be consulted on it (local authorities, HMICS and any others the SPA considers likely to have an interest in the plan). The SPA must invite consultees to respond within a set period and must have regard to comments received. Once that process has been completed, the draft plan must be submitted to Ministers for approval. Once it has been approved, it must be published and laid before the Scottish Parliament. The plan must be reviewed at least once every 3 years or where there has been a significant revision to the strategic police priorities. The modified plan following that review should follow the same process of consultation, approval and publication as the original.

43. **Section 35** obliges the SPA to prepare an annual police plan. The plan is to set out the proposed arrangements for the carrying out of both the SPA's functions and the policing of Scotland in each year and how the arrangements are expected to contribute towards the achievement of the main objectives as set out in the strategic police plan. The annual plan must be published before the start of the year to which it relates and laid before the Scottish Parliament.

44. **Section 36** requires the Chief Constable to participate in planning processes by placing an obligation on the SPA to involve the Chief Constable in preparing the strategic police plan, and each annual police plan. It also places a requirement on the Chief Constable to provide the SPA with whatever assistance it may reasonably require in that regard.

45. **Section 37** specifies that, in carrying out their respective functions in relation to the formulation and publication of the strategic police plan and each annual police plan, the SPA and Chief Constable must have regard to the policing principles; must have regard to, and ensure that the plan is consistent with, the strategic police priorities; and ensure the annual plan is consistent with the most recently approved strategic police plan.

CHAPTER 5 - BEST VALUE

46. **Section 38** places a statutory duty on the SPA and the Chief Constable to make arrangements which secure best value for the SPA and Police Service respectively. This replaces the current duty of best value on police authorities and joint boards under Section 1 of the Local Government in Scotland Act 2003 and places a duty on the Chief Constable for the first time. Best value is defined as meaning a continuous improvement in the performance of their respective functions. **Section 39** provides that, in carrying out their duties in regard to best value, they must have regard to: (a) any relevant guidance issued by the Scottish Ministers; and (b) anything regarded as proper arrangements for the purposes of securing best value. Relevant guidance is defined as meaning guidance on carrying out the duties in **sections 38(1)** and **38(2)**, including, in particular, guidance on how to make, and what is to be included in, the arrangements to secure best value, and guidance as to how to implement the duty to make such arrangements. Before issuing such guidance, the Scottish Ministers must consult the SPA, the Chief Constable and anyone else they consider appropriate. Where there is conflict between (a) and (b), the SPA and Chief Constable should have regard only to (a).

47. In making arrangements to secure best value, the SPA and Chief Constable are required to balance the quality of carrying out their functions, the cost of doing so, and the cost to persons of any service provided by the SPA or Chief Constable on a wholly or partly chargeable basis. In maintaining that balance, they must have regard to efficiency, effectiveness, economy and the need to meet equal opportunities requirements (as set out in Section L2 of Part 2 of Schedule 5 to the Scotland Act 1998 (c.46)). Both the SPA and the Chief Constable are to discharge their duties in a way which contributes to the achievement of sustainable development. When measuring the improvement of the performance of their functions, regard should be taken of the extent to which the outcomes of that performance have improved.

CHAPTER 6 – ANNUAL REPORTS, ACCOUNTS, AUDIT AND EXAMINATION

48. This Chapter sets out new arrangements for reporting on and examining policing matters. **Section 40** obliges the SPA to prepare, with the involvement of the Chief Constable, an annual report relating to the carrying out of its functions and policing as soon as practicable after the end of the reporting year. It must contain an assessment of the SPA's and Police Service's performance in (a) achieving the main objectives set out in the most recently approved strategic police plan, and (b) implementing the arrangements set out in the annual police plan. It may also include any other matters relating to the SPA's functions and policing that the SPA considers appropriate. The SPA must publish the annual police report, provide a copy to Ministers and lay a copy before the Scottish Parliament.

49. The Chapter also makes provision for the preparation and submission of accounts and arrangements for audit. **Section 41** obliges the SPA to keep proper accounts and records in relation to the accounts, and to prepare a statement of accounts as soon as practicable after the end of the year ending 31 March. It also obliges the Chief Constable to provide whatever assistance or information the SPA requires for these purposes. The form and content of that statement of accounts is to be set by the Scottish Ministers. The SPA must send a copy of the statement of accounts to the Scottish Ministers, who must in turn lay it before the Scottish Parliament, and under **section 42** to the Auditor General for auditing.

50. **Sections 43 to 44** deal with examinations by the Auditor General outwith the annual audit of the SPA's statement of accounts. **Section 43** provides that the Auditor General may, at any time, initiate an examination into the economy, efficiency, and effectiveness of the Police Service, and the arrangements made by the Chief Constable to secure best value for the Police Service (**section 38(2)**). It is for the Auditor General personally to initiate such an examination and to decide who is to carry it out, although he or she must take into account any proposals made by the Scottish Parliament. The examiner appointed by the Auditor General may consider the appropriateness of any criteria used to assess the use of resources available to the Police Service but cannot question the merits of the Police Service's policy objectives. The examiner - if the Auditor General themselves is not carrying out the examination - must report to the Auditor General, who may report to the Scottish Parliament and SPA. The results can be published. Section 23A and 24 of the Public Finance and Accountability (Scotland) Act 2000 apply to any examination under this section, as they apply to examinations in relation to economy, efficiency and effectiveness generally. **Section 43** makes it clear that section 23 of that Act includes, in relation to the SPA, a reference to examinations into the arrangements made by the SPA under **section 38(1)**.

CHAPTER 7 – LOCAL POLICING

51. This Chapter sets out the arrangements for local policing, including the new relationship between the Police Service and each local authority. Under **section 45** the Chief Constable is under a duty to ensure that there are adequate arrangements in place for policing within each local authority area. The Chief Constable is required to designate a constable as local commander for each local authority area, although one local commander can cover more than one local authority area.

52. **Section 46** requires local commanders to involve local authorities in setting priorities and objectives for the carrying out of police functions in the local authority area. The local commander is required to provide the local authority with any reports that it requests on the carrying out of police functions in its area; statistical information on police complaints in its area; and any other information about the policing of its area that the local authority might reasonably require. **Section 46** also enables the local authority to monitor and provide feedback, including recommendations for improvement, to the local commander on the policing of the local area. Under **section 47** the local commander is placed under a statutory duty to participate in community planning. This replaces the existing statutory duty on the Chief Constable.

53. **Section 48** of the Bill requires the local commander to submit a local police plan to the local authority for its approval. When preparing the plan, the local commander must have regard to the strategic police plan and consult others as appropriate. Once it is approved by the local authority, the local commander must publish the plan in a form and manner specified by the SPA. The local commander must review, prepare and submit for approval a replacement plan at least once every 3 years, following the same process as for the initial plan. The plan can be modified at any time if the local commander and local authority agree to do so, following the same procedure for preparation, approval and publication. The plan must set out:

- the main priorities and objectives for policing the local authority area (and, where reasonably practicable, the outcomes by reference to which achievement of the priorities and objectives can be measured);
- the reasons for selecting the priorities and objectives;
- the proposed arrangements for policing the local authority area including how those proposals will meet the stated priorities and objectives;
- how the priorities, objectives and arrangements for policing will help deliver any other relevant local outcomes identified through community planning; and
- any other information linked to policing the local area that the local commander thinks relevant.

CHAPTER 8 – GOVERNANCE AND ADMINISTRATION OF POLICE

54. This Chapter gives the Scottish Ministers powers to make regulations for the governance, administration and conditions of service of constables and police cadets. It then sets out in more detail the areas in which regulations can be made. These provisions are necessary as police officers are office holders and not employees. Their terms and conditions of service are therefore largely set in secondary legislation rather than through a contract of employment governed by employment law. Although cadets are not police officers they are appointed with a view to becoming officers. Their terms and conditions are therefore broadly equivalent and are provided for in a similar way (through legislation). These provisions largely replicate the regulation making powers in the 1967 Act but have been re-ordered and provide more detail than that Act does on the areas that regulations may cover.

55. **Section 49** sets out that the Scottish Ministers must make regulations covering the governance, administration and conditions of service of constables and police cadets. **Sections 50 – 54** set out in more detail what these regulations may cover. **Section 50** provides that regulations may be made for appointment and promotions, including the eligibility and

procedure for appointment and for promotion; periods of service on probation; the efficiency and effectiveness of constables and cadets; restrictions on their private lives or business interests; and resignation and retirement. Regulations may provide for appointing senior officers (i.e. at the rank of assistant chief constable or above) for fixed terms, but cannot provide for fixed term appointment to any lower rank.

56. **Section 51** provides that regulations may be made which relate to conditions of service including: pay, allowances and expenses; public holidays and leave; the supply and return of police clothing and equipment; and, the remuneration of special constables. Such regulations may make retrospective provision about pay and allowances but cannot retrospectively reduce any pay or allowance payable to or in respect of any person. Under **section 52**, regulations may be made in relation to officer duties, including provisions about what duties are or are not to be carried out by constables or police cadets, hours of duty and the treatment as police duty of time spent attending meetings of police representative bodies.

57. **Section 53** provides that regulations must establish or provide for the establishment of procedures for handling unsatisfactory performance or behaviour. The regulations can set out standards of performance and behaviour which, if breached, might be treated as misconduct or unsatisfactory performance, as well as any other circumstances in which a constable's behaviour or performance may be treated in this way. Regulations may permit constables to be suspended from duty pending an investigation into alleged misconduct (and when suspended a constable is not permitted to carry out any police functions). The regulations may also provide for how misconduct or unsatisfactory behaviour or performance are to be dealt with, including (but not limited to) admonition, suspension, dismissal or demotion in rank, and permit an officer to be suspended from duty whilst an allegation of misconduct is being considered. Functions may be conferred on the Police Investigations and Review Commissioner in relation to misconduct and unsatisfactory performance. Where a senior officer's performance has been unsatisfactory or that person is found to have been engaged in misconduct, the regulations must provide that it is for the SPA to determine the sanction.

58. **Section 54** provides that the regulations may also make provision for the compilation and retention of personal records about constables and police cadets and the taking of, retention, use and destruction of fingerprints and samples from such officers.

59. Under **section 55**, the Scottish Ministers must, before making regulations under **section 49**, consult, share a draft with, and consider representations from: the Police Federation for Scotland; any bodies representing senior officers; any bodies representing superintendents; the Chief Constable; the SPA; and others as they see fit. When making regulations about any matter contained in Section 61(1) of the Police Act 1996 (which deals with the areas to be considered by the Police Negotiating Board for the UK (PNB)) the draft must also be shared with the PNB.

60. **Section 56** allows for regulations made under **section 49** to provide for delegation of functions to the Scottish Ministers, the SPA, the Chief Constable, a local commander, the Police Investigations and Review Commissioner or any other person and to authorise or allow any persons to delegate functions.

CHAPTER 9 – POLICE APPEALS TRIBUNALS

61. This Chapter makes provision for the continuation of the Police Appeals Tribunal (the tribunal), describing its role in disciplinary cases where an officer has been dismissed or demoted in rank and the processes of review or appeal set out in regulations made using powers under **Section 49** have been exhausted. This Chapter largely replicates the provisions in the 1967 Act although they have been re-ordered and updated to provide appropriate independence.

62. **Section 57** gives a constable a right of appeal to a tribunal against dismissal or demotion in rank following the conclusion of misconduct or unsatisfactory behaviour or performance proceedings. **Schedule 3** makes further provision about these tribunals, including that the Scottish Ministers can make rules relating to appeals. It provides that the tribunal must consist of three members (one of whom is to act as the chairing member) qualified to practice law in Scotland for 5 years and selected by the Lord President of the Court of Session. The Lord President must establish and maintain a panel of persons from whom these members will be appointed. The SPA must meet all the expenses of the appeal including the tribunal members' remuneration, except the appellant's expenses; however the tribunal has the power to direct the SPA to meet these costs too. The Scottish Ministers can make further rules and provision about the appeals procedure including the appeal notices, the identity of the respondent and holding private hearings.

63. **Section 58** provides that a tribunal must, before considering the appeal, consider any written or oral representations made by either the person bringing the disciplinary action to bear (the respondent) or the constable who is appealing it (the appellant). Either party can require representations to be made by oral hearing, and either party can elect to be represented by another person. **Section 59** provides that the tribunal can either confirm the decision being appealed or replace it with any less severe decision that could have been made by the person who made the decision against which the appeal was made. Any decision overturning the original decision has effect from the date of the original decision. A substituted decision has effect for the purposes of pensionable service as though it was made at the time of the decision against which the appeal was made. The tribunal has the option of treating the substituted decision in the same way for the purposes of pay. The tribunal can deal with any other matters that it deems appropriate to the case including any relevant periods where the constable was suspended from duty.

64. Under **section 60**, the chairing member of the tribunal has specific powers to require appropriate persons (including the appellant and the respondent) to provide information to aid it in its deliberations by attending and giving oral evidence at hearings or by providing relevant documents or information. It is an offence liable to a fine on summary conviction not exceeding level 2 on the standard scale to (without reasonable excuse); fail to attend hearings as required by citation; refuse or fail to answer any question at the hearing or to give the tribunal any document or information required. Knowingly or recklessly making a false statement in respect of any information required by the tribunal or deliberately altering, suppressing or destroying documents so required also constitutes an offence subject to the same maximum penalty. There is no defence of reasonable excuse in these circumstances. However, these powers do not require information to be disclosed which the person would be entitled to withhold on the grounds of confidentiality in civil proceedings in the Court of Session.

CHAPTER 10 – COMPLAINTS AND INVESTIGATIONS

65. This Chapter amends Part 1, Chapter 2 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (the 2006 Act) to rename the Police Complaints Commissioner for Scotland as the Police Investigations and Review Commissioner (PIRC) and to extend the PIRC's remit. **Section 61** places a number of requirements on the SPA and the Chief Constable in terms of dealing with relevant complaints, whose definition is the same as in 2006 Act. Those requirements are as follows:

- the SPA and Chief Constable must maintain suitable arrangements for the handling of relevant complaints, and must seek the views of others on what those arrangements should be;
- the SPA must keep itself informed about how the Chief Constable is dealing with relevant complaints in order to satisfy itself that those arrangements are suitable; and
- the Chief Constable must provide the SPA with whatever information about relevant complaints it reasonably requires, and must seek to ensure that sufficient information is kept for that purpose.

66. **Section 62** renames the Police Complaints Commissioner for Scotland as the Police Investigations and Review Commissioner (PIRC).

67. **Section 63** inserts section 33A into the 2006 Act, setting out the general functions of the PIRC. The PIRC is required to:

- ensure that the SPA and the Chief Constable make and maintain suitable arrangements for the handling and examination of complaints about police constables and staff and the reconsideration of such complaints as set out in sections 34 to 41 of the 2006 Act (section 33A(1)(a));
- when directed by a prosecutor to do so, investigate any circumstances in which there is an indication that a person serving with the police may have committed a serious criminal offence and the circumstances of any death involving a person serving with the police which that procurator fiscal is required to investigate under section 1 of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 (section 33A(1)(b));
- investigate and report on deaths, serious injuries or firearms incidents where constables and police staff are involved (section 33A(1)(c));
- investigate other matters relating to the Police Service or SPA that it considers are in the public interest (section 33A(1)(d)); and
- perform any functions prescribed by regulations in relation to allegations about and complaints against officers relating to their standard of behaviour or performance (section 33A(1)(e)).

68. **Sections 64 to 69** insert new sections 41A to 41E into the 2006 Act which describe in more detail the PIRC's powers, duties and functions. **Section 64** inserts new section 41A of the 2006 Act which requires the Commissioner to comply with any lawful instruction given by the prosecutor in relation to investigating and reporting alleged serious criminal offences or fatal accidents involving a person serving with the police. Amendments to the Regulation of

Investigatory Powers (Scotland) Act 2000 to provide for the investigatory powers which the PIRC will have are set out in **paragraph 4 of Schedule 6**.

69. **Sections 65 and 66** insert new sections 41B and 41C of the 2006 Act which explain further the definition of deaths or serious injuries, incidents involving firearms and other weapons, and other matters in the public interest which the Commissioner may investigate using powers in new sections 33A(1)(c) and (d) of the 2006 Act. Section 41B provides that the “serious incidents” that the PIRC may investigate include deaths and serious injuries when the person was detained by and had contact with the police and that contact may have caused or contributed to their death or injury, and incidents where a person serving with the police has used a firearm or other prescribed weapon. The Scottish Ministers may by regulation prescribe other circumstances which constitute a “serious incident”. Such regulations would be subject to negative parliamentary procedure. Provision is made in subsection (2) about matters which are not serious incidents. Section 41C outlines that the PIRC must investigate matters in relation to the SPA, Police Service or a person serving with the police which the PIRC believes to be in the public interest. However, the PIRC cannot use these powers to investigate cases which have been the subject of a relevant complaint or which are being or have been (or, in respect of serious incidents, are capable of being) investigated using the Commissioner’s other powers referred to in new Section 33A(1), or a matter which is being, or has been, investigated by someone else under section 1 of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976.

70. **Section 67** inserts section 41D which gives the Scottish Ministers powers to make, by regulations, further provisions about PIRC investigations under sections 33A(1)(c) or (d) of the 2006 Act. The Scottish Ministers must consult the PIRC, the SPA, the Chief Constable and any other relevant people before making such regulations, which are subject to affirmative parliamentary procedure. The regulations may make provision about: the form, procedure, restrictions and time limits for investigations; the circumstances in which an investigation may be discontinued; requirements on the SPA and Chief Constable to refer matters to the Commissioner and to assist and co-operate with investigations; the disclosure of information; and the delegation of functions to PIRC.

71. **Section 68** inserts new section 41E of the 2006 Act which requires the Commissioner to provide a report following an investigation under paragraph (c) or (d) of new section 33A(1). That report should not enable the identity of any person other than the SPA and Police Service to be revealed unless the PIRC considers that it is necessary to do so on the grounds of public interest. The PIRC must publish the report and provide a copy of it to the person who requested the investigation, the SPA and any other person the PIRC considers appropriate.

72. **Section 69** inserts a new section 41F into the 2006 Act allowing the Court of Session to investigate whether an individual who is obstructing the PIRC in carrying out an investigation should be treated as though they are a person who has committed a contempt of court in relation to the Court of Session.

73. **Section 70** inserts a new section 42A into the 2006 Act to put in place arrangements for the handling of complaints against the PIRC and to seek the views of others as to what those arrangements should be.

CHAPTER 11 – HER MAJESTY’S INSPECTORS OF CONSTABULARY IN SCOTLAND

74. This Chapter describes the role, powers and functions of Her Majesty’s inspectors of constabulary in Scotland (HMICS), which will retain its existing powers and take on an additional power to examine the delivery of best value. **Section 71** continues the existence of HMICS. Her Majesty can by Order in Council appoint and dismiss such number of inspectors as determined by the Scottish Ministers. The Scottish Ministers may designate one of those inspectors as the chief inspector of constabulary, and set levels of remuneration or allowances. The Scottish Ministers may appoint and set pay levels and terms and conditions for assistant inspectors under **section 72**. **Subsection (2)** provides that constables engaged on service as assistant inspectors are under the direction and control of the inspectors of constabulary. **Subsection (3)** provides that Scottish Ministers are liable in reparation in respect of any unlawful conduct on the part of a constable engaged as an assistant inspector of constabulary in relation to the exercise of that constable’s functions. Under **section 73**, inspectors can appoint staff officers to assist them, and set their terms and conditions of employment. **Subsection (2)** provides that a constable engaged on service as a staff officer is under the direction and control of the inspectors of constabulary. **Subsection (3)** provides that the inspectors are liable in reparation in respect of any unlawful conduct on the part of a constable engaged as an inspector of constabulary in relation to the exercise of the constable’s functions.

75. **Section 74** provides that the Scottish Ministers may direct the inspectors of constabulary to make inquiries about any matter relating to the SPA or Police Service, as well as to carry out annual inspections - or any other intervals Ministers think fit - and report to them on the state, efficiency and effectiveness of the SPA and the Police Service, and the arrangements made by the SPA and the Chief Constable under their duty to secure best value.

76. Under **section 75** the inspectors of constabulary are given general powers to do anything considered necessary or expedient in carrying out their functions, and may delegate these functions to any assistant inspector or staff officer, although they will still retain responsibility for the performance of those functions and remain able to perform them. **Section 76** provides that the SPA and Chief Constable must assist and cooperate with HMICS.

77. **Section 77** provides that as soon as possible after reporting to the Scottish Ministers, HMICS must give a copy of the report to the SPA and, where the report relates to the Police Service, to the Chief Constable, and publish it. The Scottish Ministers must then lay the report before the Scottish Parliament. The SPA and the Chief Constable must have regard to such reports and take such measures as they see fit in response. Under **section 78**, where such a report states that HMICS does not consider that the SPA or Police Service are efficient or effective, or will cease to be efficient or effective unless remedial action is taken, or that they are not achieving best value, the Scottish Ministers can direct the SPA to take remedial measures. The SPA must comply with any such direction.

78. HMICS is required under **section 79** to prepare and submit an annual report to the Scottish Ministers and the SPA, to publish it and lay it before parliament.

CHAPTER 12 – CO-OPERATION, EXCHANGE OF INFORMATION, ETC

79. This Chapter describes the new arrangements for interaction and co-operation between the SPA and Police Service, and the inspectors of constabulary, the Auditor General and the Police Investigations and Review Commissioner.

80. **Section 80** provides that the SPA and Chief Constable can make arrangements under which the SPA and Police Service provide assistance to each other. This includes the ability for their respective staff or constables to provide services to each other.

81. **Section 81** places a duty on the SPA to comply with any requirement made by the Scottish Ministers to provide reports, statistics or other information to them on any matter connected with the SPA, Police Service and the state of crime. The Chief Constable must do the same in relation to the Police Service for any request made by the SPA. The Chief Constable can however refer to the Scottish Ministers any such requirement made by the SPA if he or she considers that compliance would or could prejudice the carrying out of a police operation or the prosecution of offenders. If this happens, the requirement will only have effect if it is confirmed by the Scottish Ministers. The Chief Constable can also be required by the Lord Justice General or a sheriff principal (in relation to policing in the sheriff principal's jurisdiction) to provide such reports relating to policing as may reasonably be required.

82. **Section 81(8)** places a duty on the Chief Constable to try to ensure that sufficient information about the state of crime is kept to enable compliance with any such request. **Section 81(9)** also places a duty on the clerk of any court with criminal jurisdiction to provide any information they have to the Chief Constable to enable him or her to meet that obligation.

83. **Section 82** places a duty on the inspectors of constabulary, Auditor General and Police Investigations and Review Commissioner to work together in order to improve the carrying out of their functions. In particular, arrangements must be made to ensure the effective exchange of information between them about the SPA and Police Service and to prevent any unnecessary duplication of effort. This requirement does not apply where a matter requires urgent action. In complying with this duty, the inspectors and the PIRC must comply with any direction or guidance given by the Scottish Ministers. Such directions or guidance may relate to all functions of the inspectors and the PIRC, or only to specified functions, and may be varied or revoked by the Scottish Ministers. The Auditor General and the PIRC are not prevented from disclosing information to each other in relation to the carrying out of their functions by any restriction on disclosure of information.

CHAPTER 13 – PROVISION OF GOODS AND SERVICES

84. This Chapter sets out new arrangements to allow the SPA to charge for certain services provided by the Police Service or the SPA. Under **section 83**, the SPA can authorise the Chief Constable to make arrangements, at the request of any person, to provide and charge for police services. **Subsection (9)** defines police services as services in connection with the maintenance of order or the protection of persons or property from harm which are provided on or in relation to land owned or occupied by the person who requests the services. An authorisation may be of a general or specific nature and may in particular set out a scale of charges (**subsection (2)**) and the charges may only cover the cost of providing the services (**subsection (7)**). This section also

allows the Scottish Ministers to issue a code about charging for police services that the SPA must comply with. The Police Service has to ensure all money received from charging is paid to the SPA. No charge may be made in respect of the carrying out of police functions otherwise than in accordance with an authorisation under this section, unless it is authorised by another enactment or rule of law (**subsection (8)**). Under **subsection (7)** the SPA is only allowed to charge for the cost of the service provided although **subsection (3)** makes clear this can include any indirect costs, for example management and administration costs, as well as the direct cost of providing the service.

85. Under **section 84** the SPA may provide goods and services to any other public body or office holder. It may also provide such goods and services of a type described in an order made by the Scottish Ministers to other persons described in such an order (**subsection (1)**). The SPA may, with the consent of the Chief Constable, make similar arrangements for the provision of goods and services by the Police Service (**subsection (3)**). **Subsection (5)** allows the SPA to charge for any goods and services it provides, or which it authorises the Chief Constable to provide, including any costs it incurs, or expects to incur, indirectly as a result of the provision of those goods and services, although these charges must only cover the cost of providing the goods and services. **Subsection (7)(a)** prevents the SPA from charging for forensic services it provides to the Lord Advocate and procurators fiscal. **Subsection (7)(b)** prevents charges from exceeding the cost of the goods or services provided although **subsection (6)** makes clear this can include any indirect costs, for example management and administration costs, as well as the direct cost of providing the service. Goods and services may be provided by the SPA for such purposes as it considers appropriate and consistent with the proper carrying out of its functions (**subsection (2)**) and by the Police Service for such purposes as the SPA considers to be appropriate and consistent with the proper carrying out of police functions. The goods and services which may be provided include, but are not limited to:

- information technology systems and equipment;
- the inspection, testing and maintenance or repair of vehicles; and
- any other type of corporate support service provided by the SPA or Police Service in connection with the carrying out of SPA or police functions.

CHAPTER 14 – GRANTS

86. This Chapter provides for the payment of grants and replaces the current arrangement whereby funding of the police is shared between the Scottish Ministers and local authorities. **Section 85** allows the Scottish Ministers to make grants to the SPA. Such grants may be subject to conditions. **Section 86** allows grants or financial assistance to other persons for the purposes of providing services to or otherwise assisting or supporting the SPA or the Police Service in the carrying out of the SPA's functions or police functions. A grant or financial assistance may only be given under this section where it would be necessary or expedient for promoting the efficiency or effectiveness of, or securing best value for, the SPA or the Police Service, and is subject to any conditions specified by the Scottish Ministers.

CHAPTER 15 - OFFENCES

87. This Chapter re-enacts in a modern form the specific offences in the 1967 Act in relation to impeding a member of the police from carrying out their duties. **Section 87** makes it an

offence to assault or impede a person serving with the Police Service, a member of a police force mentioned in **subsection (4)** who is executing a warrant or acting under powers conferred on that person in Scotland by any enactment, or a member of an international joint investigation team. **Section 88** provides for an offence of aiding escape from or removing a person from the custody of a constable of the Police Service, a police custody and security officer, a constable of a police force mentioned in **section 87(4)** who is executing a warrant or acting under powers conferred on that person in Scotland by any enactment, or a member of an international joint investigation team. Both offences have penalties of imprisonment for up to twelve months and/or a fine not exceeding the statutory maximum on summary conviction, which is unchanged from the 1967 Act.

88. **Section 89** makes it an offence for someone who is not a police constable to impersonate a constable with intent to deceive or to do anything calculated to suggest that they are a constable. It is also an offence to possess articles of police clothing without the permission of the SPA (**subsection (2)**). A person has a defence to a charge under **section 89(2)** if he or she can prove that the articles of clothing were obtained lawfully and were in the person's possession for a lawful purpose. **Subsection (4)** makes it an offence for a person who is not a constable to wear, without the permission of the SPA, an article of police uniform which so nearly resembles that of a constable as to be calculated to deceive. The penalty on summary conviction of an offence under this section is imprisonment of up to three months or a fine not exceeding level 4 on the standard scale which is unchanged from the 1967 Act.

CHAPTER 16 – INDEPENDENT CUSTODY VISITING

89. This Chapter places the arrangements for independent custody visiting in Scotland on a statutory footing for the first time, ensuring that it is compliant with the United Nations Optional Protocol to the Convention Against Torture (OPCAT). **Section 90** sets out the purpose of the provisions in Chapter 16, namely pursuance of the objective of OPCAT. **Section 91** places a duty on the SPA to make arrangements to ensure that independent custody visitors can visit detainees and access information relevant to and monitor their treatment and conditions of detention. **Subsection (2)** provides that it must do that by providing for the appointment of independent custody visitors (ICVs), who are independent of both the SPA and Chief Constable, by authorising ICVs to do anything they require to enable them to visit detainees and monitor their treatment and conditions of detention, and by providing for the reporting of visits. **Subsection (3)** sets out specific action which ICVs may be authorised to take, including accessing any place of detention without notice, examining records relating to the detention of people there, meeting them and such other persons as they consider relevant to discuss the treatment and conditions of detainees, and inspecting those conditions. Access to a detainee can only be refused if an officer of inspector rank or above considers grounds for refusal of access contained in a Ministerial determination have been satisfied and any other procedural requirements set by the SPA have been met (**subsection (4)**). The SPA is required to keep these arrangements under review and to prepare and publish any reports required by the Scottish Ministers.

90. Ministers may issue guidance about independent custody visiting, to which the SPA, independent custody visitors and police must have regard. Before issuing such guidance, or making a determination about when access to detainees should be denied, the Scottish Ministers must consult with the SPA, the Chief Constable, ICVs or a representative body, and any others

they consider appropriate. Such guidance or determinations must be laid before the Scottish Parliament.

91. Under **section 92** the SPA must also make arrangements to allow members of the Subcommittee on the Prevention of Torture and other Cruel, Inhumane or Degrading Treatment or punishment (SPT) established under OPCAT to visit detainees, to access information relevant to their detention and to monitor their treatment and the conditions they are held in. It also describes the arrangements that may be made (**subsection (3)**) and provides that access may only be refused where the Scottish Ministers have notified the SPA that there are urgent and compelling grounds of public safety, natural disaster or serious disorder that temporarily prevent the carrying out of a visit (**subsection (4)**). The SPA must keep the arrangements under review and it and its staff and the Police Service and police staff must have regard to any guidance issued by the Scottish Ministers about SPT visits (**subsections 5 and 6**).

92. **Section 93** sets out the definitions of the terms used in Chapter 16.

CHAPTER 17 – MISCELLANEOUS AND GENERAL

93. This Chapter makes a number of miscellaneous provisions.

94. **Section 94** provides for the dissolution of the Police Advisory Board for Scotland. **Section 95** introduces **Schedule 4** which sets out the arrangements for the transfer of officers and staff working in the 8 police forces, SPSA and SCDEA to the new Police Service of Scotland and for the transfer of the assets and liabilities currently held by the joint boards and unitary authorities and SPSA. It also makes a number of transitional and transitory provisions to assist in the transition to the new service. **Paragraph 1** defines terms used in this schedule, and **paragraph 2** sets out that the appointed day is the day the new Police Service is established or such other day as Ministers may appoint. There is no parliamentary procedure attached to this.

95. **Paragraphs 3 – 9** cover arrangements for the transfer of police officers. **Paragraph 3** makes clear that any person who is a constable immediately before the appointed day continues to hold the office of constable after that day, is treated as though he has made the oath under **section 10** of the Bill and is to be treated as though he had been appointed in accordance with the provision in the Bill as a constable of the Police Service. Officers transfer at their current rank, except where they are on temporary promotion in which case they transfer at their substantive rank although the temporary promotion remains in place. Any specific contractual terms, for example fixed term contracts, continue to have effect as if they were made by the Police Service.

96. **Paragraph 4** sets out the arrangements that are to apply to senior officers who are not appointed to positions in the Police Service but who exercise their right to transfer. **Paragraph 5** makes clear that any constable of a police force transfers to serve as a constable of the Police Service, and **paragraph 6** covers the arrangements for constables serving in SCDEA or SPSA immediately before the appointed day. **Paragraph 7** sets out the arrangements for police officers who are on temporary service outwith their force immediately before the transfer date. Where the temporary service is to another force, the officer transfers to the Police Service. Where it is to another organisation the temporary service continues and the officer has a right to return to the Police Service at the end of the temporary service. **Paragraph 8** makes clear that where

there is any outstanding liability that the liability transfers to the SPA. **Paragraph 9** provides safeguards for officers who transfer to the new service. An officer must not be assigned to duties which would necessitate the officer moving home to a place outwith what was the area of the police force that has ceased to exist. Where a constable is engaged on service outwith their home force area on the date of transfer this safeguard only applies on his return to his “home” force area. The safeguard ceases to apply where the constable is or becomes a senior officer, is promoted to a higher rank or the officer consents to the lifting of the limitation.

97. **Paragraphs 10 – 15** cover the arrangements for the transfer of staff and others. Under **paragraph 10**, a police employee is defined as a person employed by a joint board as a civilian, a member of staff at SPSA and an employee of a local authority who is included in a staff transfer scheme made under **paragraph 11**. It further applies that a police employee’s contract of employment has effect on or after the appointed day as if originally made between the employee and the SPA. It is for the SPA to determine whether the individual is to be regarded as a member of police staff under **section 26** who is under the direction and control of the Chief Constable or as a member of the SPA’s staff under **paragraph 7 of schedule 1**. **Paragraph 10** also makes a number of provisions concerning employees who are subject to a staff transfer order. **Sub-paragraphs (4) and (5)** establish that contract rights and obligations transfer from the former employer to the SPA on the transfer date. **Sub-paragraph (6)** provides that employed staff may object in advance of their contract being transferred to the SPA, in which case their contract is terminated at the end of the day before the intended transfer day. This termination will not be treated as dismissal of a person for the purposes of legislation. **Sub-paragraph (8)** provides that an employee can only terminate their contract of employment by virtue of the staff transfer if they can show that the change of employer was both significant and detrimental.

98. **Paragraph 11** makes provision for a staff transfer scheme for staff employed in the unitary police authorities who are to be treated as police employees for the purposes of **paragraph 10**. **Paragraph 12** covers staff who are appointed under a contract for services. **Paragraph 13** covers police cadets and **paragraph 14** makes additional provision for Police Custody and Security Officers who will have transferred to the SPA under **paragraph 10**. **Paragraph 15** makes clear that any individuals who are an inspector of constabulary, an assistant inspector of constabulary or a staff officer to the inspector of constabulary on the date **sections 71- 73** come into force remain in post.

99. **Paragraphs 16 – 18** cover property transfers. **Paragraph 16** allows Ministers to make a police property transfer scheme. This is a scheme making provision for the transfer to the SPA of property, rights, liabilities and obligations of Ministers, a local authority, a joint police board or the SPSA. **Paragraph 17** allows Ministers to make a local authority transfer scheme to make provision for the transfer to a local authority of property, rights, liabilities and obligations of a joint board. **Paragraph 18** makes general provisions in relation to schemes made under **paragraphs 16 and 17**.

100. **Sections 96 and 97** provide a list of definitions of terms used in the Bill. **Section 98** deals with the issue of Crown application, providing in particular that the Crown may not be made criminally liable for a contravention of a provision of the Bill (but that the Court of Session may make a declarator in respect of any such unlawful act or omission) and that the power of compulsory purchase in **section 4(2)(d)** does not apply to Crown land.

PART 2 – FIRE REFORM

SECTION 99 – THE SCOTTISH FIRE AND RESCUE SERVICE

101. **Section 99** introduces a new section 1A into the Fire (Scotland) Act 2005 (the 2005 Act) to provide for the establishment of a new statutory body corporate, the Scottish Fire and Rescue Service (SFRS) to replace the current 2 unitary authorities and 6 joint fire and rescue boards. SFRS has the functions conferred by the 2005 Act, as amended by the Bill, and additional functions conferred on it by this, or any other, enactment.

102. **Section 99** also inserts **Schedule 1A** into the 2005 Act, which sets out the SFRS's governance and finance arrangements, general powers and accounting requirements. **Paragraph 1** provides that SFRS is established as independent from the Crown. **Paragraphs 2 – 7** provide that SFRS will consist of between 7 and 11 members, although that number can be varied through secondary legislation by the Scottish Ministers which would be subject to negative procedure in the Scottish Parliament. Members of SFRS will be appointed by the Scottish Ministers on the basis of relevant skills and expertise to govern the fire and rescue service. The Scottish Government intends that the appointments will be regulated under the Public Appointments Commissioner for Scotland: Code of Practice for Ministerial Appointments to Public Bodies in Scotland (“the Code”). The Scottish Ministers will be responsible for appointing the Chair, and members of SFRS must appoint a member to act as Deputy Chair (**paragraph 5**). The schedule sets out the length of term members and the Chair can serve (**paragraph 4**); that Ministers can remove members in certain circumstances (**paragraph 6**); and provides a list of people disqualified from membership of SFRS (**paragraph 3**).

103. **Paragraphs 8 – 9** make provision for the SFRS to employ the Chief Officer, fire-fighters and other staff. The first Chief Officer is to be appointed by the Scottish Ministers with subsequent appointments made by SFRS subject to the agreement of the Scottish Ministers. **Paragraphs 10 – 11** set out the rules regarding the establishment of committees and procedure of SFRS. **Paragraph 12** sets out SFRS's general powers and allows SFRS to do anything it considers appropriate for carrying out its functions. This includes specific power to: enter into contracts; borrow money; acquire and dispose of land and other property; accept gifts of money and gifts or loans of other property; form or promote companies; and compulsorily purchase land. The power to borrow money and to purchase land compulsorily is subject to Ministerial consent, and in relation to borrowing money the Scottish Ministers can set any conditions they consider appropriate, and their agreement can be given in relation to a particular case or class of case. **Paragraph 13** makes provision for the delegation of functions to the Chief Officer and other SFRS staff and any committees established by SFRS although the SFRS will still retain responsibility for the performance of those functions and remain able to perform them. **Paragraph 14** requires the Scottish Ministers' approval for the location of the administrative headquarters used by SFRS board members and the Chief Officer. **Paragraph 15** allows the Scottish Ministers to provide grants to SFRS. **Paragraph 16** makes provision for the preparation and submission of accounts and arrangements for audit. It places a duty on SFRS to keep proper accounts and records in relation to the accounts, and to prepare a statement of accounts for that year as soon as possible after the end of the year ending 31 March. The Scottish Ministers have a power to direct the form and content of that statement of accounts, as well as the accounting methods and principles to be applied. SFRS must send a copy of the statement of accounts to the

Scottish Ministers, who must in turn lay it before the Scottish Parliament, and to the Auditor General for auditing.

SECTIONS 100-108 – FUNCTIONS

104. **Sections 100 – 108** amend Chapters 2 and 3 of Part 2 of the 2005 Act and Chapter 2 of Part 3 of that Act, replacing references in that Act to “relevant authority” (unitary authority or joint fire and rescue boards) with references to the Scottish Fire and Rescue Service. Functions and responsibilities in the amended sections which were previously with joint boards and unitary authorities will now rest with SFRS. This includes the following areas: promotion of fire safety; fire safety enforcement; responding to fires, road traffic accidents and other emergencies and eventualities; provision of other services; provision of centres for education and training; and charging. In relation to the promotion of fire safety, this will enable SFRS to run national publicity campaigns, which are currently done by the Scottish Ministers. **Section 101** also transfers responsibility for the enforcement of fire safety in certain Crown and other premises from the Chief Inspector of Fire and Rescue Authorities to SFRS and amends legislation so that where the enforcing authority is SFRS a matter may be referred by either party for determination of a dispute by the Chief Inspector.

SECTIONS 109-119 – FURTHER AMENDMENTS OF 2005 ACT

105. **Sections 109 and 110** amend sections 35 and 36 of the 2005 Act - power to obtain assistance in carrying out functions and arrangements for carrying out functions by others - replacing references in those sections with “relevant authority” (unitary authority or joint fire and rescue board) to the Scottish Fire and Rescue Service. The sections also provide that functions can only be delegated and assistance provided in this way if the Chief Officer considers that the persons from whom assistance will be provided or to whom the functions will be delegated have the relevant knowledge, skills and experience to do so. In addition, under section 36, the function of extinguishing fires may only be delegated to fire-fighters.

106. **Section 111** inserts new sections 39 A – C into the 2005 Act to place a statutory duty on SFRS to make arrangements which secure best value. This replaces the current duty of best value on fire and rescue authorities and joint boards by Section 1 of the Local Government in Scotland Act 2003. Best value is defined as meaning a continuous improvement in the performance of SFRS’s functions. In carrying out its duties in relation to best value, it must have regard to: (a) any relevant guidance issued by the Scottish Ministers; and (b) anything regarded as proper arrangements for the purposes of securing best value. Relevant guidance is defined as meaning guidance on carrying out the duties imposed in new section 39A, including, in particular, guidance on how to make and what is to be included in the arrangements to secure best value, and guidance as to how to implement the duty to make such arrangements. Before issuing such guidance, the Scottish Ministers must consult SFRS and anyone else they consider appropriate. Where there is conflict between (a) and (b), SFRS must have regard only to (a).

107. In making arrangements to secure best value, SFRS is required to balance the quality of the performance of its functions, the cost of doing so, and the cost to persons of any service provided by SFRS on a wholly or partly chargeable basis. In maintaining that balance, SFRS must have regard to efficiency, effectiveness, economy and the need to meet equal opportunities requirements (within the meaning of Section L2 of Part 2 of Schedule 5 to the Scotland Act 1998

(c. 46)). SFRS is to discharge its duties in a way which contributes to the achievement of sustainable development. When measuring the improvement of the performance of SFRS's functions, regard should be taken of the extent to which the outcomes of that performance have improved. New section 39C confers a power on the Auditor General to examine the arrangements made by SFRS to secure best value.

108. **Section 112** amends the 2005 Act to insert new sections 41A, 41B and 41C which set out new arrangements for planning. **Section 112** inserts section 41A which places a duty on SFRS to prepare a strategic plan in consultation with specified persons and having regard to the fire framework (see section 40 of the 2005 Act), to which SFRS must have regard in carrying out its functions (by virtue of section 41C). That plan must be submitted to the Scottish Ministers for approval (with or without modifications). The plan must set out how SFRS proposes to carry out its functions during a 3 year planning period, set out outcomes against which performance can be measured, and include such other information as SFRS considers appropriate (including information relating to other years).

109. Section 41A sets out the process for consulting on the plan, and lists those who must be consulted on it. It also provides that SFRS must use best endeavours to secure the Scottish Ministers' approval to the plan before the start of the planning period. The date for the start of the first planning period will be set by the Scottish Ministers by Order. Once the plan has been approved, it must be published and laid before the Scottish Parliament. Section 41B provides for review of the strategic plan and that any new plan prepared following that review must follow the same process of consultation, approval and publication as the original. SFRS may review and prepare a new strategic plan at any time, but must prepare a new plan for each new planning period (i.e. to take effect on the expiry of the previous planning period). Therefore a review will happen at least once every 3 years. Each new plan must cover a 3 year period which, for plans prepared as a result of a review part way through the previous planning period, will commence 8 weeks after the plan is submitted to the Scottish Ministers for approval, and for plans prepared in anticipation of the expiry of the previous planning period will commence the day after that period expires.

110. **Section 113** amends the 2005 Act to insert new sections 41D to 41K which set out the arrangements for local fire and rescue services, including the new relationship between the SFRS and each local authority. New section 41D sets out the role of SFRS in ensuring that adequate arrangements are in place for the provision of fire and rescue services within each local authority area and for the involvement of the local authority in determining priorities and objectives for SFRS locally.

111. New section 41E makes clear that SFRS has responsibility for the preparation of a local fire and rescue plan for each local authority area. By virtue of new section 41J, the function is to be carried out by a Local Senior Officer, designated by the Chief Officer, with delegated responsibility for the local planning functions in sections 41E to 41H. The plan must set out: the main priorities and objectives for fire and rescue services in the local authority area along with the reasons for selecting these and outcomes against which these will be measured; how it will help deliver any other relevant local outcomes identified through community planning; and, the proposed arrangements for carrying out fire and rescue functions in the local authority area including how those proposals will meet the stated objectives. The local fire and rescue plan can also include any other matters linked to fire and rescue services in the local area that the SFRS

thinks fit. When preparing the plan, SFRS must have regard to the fire framework (see section 40 of the 2005 Act) and SFRS's strategic plan and consult others as appropriate. Once it is agreed with the local authority, SFRS must publish it.

112. New section 41G requires SFRS to review the local fire and rescue plan every 3 years, where there has been significant revision to the fire framework, and where a new strategic plan is approved. The plan must be revised if there has been no revised plan published within the past 3 years, and may be revised following any other review. Under new section 41F the local plan may also be reviewed at any time. Any review and revision of the plan must follow the same procedure for preparation, approval and publication as the initial plan. New section 41H makes clear that SFRS must provide the local authority with any information or reports reasonably requested by the local authority about the carrying out of SFRS's functions in that local authority area.

113. New section 41J requires the Chief Officer to designate a local senior officer for each local authority area (they may cover more than one local authority area) and provides for certain statutory functions to be delegated to the local senior officer, including the production of a local fire and rescue plan, and participation in community planning under section 16 of the Local Government in Scotland Act 2003 although the SFRS will still retain responsibility for the performance of those functions and remain able to perform them.

114. Under new section 41K a local authority can monitor SFRS's compliance with the local fire and rescue plan for its area and delivery of local fire and rescue services in the area, and make representations or observations to SFRS and offer advice and recommendations for improvement.

115. **Section 114** amends the 2005 Act to insert new section 41L which requires SFRS to prepare and publish an annual report as soon as possible after the end of each reporting year. The report must contain an assessment of SFRS's performance during the reporting year in acting in accordance with the fire framework and in achieving the outcomes set out in the strategic plan, and any other information SFRS considers appropriate.

116. **Section 115** amends the 2005 Act to insert new section 41M, requiring SFRS to provide to the Scottish Ministers any reports, statistics and other information they request in relation to its functions. **Subsection (2)** makes clear that the information may include, for example, statistics relating to fire deaths. The information must be provided when and how specified by the Scottish Ministers.

117. **Section 116** amends the 2005 Act to insert new section 42A to allow the Scottish Ministers to give the SFRS a general or specific direction in relation to carrying out its functions. The Scottish Ministers must publish any directions made and SFRS is required to comply with any such directions. A direction cannot be made in relation to adherence to the fire and rescue framework as the existing enforcement arrangements would apply in those circumstances.

118. **Section 117** inserts sections 43A to 43G into the 2005 Act. It describes the role, powers and functions of the Inspectors of the Scottish Fire and Rescue Service. New section 43A allows Her Majesty to appoint a Chief Inspector of the Scottish Fire and Rescue Service, and such

number of other Inspectors as determined by the Scottish Ministers. **Section 43A(5)** makes clear that the individual who is the Chief Inspector of Fire and Rescue Authorities on the date the provision comes into force is to be the first Chief Inspector of the SFRS. The same applies to any Inspectors or Assistant Inspectors in post on that date. It is for the Scottish Ministers to set levels of pay and the terms and conditions for such office holders. The Scottish Ministers can also appoint and set pay levels and terms and conditions for Assistant Inspectors. In addition, Ministers have a power to authorise an Inspector to carry out functions of the Chief Inspector in the event of a temporary vacancy in that office, or if the Chief Inspector is temporarily unable to carry out those functions.

119. Under new section 43B an Inspector has powers to inquire into the state and efficiency of SFRS, the manner in which SFRS is carrying out its functions and whether, in doing so, it is complying with its duty to make arrangements which secure best value. The Inspectors may independently initiate such inquiries, and must do so if so directed by the Scottish Ministers. SFRS must cooperate with the Inspectors' inquiries and, in particular, must provide any information or documents relating to its functions that the Inspector may require, and must grant them access to SFRS premises or equipment as required. The power of entry is not available in relation to private dwellings, and Inspectors do not have the power to enter premises by force.

120. Under new sections 43C and 43D, the Chief Inspector is required to produce a report of any inquiry completed under section 43B and must in all cases give the report to SFRS. If the inquiry is under section 43B(1) the Chief Inspector must give the Scottish Ministers such information in relation to the inquiry as they may request, and, where it relates to the state and efficiency of SFRS or its compliance with its duties in relation to best value, the Chief Inspector must give the report of the inquiry to the Scottish Ministers and lay it before the Scottish Parliament. If the inquiry relates to SFRS's carrying out of its functions, the Chief Inspector has discretion to provide a copy of the report to the Scottish Ministers. If the inquiry has been directed by the Scottish Ministers, the Chief Inspector must give them a report of the inquiry and any other information relating to the inquiry that the Scottish Ministers request. If the report relates to the state and efficiency of SFRS or its duty to make arrangements which secure best value, it must also be laid before the Scottish Parliament. New section 43E makes clear that SFRS must have regard to any reports it receives from the Chief Inspector when carrying out its functions, and must take such measures as it considers appropriate following receipt of the report, e.g. to implement any recommendations made by the Chief Inspector.

121. New section 43F puts in place a requirement for the Chief Inspector of the Scottish Fire and Rescue Service to prepare a plan setting out priority areas for Inquiry by the Inspectors and how such inquiries will be carried out. He or she is required to keep the plan under review and may revise it periodically. The Chief Inspector is required to consult on, and publish, the plan and any revised plan. New section 43G requires the Inspectors and the Auditor General to co-operate and co-ordinate activity in relation to their functions relating to SFRS.

SECTIONS 118-119 – GENERAL

122. **Section 118** introduces **Schedule 5**, which makes provision about the transfer of staff, property, rights, liabilities and obligations to SFRS and to local authorities where appropriate. Paragraph 1 defines terms used in the Schedule, including defining the "appointed day" as the day the Scottish Ministers may appoint. There is no parliamentary procedure attached to this.

123. **Paragraphs 2-4** cover the arrangements for the transfer of staff and others. **Paragraph 2** covers the transfer of joint board staff. It provides that a joint board employee's contract of employment has effect on or after the appointed day as if originally made between the employee and the SFRS. **Paragraph 2** also makes a number of provisions concerning employees who are subject to a staff transfer order. **Sub-paragraph (4)** provides that employed staff may object in advance of their contract being transferred to the SPA, in which case their contract is terminated at the end of the day before the intended transfer day. This termination will not be treated as dismissal of a person for the purposes of legislation. **Sub-paragraph (6)** provides that an employee can only terminate their contract of employment by virtue of the staff transfer if they can show that the change of employer was both significant and detrimental.

124. **Paragraph 3** makes provision for a staff transfer scheme for staff employed in the unitary fire and rescue authorities or who are members of staff of the Scottish Ministers. This is because only those employees who are carrying out fire and rescue functions should transfer to the SFRS. It is necessary therefore to identify those employees who are to transfer in a transfer scheme. **Paragraph 4** makes further provisions in relation to transfers under **paragraph 3**. It provides that the contract of employment for the person who is transferring has effect on or after the appointed day as if originally made between the employee and the SFRS. **Sub-paragraph (5)** provides that employed staff may object in advance of their contract being transferred to the SPA, in which case their contract is terminated at the end of the day before the intended transfer day. This termination will not be treated as dismissal of a person for the purposes of legislation. **Sub-paragraph (7)** provides that an employee can only terminate their contract of employment by virtue of the staff transfer if they can show that the change of employer was both significant and detrimental.

125. **Paragraphs 5 – 8** cover property transfers. **Paragraph 5** allows the Scottish Ministers to make an SFRS property transfer scheme. This is a scheme making provision for the transfer to the SFRS of property, rights, liabilities and obligations of Ministers, a local authority or a joint fire and rescue board. **Paragraph 6** allows the Scottish Ministers to make a local authority transfer scheme to make provision for the transfer to a local authority of property, rights, liabilities and obligations of a joint board. **Paragraphs 7 and 8** make general provisions in relation to schemes made under **paragraphs 5 and 6**.

126. **Section 119** defines the meaning of "the 2005 Act" as the Fire (Scotland) Act 2005.

PART 3 – GENERAL

127. **Part 3** of the Bill makes a number of general provisions common to **Parts 1 and 2** of the Bill. **Section 120** sets out the arrangement for subordinate legislation under **Parts 1 and 2**. **Sections 121 and 122** allow Scottish Ministers to make ancillary and transitional provisions by order to give full effect to the Bill. **Section 123** inserts **schedules 6 and 7** which, taken together, make minor and consequential amendments and repeals to other legislation as a consequence of the provisions of this Act. The majority of the changes fall into the following categories:

- changing references in legislation to the current 8 police forces or Chief Constables to refer to the Police Service of Scotland and its Chief Constable;
- changing references to Police Authorities and Joint Police Boards to refer to the SPA;

- removing references to the SPSA and SCDEA;
- changing references to fire authorities and joint fire boards to refer to the SFRS; and
- making changes to legislation relevant to public bodies, to reflect the establishment of the SFRS and the changes made to the PIRC, Inspectors of Constabulary and Inspectors of the SFRS. (The equivalent changes in respect of the SPA are made in **Schedule 1**.)

128. A number of more significant changes are highlighted below:

- Paragraph 1 makes a minor amendment to sections 32A and 42 of the Police (Scotland) Act 1967. These provisions, which relate to grant expenditure on national security and an offence of causing disaffection, cannot be repealed and re-enacted in this Bill as they are reserved to the UK Government;
- Paragraph 4 makes amendments to the Regulation of Investigatory Powers (Scotland) Act 2000 to ensure the authorisation of intrusive surveillance works effectively in a single service and also to give the PIRC the necessary surveillance powers it requires to carry out covert investigations if required;
- Paragraph 22 makes a number of amendments to Chapter 2 of the Police Public Order and Criminal Justice (Scotland) Act 2006 to reflect the single service and the SPA. The amendments also insert provisions allowing the PIRC to appoint staff officers and to designate any member of staff to take charge of, or assist with, investigations. Two order making powers are included in the amendments: one allowing the Scottish Ministers to apply any provision of the Police and Fire Reform (Scotland) Act to PIRC staff; and the other allowing the Scottish Ministers to apply any enactment relating to investigation of offences by constables to investigations carried out by PIRC's designated staff;
- Paragraph 30 amends the Interpretation and Legislative Reform (Scotland) Act 2010 to provide that "constable" and other expressions relating to the police in Scottish legislation have the meanings given in the Bill; and
- Paragraph 56 makes a number of minor amendments to the Fire (Scotland) Act 2005 to replace references to "a relevant authority" with the SFRS.

129. **Section 124** deals with commencement of the provisions in the Bill and **section 125** provides that the short title of the Act is the Police and Fire (Reform) Scotland Act 2012.

FINANCIAL MEMORANDUM

INTRODUCTION

130. Reform of the police and the fire and rescue services in Scotland is essential to keep our communities safer and stronger. The Scottish Government is determined to protect and improve local police and local fire and rescue services in the face of reductions in public finance, by streamlining and modernising services. The main policy objectives of the Police and Fire Reform (Scotland) Bill are to create a single police service and a single fire and rescue service in order to deliver the policy aims set out below:

- To protect and improve local services despite financial cuts; by stopping duplication of support services eight times over and not cutting front line services;
- To create more equal access to specialist support and national capacity – like murder investigation teams, firearms teams or flood rescue – where and when they are needed; and
- To strengthen the connection between services and communities, by creating a new formal relationship with each of the 32 local authorities, involving many more locally elected members and better integrating with community planning partnerships.

131. The Bill establishes i) the Scottish Police Authority, which will oversee the Police Service of Scotland, and ii) a single Scottish Fire and Rescue Service (SFRS). It provides that the functions, staff, resources, assets and liabilities of the current police and fire and rescue services will be transferred to the new statutory Scottish Police Authority and SFRS respectively.

132. The purpose of this financial memorandum is to set out:

- the best estimates of the administrative, compliance and other costs to which the provisions of the Bill and reforms will give rise, as well as the likely savings;
- the best estimates of the timescales over which the costs and savings are expected to arise; and
- an indication of the margins of uncertainty in these estimates.

133. The financial memorandum has been developed using the best available evidence, as summarised in the police and the fire and rescue Outline Business Cases (OBCs) (described in more detail in the Methodology section below). Additional detail is provided where further relevant information has since become available. The memorandum does not provide a blueprint for how reforms should necessarily be carried out. Therefore, the precise profile of costs and savings may change as the reform and transition programmes progress.

134. Part One (I) of the memorandum sets out the best estimates of costs and savings for policing. Section I(i) outlines the cost implications that may arise directly from the provisions of the Bill. Section I(ii) provides estimates for broader costs which may arise as a consequence of the Bill and the associated process of police reform (i.e. the operational costs associated with running the new service). Section I(iii) outlines the estimated savings.

135. Part Two (II) sets out the same information for the costs of reforming the fire and rescue services. Section II(i) outlines the cost implications that may arise directly from the provisions of the Bill. Section II(ii) provides estimates for broader costs which may arise as a consequence of the Bill and the associated process of fire and rescue service reform (i.e. the operational costs associated with running the new service). Section II(iii) outlines the estimated savings.

136. Many of the costs have been identified as falling within an initial five-year period. However, as the efficiency savings will continue to recur for some time, they have been profiled over a 15-year period.

METHODOLOGY

137. The estimated costs and savings in this financial memorandum are based on information on current levels of costs, information from relevant stakeholders, and the OBCs for police and for fire and rescue services.

The Outline Business Cases

138. The OBCs were published in September 2011 and are available at: <http://scotland.gov.uk/Publications/2011/09/15153130/0>
<http://scotland.gov.uk/Publications/2011/09/15112608/0>.

139. The analysis set out in the police OBC was compiled with input from a range of stakeholders. A team of police officers from across the forces produced an initial assessment of the potential costs and savings from police reform in December 2010. This amounted to the most complete set of information ever produced on the costs of policing in Scotland, and was considered by Directors of Finance from the eight forces. Savings estimates were benchmarked against other public sector reform initiatives.

140. The initial assessment was refined by the team in a second phase of work, together with experts in policing functions from across the forces, into an optimal operating model for policing. External consultants were used to validate assumptions and assist in the assessment of cost, and the report was published in March 2011.

141. The results informed the subsequent development, by the Scottish Government, of the police OBC. In line with HM Treasury guidance, the OBC provided a consistent assessment of the relative costs and benefits of 3 options for reform: a single police service, a 3 force model, and 8 forces with enhanced national delivery. A draft of the OBC was circulated for comment to policing stakeholders in July 2011. The comments received informed further development of the OBC before it was published in September 2011, at the time of the announcement of plans to legislate for the creation of a single police service and a single fire and rescue service.

142. The OBC for fire and rescue services was developed: with input from a short-life external stakeholder group chaired by Steven Torrie, Her Majesty's Chief Inspector of Fire and Rescue Authorities; from information provided by the current fire and rescue services; and from information obtained from a series of expert stakeholder workshops. Scottish Government officials visited each of the existing fire and rescue services to obtain a comprehensive picture

of: their partners and customers; the main outcomes and outputs across their functions; the main processes and activities that need to be undertaken to deliver outcomes; their resource levels; their command, leadership and accountability structures; the major assets used (estate, vehicles, equipment, offices); and, their key information and technology requirements. Information gathered from these visits, together with the outputs of the expert stakeholder workshops, was used to construct the current operating model. The workshops also helped define the optimum delivery models for each key function performed by the fire and rescue services. A draft of the OBC was shared with the Ministerial Advisory Group and stakeholders for comment in July 2011. The methodology and figures in the OBC were then reviewed, refined and improved as part of an iterative process, including as a result of discussions with the Chief Fire Officers Association Scotland (CFOAS).

143. As previously described, the financial memorandum summarises the best available evidence and analysis and is largely based on that used in the OBCs to support decisions on the structure of future services in September 2011. It does not provide a plan or blueprint for the future delivery of the services and it is not intended to be used to set future budgets. As such, the actual costs and savings achieved may differ in detail as transition progresses, and indeed as decisions are taken by the new services. The profiling of figures (in tables 1A, 1B, 1C, 2.1, 2.2, 2.3, 3.1, 3.2 and 3.3 below) assumes that 1 April 2013 is the earliest possible date that the new services could come into being. The precise profile of figures will depend on the actual date that this occurs.

Cost and Efficiency Figures

144. The financial memorandum provides ranges for cost figures where there is a margin of uncertainty in the best estimates, in line with Standing Order rule 9.3.2.

145. The cost figures in the OBCs were adjusted for optimism bias in accordance with HM Treasury Green Book guidance. Adjusting for optimism bias is the recommended method of mitigating the risk that the costs of major projects are underestimated, particularly in the early stages of development. The likely level of optimism bias was assessed individually for each element of cost, informed by evidence of the costs of other UK public sector reforms and advice from government analysts and members of the current police forces who were part of the Sustainable Policing Project Team (which looked at the implications of reforms). The adjustments for optimism bias ranged between zero and 100%, depending on the margin of uncertainty. For most elements of cost an adjustment of 53% was adopted. The exceptions to this included police programme/project management costs (which were increased by 10%) and police information and communication technology (ICT) costs (which were increased by 100%).

146. Where appropriate, ranges have been provided for cost estimates which were not calculated as part of the OBC process. In some cases, the estimates were increased by 53% to account for optimism bias. In other instances, ranges have been based on relevant guidance documents. No adjustments were made where there was a limited margin of uncertainty and, in these cases, a single estimate is shown.

147. Efficiency estimates have been decreased by 30% to provide a range which accounts for potential margins of uncertainty.

148. Best estimates of costs and efficiencies for police and fire reform are provided in tables 2.1 and 3.1 respectively. This includes the financial implications of the Bill provisions, the broader costs which may arise as a consequence of the Bill and the associated reform process, and estimated savings. Tables 2.2 and 3.2 provide this same information adjusted for potential optimism bias and margins of uncertainty.

149. As previously stated, tables 2.1 and 3.1 give the best estimates of the financial implications of police and fire reform. However tables 2.3 and 3.3 present an alternate way of looking at the figures, by assuming that some costs and savings may potentially have been incurred by means other than establishing single services, for example, by enhancing national delivery and increasing collaboration. It is difficult to predict exactly which costs and savings will be attributable to the single service structures and those which may have been achieved by taking other measures, particularly given that much of the current work, costs incurred and savings anticipate the establishment of a single service. Therefore, for consistency, figures in tables 2.3 and 3.3 were calculated by looking at the difference between the costs and savings estimates for an 8 service model with enhanced national delivery (police) and increased collaboration (fire and rescue) and those associated with a single service as appraised in the OBCs.

150. It should be noted that the costs and savings of reforms arise over different timeframes for the police and fire and rescue services. In the main, the total costs and savings have been assessed in both cases over a 15-year period. However, for fire and rescue service reform there are some minimal costs prior to the start of the 15-year period which have also been included. For police, year 1 is 2011-12 and the total costs and savings are calculated to 31 March 2026. For the fire and rescue services year 1 is 2013-14 and the total costs and savings (including those in year 0) are calculated to March 2028. This approach reflects, and is consistent with, the timeframes which were considered in the two OBCs.

SUMMARY OF FINANCIAL IMPLICATIONS

151. Table 1A sets out a summary of the financial implications of police reform. Table 1B sets out a summary of the financial implications from fire reform. These tables include the costs that arise from the Bill provisions, the broader costs which may arise as a consequence of the Bill and the associated reform processes, and estimated savings. All figures are at 2011-12 prices. Table 1C sets out a summary of the total cost and savings from reform, across both the police and fire and rescue services.

Table 1A: Summary of Financial Implications relating to Police Reform

Bill Part	Organisational Change	Best Estimated Costs and Efficiency Savings							
		Year 1 2011-12	Year 2 2012-13	Year 3 2013-14	Year 4 2014-15	Year 5 2015-16	Year 6 2016-17	Year 7* 2017-18	TOTAL by 31 March 2026
1	The Police Service of Scotland								
	Best estimated costs and (savings) arising from police reform:								
	Set up	5.27m	19m	45.3m	49.8m	17.2m	539k	0	137m
	Recurring	(21.6m)	(28.1m)	(36.3m)	(78.3m)	(100m)	(101m)	(101m)	(1,272m)
	Total	(16.3m)	(9.11m)	9.05m	(28.4m)	(83.2m)	(100m)	(101m)	(1,135m)
	(Summary of Table 2.1)								
	Best estimated costs and (savings) arising from police reform after adjustment for optimism bias on costs and assuming a 30% reduction in savings:								
	Set up	5.61m	23m	56.1m	59.6m	17.4m	825k	0	163m
	Recurring	(15.1m)	(19.7m)	(17.9m)	(46.4m)	(61.9m)	(62.3m)	(62.3m)	(784m)
	Total	(9.47m)	3.23m	38.2m	13.2m	(44.5m)	(61.5m)	(62.3m)	(621m)
	(Summary of Table 2.2)								
	Costs and savings potentially arising due to structure								
	Set up	517k	2.56m	4.61m	16.1m	5m	(16k)	0	28.8m
	Recurring	(355k)	(1.25m)	1.6m	(11.9m)	(15.6m)	(15.6m)	(15.6m)	(184m)
	Total	162k	1.31m	6.21m	4.15m	(10.6m)	(15.6m)	(15.6m)	(155m)
	(Summary of Table 2.3)								

* The estimated savings recur annually after year 7.

** Totals may not equate to the sum of constituent parts due to rounding.

Table 1B: Summary of Financial Implications Relating to Fire Reform

Bill Part	Organisational Change	Best Estimated Costs and Efficiency Savings							
		Year 0 2012-13	Year 1 2013-14	Year 2 2014-15	Year 3 2015-16	Year 4 2016-17	Year 5 2017-18	Year 6* 2018-19	TOTAL by 31 March 2028
2	The Scottish Fire & Rescue Service								
	Best estimated costs and (savings) arising from fire reform:								
	Set up	525k	6.62m	8.5m	3.5m	(1.67m)	(5m)	0	12.5m
	Recurring	0	1.69m	(17.7m)	(22.9m)	(25.5m)	(25.3m)	(25.1m)	(341m)
	Total	525k	8.3m	(9.15m)	(19.4m)	(27.2m)	(30.3m)	(25.1m)	(328m)
	(Summary of Table 3.1)								
	Best estimated costs and (savings) arising from fire reform after adjustment for optimism bias on costs and assuming a 30% reduction in savings:								
	Set up	790k	9.41m	12.5m	7.49m	(281k)	(5m)	0	24.9m
	Recurring	0	2.74m	(10.7m)	(14.4m)	(16.1m)	(15.9m)	(15.7m)	(212m)
	Total	790k	12.1m	1.75m	(6.88m)	(16.4m)	(20.9m)	(15.7m)	(187m)
	(Summary of Table 3.2)								
	Costs and savings potentially arising due to structure								
	Set up	525k	5.62m	8.5m	3.3m	(1.67m)	(5m)	0	11.3m
	Recurring	0	2.86m	(11.5m)	(16m)	(18.6m)	(18.4m)	(18.2m)	(244m)
	Total	525k	8.47m	(2.98m)	(12.7m)	(20.3m)	(23.4m)	(18.2m)	(233m)
	(Summary of Table 3.3)								

* The estimated savings recur annually after year 6

** Totals may not equate to the sum of constituent parts due to rounding.

Table 1C: Summary of the total cost and savings from the Bill, across both police and fire

Organisational Change	Best Estimated Costs and Efficiency Savings								
The Police Service of Scotland and the Scottish Fire & Rescue Service	2011-12	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19	TOTAL over the 15 year periods (including initial costs for fire in year 0)*
Best estimated costs and (savings) arising from police and fire reform:									
Set up	5.27m	19.5m	51.9m	58.3m	20.7m	(1.13m)	(5m)	0	150m
Recurring	(21.6m)	(28.1m)	(34.6m)	(96m)	(123m)	(126m)	(126m)	(126m)	(1,613m)
Total (Tables 1A and 1B)	(16.3m)	(8.6m)	17.4m	(37.7m)	(103m)	(127m)	(131m)	(126m)	(1,463m)
Best estimated costs and (savings) arising from police and fire reform, after adjustment for optimism bias on costs and assuming a 30% reduction in savings:									
Set up	5.61m	23.8m	65.5m	72.1m	24.9m	544k	(5m)	0	187m
Recurring	(15.1m)	(19.7m)	(15.1m)	(57.2m)	(76.3m)	(78.4m)	(78.2m)	(78.0m)	(996m)
Total (Tables 1A and 1B)	(9.47m)	4.02m	50.4m	15.0m	(51.4m)	(77.9m)	(83.2m)	(78.0m)	(808m)
Costs and savings potentially arising due to structure									
Set up	517k	3.08m	10.2m	24.6m	8.31m	(1.68m)	(5m)	0m	40.0m
Recurring	(355k)	(1.25m)	4.5m	(23.4m)	(31.7m)	(34.2m)	(34m)	(33.8m)	(428m)
Total (Tables 1A and 1B)	162k	1.83m	14.7m	1.17m	(23.4m)	(35.9m)	(39.0m)	(33.8m)	(388m)

*As already noted above in the methodology section, the costs and savings of reforms arise over different timeframes for the police and fire and rescue services. In the main, the total costs and savings have been assessed in both cases over a 15-year period. However, for fire and rescue service reform there are some minimal costs prior to the start of the 15-year period which have also been included. For police, year 1 is 2011-12 and the total costs and savings are calculated to 31 March 2026. For the fire and rescue services year 1 is 2013-14 and the total costs and savings (including those in year 0) are calculated to March 2028. This approach reflects, and is consistent with, the timeframes which were considered in the two OBCs.

** Totals may not equate to the sum of constituent parts due to rounding.

PART ONE (I): ESTABLISHING THE SCOTTISH POLICE AUTHORITY AND THE POLICE SERVICE OF SCOTLAND

Background

152. Police forces across Scotland continue to perform strongly, with recorded crime at a 35-year low, improved detection rates, and high levels of public satisfaction. In the face of significant cuts to public sector budgets, the Scottish Government wishes to protect this level of performance as far as possible. It is not possible to meet this challenge in the current structure and organisation of policing in Scotland. The decision to move to a single police service provides for long-term sustainability. It provides the best way to deliver savings - through reduced duplication, rationalised and simplified support functions and standardised business processes - while protecting front-line services to communities.

Costs and Efficiencies: Overview of Sections I(i)-I(iii)

153. This part of the financial memorandum sets out the estimated costs and savings associated with Part 1 of the Bill. Whilst the Bill provides for structural change, the existing functions of the police will continue and many of the costs associated with providing the police service will not change as a result of the Bill. However, there are areas of potential additional costs. As such, this part of the financial memorandum considers new costs which are directly associated with the provisions of the Bill, estimates the broader costs which may result as a consequence of the Bill and the associated process of police reform, and outlines the expected efficiencies.

154. Part I(i) outlines estimates of the cost implications arising from Bill provisions. These include:

- Scottish Administration Grant Support;
- Appointing the Scottish Police Authority Members, Senior Officer and Chief Constable;
- Remuneration of Scottish Police Authority Members, Senior Officer and Chief Constable;
- Establishing the Police Investigations and Review Commissioner;
- Scrutiny;
- Independent Custody Visiting;
- Police Appeals Tribunals;

These documents relate to the Police and Fire Reform (Scotland) Bill (SP Bill 8) as introduced in the Scottish Parliament on 16 January 2012

- Forensic Services;
- VAT;
- Pensions;
- Property Transfer Schemes;
- Rewards;
- Costs to Local Authorities; and
- Costs to Other Bodies, Individuals and Businesses.

155. Part I(ii) outlines the broader costs which may arise as a consequence of the Bill and the associated process of police reform. This includes:

- Shadow Leadership;
- Programme and Project Management;
- Technology Costs;
- Training;
- Relocation/Excess Travel;
- Voluntary Redundancy Payments;
- Pay Harmonisation;
- Carbon Reduction Commitment;
- Other;
- Costs to Local Authorities; and
- Costs to Other Bodies, Individuals and Businesses.

156. Part I(iii) outlines the estimated savings, under the categories of:

- Officers;
- Staff;
- Vehicles;
- Supplies and Equipment;
- Estate Management;
- Transfer of Functions and Outsourcing;
- Enforcing Existing Service Provision Arrangements;
- Road Traffic Efficiency; and
- Annual Audit.

Part I(i)a Cost implications from Bill provisions: Costs to the Scottish Government

Scottish Administration Grant Support

157. Total police revenue funding in 2011-12 is £1,370m. About two thirds of this funding is provided directly by the Scottish Government. As well as providing police grant to joint boards and unitary authorities, it includes funding for police pensions, the Scottish Police Services Authority (SPSA), and the Scottish Crime and Drug Enforcement Agency (SCDEA); the Gartcosh Crime Campus; the Police Complaints Commissioner for Scotland; the Scottish Safety Camera Programme; the commitment to 1,000 additional officers; police information and communication technology (ICT); counter-terrorism; and Airwave and Police national databases.

158. The remaining third is contributed by local authorities who provide funding to the joint police boards or, in the case of unitary police authorities, direct to the police service, alongside the Scottish Government police grant.

159. Funding for police capital is currently contained as part of the General Capital Grant allocations within the local government settlement. Police boards and unitary authorities also receive loan charge support, which is provided by the Scottish Government for an agreed level of borrowing undertaken by the boards prior to 2004-05. Since 2004-05 the boards' capital requirements have been funded by grant rather than by borrowing consents, and so the Scottish Government provides no support for borrowing undertaken by the boards after 1 April 2004.

160. Following enactment of the Bill, the police service will receive all its funding – both revenue and capital – from the Scottish Consolidated Fund through the annual Budget Bill, rather than via the local government settlement and the current separate Scottish Government funding streams. This will include the actual costs of police officer pensions (£211m in 2011-12). Funding will be paid by the Scottish Ministers direct to the Scottish Police Authority.

161. Currently, individual local authorities can provide additional funding to supplement policing activity in their area: this facility will remain.

Appointing the Scottish Police Authority Members, Senior Officer and Chief Constable

162. The Bill provides for some flexibility in the number of members of the Scottish Police Authority. It will be for the Scottish Police Authority to determine its staffing requirements. However it is likely that it will require a Senior Officer. The police service will require a Chief Constable. Filling these positions will incur recruitment costs (advertising and selection), and it is estimated that costs for the initial appointment round would amount to approximately £30k-£40k.

163. It is estimated that subsequent appointment rounds would cost approximately £10k. However, there will be savings from no longer having to appoint SPSA board members (which are approximately £10k per round). As such, the changes are expected to be cost-neutral overall in respect of subsequent appointment rounds.

Remuneration of the Scottish Police Authority, Senior Officer and Chief Constable

164. Estimates of the ongoing costs of the Scottish Police Authority members and Chair have been based on the published Public Sector Pay Policy for Senior Appointments. Assuming an 11-member board (10 members plus a Chair) annual fees are estimated to be between £168k - £316k (which includes Employers' National Insurance Contributions (ERNIC)). The best estimate (based on the mid-point of this range) is £242k.

165. There will be an estimated annual saving of £82k on the cost of remunerating the SPSA board.

166. No decision has been made in relation to remuneration of any Senior Officer. However, based on the Public Sector Pay Policy for Senior Appointments, a reasonable estimate of employment costs, including pensions and ERNIC, would be between £114k and £164k per annum. The best estimate (based on the mid-point of this range) is £139k.

167. The costs and savings associated with the Chief Constable and other senior posts in the new service have been included in the calculations of efficiencies that were undertaken for the OBC and are outlined below.

Establishing the Police Investigations and Review Commissioner

168. Complaint review work is currently carried out by the Police Complaints Commissioner for Scotland (PCCS). The budget in 2011-12 for the PCCS was £930k.

169. The Bill confers on the PCCS additional functions to undertake investigations into the most serious complaints, allegations of misconduct or complaints about Chief Officers, and to undertake investigations into other incidents, including those involving deaths and serious injury at the hands of the police. To reflect these additional functions, the PCCS will be renamed the Police Investigations and Review Commissioner (PIRC). The PIRC will be appointed by the Scottish Ministers. Recruitment costs, based on previous experience, are estimated to be £10k. The changes are expected to be cost-neutral, as the PCCS would have incurred such costs in any case.

170. Estimates of the costs to the PIRC, for undertaking investigations, have been calculated from figures produced by the Independent Police Complaints Commission (IPCC) which operates in England and Wales. Based on IPCC average costs for the same types of investigations, these costs are estimated to range from £2m - £4m. These costs are already being incurred by the current forces and so there will be a matching efficiency saving for the new service.

171. It is expected that the PCCS will carry out necessary preparatory work to ensure that the PIRC becomes operational at the same time as the single service. The Commissioner will recruit and appoint investigations staff, including a Director of Investigations. Some of these staff will be appointed in advance of the PIRC commencing all of its functions, so that they can work along with the PCCS's existing staff. The costs of this transitional arrangement are estimated to be about £80k. Taking into account optimism bias, the range is £80k – £122k.

172. It is anticipated that the PIRC will be located in offices currently occupied by PCCS in Hamilton. There may be some changes needed to accommodate new staff; these are likely to cost in the region of £50k. Taking into account optimism bias, the range is £50k – £76.5k.

Scrutiny

173. HM Inspector of Constabulary for Scotland (HMICS) is currently responsible for inspecting the current eight Scottish police forces, and will inspect the single police service. HMICS has a budget of £1.1m in 2011-12. It is not anticipated that there will be a need for any additional budget for HMICS. Efficiencies may be achieved in respect of shared backroom functions, and possibly accommodation, with other inspectorates or public bodies - including the PIRC.

Independent Custody Visiting

174. The existing Independent Custody Visiting network in Scotland is administered and largely financed by the eight police boards and authorities. It is estimated that the total cost to boards and authorities in Scotland for provision of independent custody visiting is £196k per annum. In addition to this, the Scottish Government provides an annual grant for administration of independent custody visiting averaging £30k.

175. Currently some of the schemes are not fully resourced: in one police area the scheme is administered by a volunteer. The legislation is not seeking to make significant changes to the operation of the network. Although there may be some increase in costs for required improvement to service delivery, there will also be opportunities to achieve future economies of scale. Overall, it is estimated that the reforms associated with independent custody visiting will be cost-neutral.

Police Appeals Tribunals

176. There will be an additional cost for Police Appeals Tribunals, as the Bill imposes a requirement for there to be three independent members. It is difficult to judge how many days Police Appeals Tribunals will sit. However, based on information from previous years, it is not envisaged that the costs associated with this will be significant.

Forensic Services

177. Under the Bill, forensic services will be a function of the Scottish Police Authority. This arrangement is expected to be cost-neutral because these services are already provided, currently by the SPSA, and funded directly by the Scottish Ministers.

VAT

178. At present, the police forces are able (under section 33 of the Value Added Tax Act 1994) to recover VAT costs incurred. A move to a single service may alter this. Therefore, it has been assumed that a single service may be liable for irrecoverable VAT on all goods, estimated to be around £21.5m per annum (a recurring cost from the fourth year – there is no cost in the first two years, and in the third year it is £21.8m). However, the Scottish Government is currently liaising with HM Revenue and Customs and HM Treasury regarding whether the service could be given

section 33 status and therefore be able to recover all VAT incurred. Other options for reducing any VAT liability will continue to be explored in the planning for the new service.

Pensions

179. On moving to a single service, police officers will remain in their existing pensions schemes (the Police Pension Scheme 1987 or the New Police Pension Scheme (Scotland) 2007). Secondary legislation will be necessary to amend pension regulations to enable this, facilitated by limited consequential amendments to primary legislation in the Bill. However, no additional pensions costs in respect of police officers will arise as a consequence of reforms.

180. Police support staff will remain in the Local Government Pension Scheme (LGPS) and will remain in the fund they are in at the time the new service comes into being. It is intended that they remain in that fund for the duration of their employment, regardless of whether they change location. There are 11 LGPS pension funds in Scotland. Police support staff are in eight of these. Police support staff appointed after the new service comes into being will join the LGPS pension fund most appropriate to the location of the new headquarters / corporate service base. No significant additional pension costs are anticipated to arise from this.

Property transfer schemes

181. The Bill enables the Scottish Ministers to make provision for payment of compensation in respect of property and rights transferred. Such payments would only be considered in exceptional circumstances and the potential cost, if any, will only be known at the time that any asset transfer scheme is made. Potential stamp duty land tax liabilities may also have to be considered if compensatory payments are made in respect of property transfers.

Rewards

182. The Bill provides the service with a power to pay such sums as it considers fit, by way of reward, to constables (other than the Chief Constable) or indeed to any other person who, in its opinion, has made a substantial contribution to the carrying out of police functions. This is not a new power and, as such, is cost-neutral.

Part I(i)b Cost implications from Bill provisions: Costs to Local Authorities

183. The Bill provides for the service to engage with local authorities and, in particular, to work with local authorities when setting priorities and objectives. Local authorities will also have a role in monitoring the exercise of functions in their areas and in providing relevant feedback. It is difficult to estimate the costs associated with this, particularly given that it is open to individual local authorities to determine the most appropriate local mechanism in each case for performing their role. The Scottish Government has been working with the Convention of Scottish Local Authorities (CoSLA) on this matter.

184. CoSLA has collected information from local authorities and provided the Scottish Government with an estimate of £3m-£4m for engaging with the new police service and the SFRS, based on costs for elected members, policy support, research and analysis and administrative support. On this basis, it is assumed that the impact of the Bill is largely cost-neutral - as efficiency savings from not having the current police and fire and rescue joint boards

and unitary authorities are estimated to equate to this amount. However, there may be efficiencies and less expensive ways of undertaking local engagement and these will continue to be explored.

Part I(i)c Cost implications from Bill provisions: Costs to Other Bodies, Individuals and Businesses

Charging for Services

185. Police forces and the SPSA currently can, and do, charge users for various services. Examples include: charging for the policing of major events (such as T in the Park and football matches) and airports; charging for firearms licences; and, charging for the provision of collision reports to insurance companies. The SPSA also charges police forces and criminal justice partner organisations for the development and implementation of certain ICT solutions. In 2010-11 charging for services generated income in the region of £17m for the eight police forces. It is intended that the Bill will clarify the powers of the new service to charge for services. It is not anticipated that either the type of services charged for, or the level of charges, will vary significantly from current charges. Therefore, the overall impact, in terms of cost, is expected to be neutral.

Part I(ii)a Broader Costs which may arise as a consequence of the Bill and the associated process of Police Reform: Costs to the Scottish Government

186. The costs detailed in this section are those which may arise as a consequence of the Bill and the reform process taken forward in the single police service.

Shadow Leadership

187. Appointments will be made for a new Chief Constable and for other senior officers and police staff to form the new executive team for the single service. This team will be in place before the establishment of the new service, in parallel with the existing leadership of the eight police forces, SPSA and SCDEA. The estimated cost for this is based on a period of six months of additional planning and preparation, and includes estimated salaries for the new Chief Constable, senior officers and staff. This is estimated to be £1.72m. Taking into account optimism bias provides a range of £1.72m - £2.63m.

Programme and project management

188. The delivery of the programme of wider reform will require a dedicated team and an appropriate programme and project structure. One-off programme and project costs have been estimated for a four-year period. It is assumed that the project team includes police officers and police staff. The costs of procuring specialist knowledge and expertise - such as in programme and change management and financial analysis - have been estimated. Project costs also include those associated with stakeholder engagement (external and internal communication to facilitate change), the management of process improvement costs, and due diligence.

189. On this basis, total one-off programme management costs, which occur over the first 4 years, are assessed as £23m. Allowing for rounding of figures, this includes core team costs (£12m), procured expert advice and support (£2.41m), Scottish Government reform staff

(£3.27m for both police and fire), due diligence (£400k), and force engagement resources (£4.95m). Adjusted for assessed optimism bias, this provides an estimated range of £23m – £25.3m.

Technology Costs

190. Based on advice from the police service ICT professional lead, a proportion of the initial ICT consolidation and rationalisation to support a single service can be achieved using existing infrastructure and systems.

191. Common infrastructure already exists in some areas, and the Association of Chief Police Officers in Scotland (ACPOS) Business Change Programme already considers current Scotland-wide technology-enabled business change. In addition, it is expected that the ACPOS Business Change Programme and in-force ICT projects will be re-prioritised to focus on the requirements and the business needs of a single service.

192. There is already considerable expenditure on ICT - approximately £15m a year on the ACPOS Business Change Programme and the development of shared national applications for incident management (Command and Control), HR and custody. Additional costs of £12m, spread over years 2 – 4, have been estimated for ICT costs associated with reforms. This includes a one-off capital cost of £1m, in line with expert estimates to consolidate specified current functional systems. A further provision of £11m has been added to cover acceleration of projects and parallel running as appropriate.

193. Precise additional ICT costs are difficult to estimate in advance of decisions on specific requirements. In line with Treasury Green Book guidance, an adjustment for optimism bias of 100% has been made to provide a range of estimated additional cost of £12m - £24m. However, given that there is already a significant programme of ICT convergence within the forces, in practice it is expected that much of this risk will be managed from within existing budgets.

Training

194. There is likely to be a need for training officers and staff to optimise effectiveness, particularly where there are changes to business processes and technology. It is expected that this will be delivered in part through regular refresher training that is routinely scheduled (for example, on firearms, roads policing and public order). The additional training requirement has been estimated at £16.5m (spread over years 3 and 4), which allows for an additional 2 days per annum of training for each officer (at £200 per day) and member of staff (at £100 per day). An adjustment for potential optimism bias results in an estimated cost range of £16.5m - £25.2m.

Relocation / Excess Travel

195. Depending on decisions of the new service, there may be costs associated with making relocation and excess travel payments. An estimate of £2.75m (spread over years 5 – 6) has been made for this based on the assumptions of 0.25% of employees relocating at £10k each, and 0.75% claiming excess travel compensation of £3k each per annum for 4 years from transition (based on force terms and conditions). The range of £2.75m - £4.22m is provided to reflect an adjustment for potential optimism bias.

Voluntary Redundancy Payments

196. Depending on decisions of the new service, it is likely that rationalisation will be required in support functions with resultant voluntary redundancy costs. To account for this, redundancy costs have been estimated based on the actual cost incurred through recent police and SPSA voluntary redundancy programmes. A natural attrition rate of 3% has been assumed, with redundancy required to address the remaining Full-Time Equivalent (FTE) reductions. On this basis, voluntary redundancy costs have been calculated to be in the order of £80.8m (spread over the first 5 years).

Pay Harmonisation

197. The Bill provides for officers and staff to transfer to the new service retaining their current terms and conditions. As such, it will be for the new service to decide and negotiate on any pay harmonisation and other changes to terms and conditions. A range of potential costs have been estimated to account for the fact there may be a cost associated with this. The SPSA experience indicates an increase to the staff paybill of around 1.8% in the first 2 years following implementation of restructuring, due to the uplift of some staff salaries and the short-term protection of other salary levels. It is assumed that the increase to the paybill is reduced by a small amount (0.2%) after the pay protection for those staff “above the line” ceases.

198. The estimate of £2.89m per annum (a recurring cost from year 6– there is no cost for the first 3 years, and in years 4 and 5 costs are estimated as being £3.26m) is based on the SPSA’s experience of harmonising pay and grading across the current 8 services. Given the uncertainties described above, this creates a pay harmonisation range of £0 - £2.89m. Taking a conservative approach, £2.89m has been used as the best estimate for this particular cost.

Carbon Reduction Commitment

199. The new service may participate in Phase 2 of the Carbon Reduction Commitment Energy Efficiency Scheme from 2013-14, based on likely future energy usage. Potential financial costs have not been estimated at this stage, as these cannot be identified until eligibility for, and details of, the simplified scheme are known (expected in late 2012-13); the associated allowance price has been announced by HM Treasury; and the total emissions level of the new service is known.

200. The current allowance price for the first year of Phase 1 is £12 per tonne CO₂, and it is anticipated that this will increase during later phases. Strathclyde Police are the only existing police participants within Phase 1 of the scheme. Their CO₂ level for 2010-11, as recorded in the Environment Agency’s Performance League Table, is 20,515 tonnes CO₂ equating to a cost of £246k per annum.

Other

201. The police estate is complex, and at the time of compiling the OBC there was little available audit information. Whilst the future requirement is uncertain, there is a real opportunity to optimise and rationalise existing assets. Although there are likely to be costs associated with the development of the estate (for example dilapidations, change of use, change of requirement), there are also likely to be benefits from rationalising requirements. Reforms are

likely to lead to costs as well as efficiencies and, given these factors, this has been assumed to be cost-neutral over the 15-year period.

202. Some investment will be required to achieve re-branding (for example, badging and livery). However, to most citizens the main brand is assumed to be the “police” brand. As such, it is assumed that, in the main, re-branding will be undertaken on a replacement basis and is therefore cost-neutral. Brand values, and communication of change to ensure public confidence in policing is maintained or enhanced, has been included in project management costs.

203. The transfer of, or exit from, contractual obligations is also assumed to be cost-neutral over the 15-year period.

Part I(ii)b Broader Costs which may arise as a consequence of the Bill and the associated process of Police Reform: Costs to Local Authorities

204. In some cases ICT support for police is currently provided by local authorities. The potential for centralising existing systems as a result of the move to a single service will have an impact on this provision. However, it is expected that this will be cost-neutral over the reform period as local authorities continue to utilise existing systems for their own purposes (for example, payroll and pension schemes), while reducing excess capacity and support.

Part I(ii)c Broader Costs which may arise as a consequence of the Bill and the associated process of Police Reform: Costs to Other Bodies, Individuals and Businesses

Criminal Justice Organisations

205. There are close linkages between police and partner systems, to ensure the effective management of cases throughout the criminal justice system. It is anticipated that there will be some costs associated with changes to ICT systems, resulting from the establishment of a single police service. For example, there may be consequential costs arising from changes to the policing landscape, which make existing geographic references to force areas within ICT systems redundant. Over time it is recognised that there may also be scope to achieve efficiency savings from a reduction in the number of systems currently used by police forces and greater standardisation of practices. These costs and efficiencies are currently unknown and are complex to estimate accurately. Scoping the extent of such changes will be required to provide a precise indication of costs. Indicative figures for these costs have been provided by the Crown Office and Procurator Fiscal Service (approximately £160k – £180k) and the Scottish Court Service (approximately £50k).

206. There is already significant work on police ICT convergence taking place outwith the reform process. Whilst the timescales for convergence may change due to reform, the costs are likely to have been incurred in any case. In addition, over the 15-year period, there will be benefits for criminal justice organisations from dealing with one police service (and converged ICT systems). It is recognised that there may initially be a number of set up and testing costs, and it may take time to realise the benefits from efficiencies. However, it is expected that overall, costs will be neutral over a 15-year period.

Other

207. Potential implications for Scottish businesses from the reforms have been considered as part of the Business Regulatory Impact Assessment. A number of business organisations and firms were contacted in relation to the potential impacts of police reform. No issues were identified in this respect at this time.

Part I(iii) Estimated Savings

208. Moving to a single service structure will provide for the delivery of savings, such as removing duplication and streamlining processes. This would include rationalisation, management de-layering, benefits from economies of scale, improved asset utilisation and consolidation of resources, assets, training and contracts. The figures set out below are mainly derived from analysis undertaken for the police OBC. The savings listed are long-term recurring savings and have therefore been provided on a per annum basis rather than as a total. All figures are quoted relative to costs actually incurred in 2010-11, as this represents the latest available baseline data. Over the full 15-year period under consideration in the OBCs, the savings substantially outweigh the costs identified in the sections above. On the basis of best estimates, efficiencies start outweighing costs after the fourth year.

Officers

209. Cashable savings relating to officers have been estimated to be £23.6m per annum (from the fifth year). The range, to account for margins of uncertainty, is £16.6m - £23.6m. This includes an estimate of efficiencies that arise from a reduction to the per capita costs of police officers which primarily comprise changes negotiated on terms and conditions that have already been agreed and reductions in the costs of overtime. These are savings that have been made since the 2010-11 baseline and, whilst not attributable to structure, are included so as to give a full representation of the budgets and how they will change from the baseline. Other cashable efficiencies include savings on local policing due to adoption of a standard span of control ratio and savings on senior force command and executive.

210. Non-cashable efficiencies relating to officers have been valued at £23.3m per annum. The range is estimated to be £16.3m - £23.3m. However, as the OBC assumes that officer numbers will be maintained at 17,234, this is expressed in terms of greater productivity (the opportunity to deliver more with the same resources) rather than cashable efficiency (i.e. fewer officers).

Staff

211. The potential for savings in police staff costs is estimated to be £66m per annum from the fifth year. The range, to account for margins of uncertainty, is £46.2m - £66m. The two main components are:

- those efficiencies (rationalisation, process improvement etc) that reduce the FTE requirement for police staff which may result in a cashable efficiency (fewer staff) or greater productivity (the opportunity to deliver more with the same resources); and
- those efficiencies that arise from a reduction to the per capita costs of police staff. These efficiencies relate to a reduction to required overtime and changes to

allowances and terms that have already been agreed. These are included as savings that are in the process of being made since the 2010-11 baseline and, whilst not attributable to structure, give a full representation of the budgets and how they will change from the baseline.

Vehicles

212. Savings related to vehicles are estimated to be £702k per annum from the fifth year. The range, to account for margins of uncertainty, is £491k - £702k. This relates to the potential reduction in the number and capital cost of vehicles. It does not include potential savings in fleet maintenance and management, which is captured under the Staff and Supplies and Equipment categories.

Supplies and Equipment

213. Savings from supplies and equipment (e.g. for special operations, support services, ACPOS, and the executive team) are estimated at £23.4m per annum from the fifth year. The range, to account for margins of uncertainty, is £16.4m - 23.4m. This includes reduction to specific equipment requirements through the rationalisation of functions and reduction in the cost of supplies achieved through the rationalisation of need (for example, the need for training) and procurement.

Estate Management

214. Savings relating to estate are estimated as amounting to £5.3m per annum from the fifth year. The range, to account for margins of uncertainty, is £3.71m - £5.3m. They relate only to the rationalisation of managing the estates function, and include areas such as estates management staff and outsourcing cleaning services at a lower overall cost. They do not include savings that might expect to be achieved through the rationalisation of the physical estate.

Transfer of Functions and Outsourcing

215. Savings of £7.21m per annum (from the fifth year) arise from opportunities to transfer responsibility for functions to other bodies (such as traffic wardens) or to outsource the provision of services to a third party at a reduced cost. The range, to account for margins of uncertainty, is £5.05m - £7.21m.

Enforcing Existing Service Provision Arrangements

216. Savings amounting to £250k per annum (from the third year) relate to benefits arising from ensuring existing service provision arrangements are enforced and avoiding the need for policing to provide the service, for example maximising the use of contracted transport. The range, to account for margins of uncertainty, is £175k - £250k.

Road Traffic Efficiency (termed Income Generation in the OBC)

217. Savings amounting to £1.75m (from the third year) have been estimated to arise from standardising procedures and delivering road traffic functions in a cheaper and more efficient way. A national approach means that the service can more efficiently police the movement of abnormal loads and spend less on doing this work, while economies of scale will help with better

management of vehicle recovery (i.e. reduced overheads). The range, to account for margins of uncertainty, is £1.23m – £1.75m.

Annual Audit

218. The creation of a single service will also deliver savings in terms of annual audit costs. The current cost for auditing the eight services and SPSA/SCDEA is £365k. It is anticipated that future costs, from the second year, will potentially be around 50% of current levels; and therefore there would be savings of around £180k per annum. The range, to account for margins of uncertainty, is £126k - £180k.

Summary of Estimated Costs and Savings

219. Table 2.1 sets out a summary of the financial implications of police reform (this includes costs that arise from the Bill provisions, the broader costs which may arise as a consequence of the Bill and the associated reform process, and estimated savings). Table 2.2 sets out the same information as table 2.1, but applies an addition to costs to take account of the potential for optimism bias and applies a potential reduction to savings of 30% to account for possible margins of uncertainty.

Table 2.1: Best-estimated costs and savings (£) from 1 April 2011 to 31 March 2026 arising from police reform. (This includes costs that arise from the Bill provisions, the broader costs which may arise as a consequence of the Bill and the associated reform process, and estimated savings.)

	Year 1 2011-12	Year 2 2012-13	Year 3 2013-14	Year 4 2014-15	Year 5 2015-16	Year 6 2016-17	Year 7 2017-18	TOTAL by 31 March 2026
Appointment of Scottish Police Authority Chair and members (Paragraph 162)		35k						35k
Appointment of the Scottish Police Services Authority (Paragraph 163)		(10k)						(10k)
Remuneration of the Scottish Police Authority* (Paragraph 164)			242k	242k	242k	242k	242k	3.15m
Remuneration of the Scottish Police Services Authority* (Paragraph 165)			(82k)	(82k)	(82k)	(82k)	(82k)	(1.07m)
Remuneration of the Scottish Police Authority Senior Officer* (Paragraph 166)			139k	139k	139k	139k	139k	1.81m
Police Investigations and Review Commissioner investigation costs* (Paragraph 170)			3m	3m	3m	3m	3m	39m
Police Complaints Commissioner for Scotland preparatory work (Paragraph 171)		80k						80k

*These documents relate to the Police and Fire Reform (Scotland) Bill (SP Bill 8) as introduced
in the Scottish Parliament on 16 January 2012*

Police Investigation and Review Commissioner office costs (Paragraph 172)		50k						50k
VAT* (Paragraph 178)			21.8m	21.5m	21.5m	21.5m	21.5m	280m
Shadow Leadership (Paragraph 187)		1.72m						1.72m
Programme and project management (Paragraph 189)	3.44m	9.34m	8.21m	2.01m				23m
ICT (Paragraph 192)		2m	5m	5m				12m
Training (Paragraph 194)			8.23m	8.23m				16.5m
Relocation/excess travel (Paragraph 195)			1.14m	539k	539k	539k		2.75m
Voluntary redundancy (Paragraph 196)	1.83m	5.81m	22.5m	34m	16.6m			80.8m
Pay harmonisation* (Paragraph 198)				3.26m	3.26m	2.89m	2.89m	35.5m
Criminal Justice organisations (Paragraph 205)			220k					220k
Officers* (Paragraph 209)	(17.3m)	(17.4m)	(19.9m)	(22.7m)	(23.6m)	(23.6m)	(23.6m)	(337m)
Staff* (Paragraph 211)	(4.26m)	(10.8m)	(28.7m)	(54.6m)	(66m)	(66m)	(66m)	(824m)
Vehicles* (Paragraph 212)			(176k)	(512k)	(702k)	(702k)	(702k)	(8.41m)
Supplies and equipment* (Paragraph 213)			(9.09m)	(18.1m)	(23.4m)	(23.4m)	(23.4m)	(285m)
Estate management* (Paragraph 214)				(2.65m)	(5.3m)	(5.3m)	(5.3m)	(61m)
Transfer of functions and outsourcing* (Paragraph 215)			(1.55m)	(5.61m)	(7.21m)	(7.21m)	(7.21m)	(86.5m)
Enforcing existing service provision agreements* (Paragraph 216)			(250k)	(250k)	(250k)	(250k)	(250k)	(3.25m)
Road Traffic Efficiency* (Paragraph 217)			(1.75m)	(1.75m)	(1.75m)	(1.75m)	(1.75m)	(22.8m)
Annual Audit* (Paragraph 218)				(180k)	(180k)	(180k)	(180k)	(2.16m)
NET COST/(SAVING)	(16.3m)	(9.11m)	9.05m	(28.4m)	(83.2m)	(100m)	(101m)	(1,135m)

* These costs/(savings) are recurring. All other costs/(savings) are one-off and result from the setting up of the Police Service of Scotland.

** Totals may not equate to the sum of constituent parts due to rounding.

These documents relate to the Police and Fire Reform (Scotland) Bill (SP Bill 8) as introduced in the Scottish Parliament on 16 January 2012

Table 2.2: Best estimated costs and savings (£) from 1 April 2011 to 31 March 2026 arising from police reform adjusted for optimism bias on costs and assuming a 30% reduction in savings. (This includes costs that arise from the Bill provisions, the broader costs which may arise as a consequence of the Bill and the associated reform process, and estimated savings.)

	Year 1 2011-12	Year 2 2012-13	Year 3 2013-14	Year 4 2014-15	Year 5 2015-16	Year 6 2016-17	Year 7 2017-18	TOTAL by 31 March 2026
Appointment of Scottish Police Authority Chair and members (Paragraph 162)		35k						35k
Appointment of the Scottish Police Services Authority (Paragraph 163)		(10k)						(10k)
Remuneration of the Scottish Police Authority* (Paragraph 164)			242k	242k	242k	242k	242k	3.15m
Remuneration of the Scottish Police Services Authority* (Paragraph 165)			(82k)	(82k)	(82k)	(82k)	(82k)	(1.07m)
Remuneration of the Scottish Police Authority Senior Officer* (Paragraph 166)			139k	139k	139k	139k	139k	1.81m
Police Investigations and Review Commissioner investigation costs* (Paragraph 170)			3m	3m	3m	3m	3m	39m
Police Complaints Commissioner for Scotland preparatory work (Paragraph 171)		122k						122k
Police Investigation and Review Commissioner office costs (Paragraph 172)		77k						77k
VAT* (Paragraph 178)			21.8m	21.5m	21.5m	21.5m	21.5m	280m
Shadow Leadership (Paragraph 187)		2.63m						2.63m
Programme and project management (Paragraph 189)	3.78m	10.3m	9.03m	2.21m				25.3m
ICT (Paragraph 192)		4m	10m	10m				24m
Training (Paragraph 194)			12.6m	12.6m				25.2m
Relocation/excess travel (Paragraph 195)			1.74m	825k	825k	825k		4.22m
Voluntary redundancy (Paragraph 196)	1.83m	5.81m	22.5m	34m	16.6m			80.8m
Pay harmonisation* (Paragraph 198)				3.26m	3.26m	2.89m	2.89m	35.4m
Criminal Justice organisations (Paragraph 205)			220k					220k

These documents relate to the Police and Fire Reform (Scotland) Bill (SP Bill 8) as introduced in the Scottish Parliament on 16 January 2012

Officers* (Paragraph 209)	(12.1m)	(12.2m)	(13.9m)	(15.9m)	(16.6m)	(16.6m)	(16.6m)	(237m)
Staff* (Paragraph 211)	(2.98m)	(7.53m)	(20.1m)	(38.2m)	(46.2m)	(46.2m)	(46.2m)	(577m)
Vehicles* (Paragraph 212)			(123k)	(358k)	(491k)	(491k)	(491k)	(5.88m)
Supplies and equipment* (Paragraph 213)			(6.36m)	(12.7m)	(16.4m)	(16.4m)	(16.4m)	(199m)
Estate management* (Paragraph 214)				(1.86m)	(3.71m)	(3.71m)	(3.71m)	(42.7m)
Transfer of functions and outsourcing* (Paragraph 215)			(1.09m)	(3.93m)	(5.05m)	(5.05m)	(5.05m)	(60.6m)
Enforcing existing service provision agreements* (Paragraph 216)			(175k)	(175k)	(175k)	(175k)	(175k)	(2.28m)
Road Traffic Efficiency* (Paragraph 217)			(1.23m)	(1.23m)	(1.23m)	(1.23m)	(1.23m)	(16m)
Annual Audit* (Paragraph 218)				(126k)	(126k)	(126k)	(126k)	(1.51m)
NET COST/(SAVING)	(9.47m)	3.23m	38.2m	13.2m	(44.5m)	(61.5m)	(62.3m)	(621m)

* These costs/(savings) are recurring. All other costs/(savings) are one-off and result from the setting up of the Police Service of Scotland.

** Totals may not equate to the sum of constituent parts due to rounding.

220. Table 2.1 gives the best estimates of the financial implications of police reform. Table 2.3 presents an alternate way of looking at the figures, by assuming that some costs and savings may potentially have been incurred by means other than establishing the single service, for example by enhancing national delivery under the 8 service model. It is difficult to predict exactly which costs and savings will be attributable to the single service structure and those which may have been achieved by taking other measures, particularly given that much of the current work, costs incurred and savings anticipate the establishment of a single service. Therefore, for consistency, the figures in table 2.3 were calculated by looking at the difference between the costs and savings estimates for an 8 service model with enhanced national delivery and those associated with a single service as appraised in the OBC.

Table 2.3: Costs and savings (£) from 1 April 2011 to 31 March 2026 potentially arising due to structure

	Year 1 2011-12	Year 2 2012-13	Year 3 2013-14	Year 4 2014-15	Year 5 2015-16	Year 6 2016-17	Year 7 2017-18	TOTAL by 31 March 2026
Appointment of Scottish Police Authority Chair and members (Paragraph 162)		35k						35k
Appointment of the Scottish Police Services Authority (Paragraph 163)		(10k)						(10k)
Remuneration of the Scottish Police Authority* (Paragraph 164)			242k	242k	242k	242k	242k	3.15m
Remuneration of the Scottish Police Services			(82k)	(82k)	(82k)	(82k)	(82k)	(1.07m)

*These documents relate to the Police and Fire Reform (Scotland) Bill (SP Bill 8) as introduced
in the Scottish Parliament on 16 January 2012*

Authority* (Paragraph 165)								
Remuneration of the Scottish Police Authority Senior Officer* (Paragraph 166)			139k	139k	139k	139k	139k	1.81m
Police Investigation and Review Commissioner investigation costs* (Paragraph 170)			3m	3m	3m	3m	3m	39m
Police Complaints Commissioner for Scotland preparatory work (Paragraph 171)		80k						80k
Police Investigation and Review Commissioner office costs (Paragraph 172)		50k						50k
VAT* (Paragraph 220)			7.7m	7.4m	7.4m	7.4m	7.4m	96.5m
Shadow Leadership (Paragraph 220)		1.25m						1.25m
Programme and project management (Paragraph 220)		(80k)						(80k)
Training (Paragraph 220)			(147k)	(147k)				(294k)
Relocation/excess travel (Paragraph 220)			(35k)	(16k)	(16k)	(16k)		(83k)
Voluntary redundancy (Paragraph 220)	517k	1.23m	4.57m	16.2m	5.02m			27.6m
Pay harmonisation* (Paragraph 220)				(357k)	(357k)	(318k)	(318k)	(3.89m)
Criminal Justice organisations (Paragraph 205)			220k					220k
Officers* (Paragraph 220)		(51k)	(1.34m)	(2.58m)	(2.79m)	(2.79m)	(2.79m)	(34.6m)
Staff* (Paragraph 220)	(355k)	(1.2m)	(4.34)	(15.5m)	(18.9m)	(18.9m)	(18.9m)	(230m)
Supplies and equipment* (Paragraph 2220)			(3.72m)	(4m)	(4.07m)	(4.07m)	(4.07m)	(52.5m)
Annual Audit* (Paragraph 218)				(180k)	(180k)	(180k)	(180k)	(2.16m)
NET COST/(SAVING)	162k	1.31m	6.21m	4.15m	(10.6m)	(15.6m)	(15.6m)	(155m)

* These costs/(savings) are recurring. All other costs/(savings) are one-off and result from the setting up of the Police Service of Scotland.

** Totals might not equate to the sum of constituent parts due to rounding.

221. In relation to the best estimates, over the 15-year period assessed, the total net saving delivered from police reform is £1,135m. This figure differs from that presented in the Outline Business Case, which was £1,201m (excluding optimism bias), due to the inclusion of additional and revised costs and efficiencies based on work completed subsequent to the publication of the OBCs.

PART TWO (II): THE SCOTTISH FIRE AND RESCUE SERVICE (SFRS)

Background

222. Scotland's fire and rescue services have performed well, helping to reduce deaths from fire by almost 50% over the last 10 years. In the face of significant cuts to public sector budgets, the Scottish Government wishes to protect this level of performance as far as possible. It is not possible to meet that challenge in the current structure and organisation of fire and rescue services in Scotland. The decision to move to a single fire and rescue service provides for long-term sustainability. It provides the best way to deliver savings - through reduced duplication, rationalised and simplified support functions and standardised business processes - while protecting front-line services to communities.

Costs and Efficiencies: Overview of Sections II(i)-II(iii)

223. This part of the financial memorandum sets out the estimated costs and savings associated with the Part 2 of the Bill. Whilst the Bill provides for structural change, the existing functions of the fire and rescue service will continue and many of the costs associated with providing the service will not change as a result of the Bill. However, there are areas of potential additional costs. As such, this part of the financial memorandum considers new costs which are directly associated with the provisions of the Bill, estimates the broader costs which may result as a consequence of the Bill and associated process of fire and rescue reform, and outlines the expected efficiencies.

224. Part II(i) outlines the cost implications arising from Bill provisions:

- Scottish Administration Grant Support;
- Appointing the SFRS Board Members and Chief Officer;
- Remuneration of the SFRS Board Members and Chief Officer;
- Changes to External Scrutiny and Complaints;
- The Inspection of Crown Premises;
- Determination of Disputes and Publicity;
- VAT;
- Pensions (additional pension costs due to transfer of staff);
- Property Transfer Schemes;

- Costs to Local Authorities; and
- Costs to Other Bodies, Individuals and Businesses.

225. Part II(ii) outlines the broader costs which may arise as a consequence of the Bill and the associated process of fire and rescue service reform:

- Shadow Leadership;
- Programme Management, Training and Change;
- Capital Build and Refurbishment;
- ICT Costs;
- Transaction Costs;
- Voluntary Redundancy Payments;
- Pay Harmonisation;
- Carbon Reduction Commitment;
- Other;
- Costs to Local Authorities; and
- Costs to Other Bodies, Individuals and Businesses.

226. Part II(iii) outlines the estimated savings, under the categories of:

- Learning and Development;
- Corporate Services;
- Fleet and Estate;
- Prevention and Protection;
- Response; and
- Annual Audit.

Part II(i)a Cost implications from Bill provisions: Costs to the Scottish Government

Scottish Administration Grant Support

227. Currently, the fire and rescue services receive their revenue funding from their constituent local authorities (there are six joint boards and two unitary authorities), via the local government settlement. The combined revenue spend in 2011-12 is £264.4m. Funding for fire and rescue service pensions, some £60m in 2011-12, is provided directly by the Scottish Government. In addition, the Scottish Government provides direct revenue support for the Scottish Fire Services College at Gullane and for Firelink (£6.2m and £4.5m respectively in 2011-12). Services also receive loan charge support, which is provided by the Scottish Government to local authorities for an agreed level of borrowing undertaken by the boards prior to 2004-05. Since 2004-05, the boards have been funded by grant rather than by borrowing consents, and so the Scottish Government provides no support for borrowing undertaken by the boards after 1 April 2004.

228. The Fire Capital Grant currently forms part of the local government settlement as a ring-fenced capital sum and is administered by the Scottish Government. Allocations are made to each of the eight services on a formula share (all eight receiving a sum) and top slice (prioritised projects) basis. Allocations are agreed jointly between the Scottish Government and Fire Conveners, with the Scottish Ministers granting final approval. In 2011-12, the services will receive £20.2m Fire Capital Grant. A further £260k will be spent by the Scottish Government on capital investment on the Scottish Fire Services College.

229. Following enactment of the Bill, the SFRS will receive all its funding, both revenue and capital, from the Scottish Consolidated Fund through the annual Budget Bill, rather than via the local government settlement and the current Scottish Government funding streams. Funding will be paid by the Scottish Ministers directly to the SFRS.

Appointing the SFRS Board and Chief Officer

230. The Bill provides for some flexibility in the number of members of the SFRS board. The SFRS will also require a new Chief Officer. Filling these positions will incur recruitment costs (advertising and selection). It is estimated that these costs would amount to approximately £20k - £30k.

231. Based on past experience, costs associated with the re-appointment of board members are expected to be in the region of 10k.

Remuneration of the Board and Chief Officer

232. Estimates of the ongoing costs of board members and the Chair have been based on the published Public Sector Pay Policy for Senior Appointments. Assuming an 11-member board (10 members plus a Chair) annual fees are estimated to be between £168k - £316k (which includes ERNIC). The best estimate (based on the mid-point of this range) is £242k.

233. The costs and savings associated with the Chief Officer and other senior posts in the new service have been included in the calculations of efficiencies that were undertaken for the OBC and are outlined below.

Changes to External Scrutiny and Complaints

234. Under the Bill, it is proposed that the Chief Inspector of the Scottish Fire and Rescue Service and other inspectors will have external scrutiny powers in relation to the SFRS.

235. There will be costs associated with this enhanced scrutiny role, and there is a degree of uncertainty regarding the extent and frequency of the scrutiny and the amount of external assistance that may be required. Overall, however, the principle of proportionality will apply and a significant increase in costs is not anticipated. (The Chief Inspector's unit currently has a budget allocation of £730k for 2011-12.)

236. It is intended that the Chief Inspector's unit will co-operate with HMICS with a view to sharing support resources with associated cost savings.

237. Self-assessment, appraisal and performance management will be a normal function of the SFRS, and co-operating and dealing with the external scrutiny body will not require additional staffing resources.

238. Currently, each of the eight services operates its own Complaints Handling Procedure, which is based on the Scottish Public Services Ombudsman guidance. There are no proposed changes to this procedure – the SFRS will have obligations to handle complaints in the same manner. As such, no additional costs are expected in this respect.

The Inspection of Crown Premises

239. The Crown premises fire safety enforcement role will transfer from the Chief Inspector to the SFRS. The current annual cost of this enforcement is around £130k. It is estimated that the Crown premises fire safety enforcement role cost itself could fall to approximately £25k per annum if undertaken by the SFRS. This is because the amendment would make Crown premises subject to the same enforcement regime as non-Crown premises. As such, some Crown premises which are at present subject to routine inspection would cease to be inspected because the level of risk is not high enough to justify it. The removal of some Crown premises from routine inspection is in line with Scottish Government guidance that resources should be targeted at those premises which present the greatest risk to life.¹ The £105k saving from this change will be used to cover the enhanced scrutiny role (described above) of the Chief Inspector.

Determination of Disputes and Publicity

240. The Bill aims to make the current process for determination of fire safety disputes (under section 67 of the Fire (Scotland) Act 2005) easier to access. Depending on the referral criteria, this could lead to an increase in the number of referrals for determinations and therefore an increase in cost to the Chief Inspector and to SFRS. It is difficult to estimate what the increase (if any) would be, but the number of referrals will be controlled by the referral criteria so that additional cost will not be significant. There could be some associated savings in Scottish Government staff costs and reductions in burdens to business if this change improves enforcement practice by encouraging a more risk proportionate approach.

241. The Bill proposes that the SFRS will be responsible for undertaking publicity work to promote fire safety. The current fire and rescue services already have responsibility to undertake this work at a regional/local level. If, in the future, the SFRS also took on a national publicity role, then it could incur an additional cost. Costs of up to £330k per year have been estimated for this, based on overall costs to the Scottish Government for national publicity this year. The range, to account for optimism bias, is £330k – £505k.

VAT

242. At present, the services are able (under section 33 of the Value Added Tax Act 1994) to recover VAT costs incurred. A move to a single service may alter this. Therefore, it has been assumed that the SFRS may be liable for irrecoverable VAT on all goods, estimated to be around £4m per annum. However, the Scottish Government is currently liaising with HM Revenue and

¹ See Strategic guidance for Fire and Rescue Authorities/Joint Boards, issued Sept 2006.

Customs and HM Treasury regarding whether the SFRS could be given section 33 status and therefore be able to recover all VAT incurred. Other options for reducing any VAT liability will continue to be explored in the planning for the new service.

Pensions

243. On moving to a single service fire-fighters will remain in the Firefighter's Pension Scheme 1992 and the New Firefighter's Pension Scheme (Scotland) 2006 as appropriate. Secondary legislation will be necessary to amend pension regulations to enable this, facilitated by limited consequential amendments to primary legislation in the Bill. However, no additional pensions costs in respect of fire-fighters will arise as a consequence of the reforms.

244. Fire support staff will remain in the LGPS, and will remain in the fund they are in at the time the new SFRS comes into being. It is also intended that they remain in that fund for the duration of their employment regardless of whether they change location. There are 11 LGPS pension funds in Scotland. Fire support staff belong to eight of these. Support staff appointed after the SFRS comes into being will join the LGPS pension fund most appropriate to the location of the new headquarters/corporate service base. No significant additional pension costs are anticipated to arise from this.

245. A small number of Scottish Government staff, estimated to be fewer than 20, are likely to transfer to the SFRS and become employees of the new body. These staff will no longer be eligible to be in the Civil Service Pension Scheme and a bulk transfer of these staff to the LGPS will be required with the option of transferring previous service. For bulk transfers of staff out of the Civil Service pension arrangements a bulk transfer payment is paid out of the Civil Superannuation Vote arranged by Cabinet Office Civil Service Pensions as managers of the pension arrangements. This process is at no cost to Scottish Government. The additional cost included in this financial memorandum is based on the assumption that a price adjustment may occur if actuaries representing the respective interests of the Scottish Local Government Pension Fund and Scottish Government come to an agreement that additional funding is required for the bulk transfer. Precedent indicates that in some similar circumstances such costs have not arisen. The need for any price adjustment will be subject to negotiation at the time of the transfer and is subject to various factors, including the number of staff transferring and the pensions options they will exercise. On the basis of actuarial advice and an assumption that 50% of members will transfer their accrued pension benefits to the LGPS the cost has been estimated to be between £0 and £100k.

Property transfer scheme

246. The Bill enables the Scottish Ministers to make provision for payment of compensation in respect of property and rights transferred. Such payments would only be considered in exceptional circumstances, and the potential cost, if any, would only be known at the time that any asset transfer scheme is made. Potential stamp duty land tax liabilities may also have to be considered if compensatory payments are made in respect of property transfers.

Part II(i)b Cost implications from Bill provisions: Costs to Local Authorities

247. The Bill provides for the SFRS to engage with local authorities and, in particular, to work with local authorities when setting priorities and objectives. Local authorities will also have a

role in monitoring the exercise of functions in their areas and providing relevant feedback. It is difficult to estimate the costs associated with this, particularly given that it is open to individual local authorities to determine the most appropriate local mechanism in each case for performing their role. The Scottish Government has been working with CoSLA on this matter.

248. CoSLA has collected information from local authorities and provided the Scottish Government with an estimate of £3m-£4m, for engaging with the new police service and the SFRS, based on costs for elected members, policy support, research and analysis and administrative support. On this basis, it is assumed that the impact of the Bill is largely cost-neutral - as efficiency savings from not having the current police and fire and rescue joint boards and unitary authorities are estimated to equate to this amount. However, there may be efficiencies and less expensive ways of undertaking local engagement and these will continue to be explored.

Part II(i)c Cost implications from Bill provisions: Costs on Other Bodies, Individuals and Businesses

249. It is not expected that the Bill provisions will impose costs on other bodies, individuals and businesses.

Part II(ii)a Broader Costs which may arise as a consequence of the Bill and the associated process of Fire and Rescue Service Reform: Costs to the Scottish Government

250. The costs detailed in this section are those which may arise as a consequence of the Bill and the reform process taken forward in the single fire and rescue service.

Shadow Leadership

251. Appointments will be made for a new Chief Officer, other senior officers and support staff to form the new executive team for the single service. This team is likely to be in place before the establishment of the new service, in parallel with the existing leadership of the current services. The estimated cost of this is £500k, based on a period of six months of additional planning and preparation and includes estimated salaries for the new Chief Officer, senior officers and staff. Accounting for optimism bias, the range is £500k - £765k.

Programme Management, Training and Change

252. There will be costs associated with staff involved in managing the establishment of the SFRS, such as programme management, training and change costs. Programme management, training and change costs are estimated to be £3m, and are spread over years 2 – 4. This includes £2m to manage the transition planning process and internal redeployed team, and £1m for training and change, plus professional fees (such as legal and technical). Accounting for optimism bias, the range is estimated to be £3m - £4.59m.

Capital build and refurbishment

253. It is not envisaged that the national headquarters will require additional accommodation, as there will be a relatively light tier of management with the majority of resources engaged in frontline delivery. As such, it could be attached to a current delivery unit. Furthermore, the

rationalisation of functions (such as HR, procurement and finance) will provide opportunities for discrete functions to be spread across different parts of Scotland. Specialist functions and maintenance teams may be managed as national functions, but could be deployed on a regional delivery unit basis to enable effective support and response within local areas, thereby optimising any specialist resources and assets. However, it is recognised that establishing the SFRS is likely to require some capital refurbishment of office accommodation and incur relocation costs. Training facilities and depots will be required to facilitate changes in management and delivery arrangements. These costs are estimated to be in the range of £10m, and are spread over years 1 – 4. This increases to £15.3m when accounting for optimism bias. This includes costs associated with the refit of office accommodation (approximately £5m), depot capacity (approximately £2m) and training sites (approximately £3m).

254. It has been assumed that non-operational asset sales of around £15m could be realisable given the current scale of local fire and rescue service and Scottish Government estate assets (this represents less than 5% of the estate), and that these sales would be used to offset the transition costs associated with change. As such, overall, capital build and refurbishment is estimated to be largely cost-neutral.

255. Any capital gain which may arise from the sale of assets owned by the SFRS could attract liability for corporation tax of 25%. It is difficult to estimate what this might be, given it is dependent on the assets sold and the level of any capital gain made.

ICT Costs

256. Technology costs are estimated to be £9m, spread over years 1 – 4. A range of £9m - £13.8m is provided to take into account optimism bias. These relate to costs associated with transition and rationalisation of ICT support (a key enabler to the reform process), the rationalisation of the control room model, and a progressive rationalisation of supporting ICT back office systems.

257. These ICT costs include:

- Costs associated with upgrading ICT infrastructure, programme management, industry liaison and additional software development to establish a single ICT platform that ensures efficiencies in communication and consistent and accessible information flows. The most significant ICT costs are mainly associated with control room consolidation. This includes ICT telephony, command and control, and project management costs associated with control rooms. These costs are estimated to amount to approximately £6.5m.
- A single suite of systems will exist at a national platform level, aligned with business strategy and need, with operational support provided at a local level. Data migration and costs associated with common HR, payroll, asset management and other common service systems are estimated to be approximately £2.5m.

Transaction costs

258. A number of transaction costs may also be incurred by moving to national structure. These include site disposal (approximately £300k) and contract break costs (HR and ICT –

approximately £600k). They are estimated to amount to £900k, spread over years 1 - 4. The range provided is £900k - £1.38m to take account of optimism bias.

Voluntary Redundancy Payments

259. Depending on decisions of the SFRS, some rationalisation may be required and result in redundancy costs. To account for this possibility, redundancy costs have been estimated to be in the order of £4m, spread over years 1 – 4, and have been calculated based on the assumptions that:

- any reduction in uniform members could be managed through staff turnover and retirements (current fire and rescue service projections suggest that 30-50% of senior managers are expected to retire over the next three years) and no redundancy costs would be incurred; and
- as determined in the efficiencies analysis, between a third and half of non-uniform headcount reductions would have some sort of voluntary redundancy package.

Pay Harmonisation

260. The Bill provides for staff to transfer to the new service retaining their current terms and conditions. As such, it will be for the SFRS to decide and negotiate on any harmonisation of pay and other terms and conditions. A range of potential costs has been included to account for the fact that there may be a cost associated with this.

261. In addition to one-off investment costs, there may be some recurrent costs associated with pay harmonisation. These have been estimated at around £1m per annum, based on 50% of the 1,250 non-uniformed staff requiring harmonisation by an average of 5%. On this basis, pay harmonisation has been calculated to be from £0- £1m per year from the sixth year (it is estimated at £200k in the second year, £400k in the third, £600k in the fourth and £800k in the fifth year). Taking a conservative approach, £1m per annum has been used as the best estimate for this particular cost.

Carbon Reduction Commitment

262. The new service may participate in Phase 2 of the Carbon Reduction Commitment Energy Efficiency Scheme from 2013-14, based on likely future energy usage. Potential financial costs have not been estimated at this stage, as these cannot be identified until: eligibility for, and details of, the simplified scheme are known (expected in late 2012-13); the associated allowance price has been announced by HM Treasury; and the total emissions level of the new service is known.

263. The current allowance price for the first year of Phase 1 is £12 per tonne CO₂, and it is anticipated that this will increase during later phases. There were no participants in Phase 1 from among the existing fire and rescue services.

Other

264. Some investment will be required to achieve re-branding. However, it is assumed that the main re-branding will be undertaken on a replacement basis and that will be cost-neutral.

Similarly, relocation and excess travel costs have been considered to be negligible due to the numbers affected.

Part II(ii)b Broader Costs which may arise as a consequence of the Bill and the associated process of Fire and Rescue Service Reform: Costs to Local Authorities

265. In some cases ICT support for fire and rescue services is currently provided by local authorities. The potential for centralising existing systems as a result of the move to a single service will have an impact on this provision. However, it is expected that this will be cost-neutral over the reform period as local authorities continue to utilise existing systems for their own purposes (for example, payroll and pension schemes), while reducing excess capacity and support.

Part II(ii)c Broader Costs which may arise as a consequence of the Bill and the associated process of Fire and Rescue Service Reform: Costs on Other Bodies, Individuals and Businesses

266. The Scottish Ministers do not consider that there will be any material direct cost implications for other bodies, individuals and businesses. The potential implications for Scottish businesses have been considered as part of the Business Regulatory Impact Assessment. A number of businesses were contacted in relation to the potential impacts of fire and rescue service reform, and no issues were identified in this respect at this time.

Part II(iii) Estimated Savings

267. Moving to a single service structure will result in efficiencies, such as removing duplication and streamlining processes.

268. The financial benefits and efficiency savings have been identified using the optimum delivery model for a single service and comparing the service changes and opportunities for delivering greater efficiency and/or lower costs with the current model. These opportunities have been collated by functional area: learning and development; response; prevention and protection; corporate services; and fleet and estates. For each opportunity, an estimate has been made of the likely scale of savings which could be delivered.

269. Most of the figures set out below are derived from the analysis undertaken for the fire and rescue service OBC. The savings listed are long-term recurring savings and have therefore been provided on a per annum basis rather than as a total. All figures are quoted relative to costs actually incurred in 2010-11, as this represents the latest available baseline data. Over the full 15-year period under consideration in the OBCs, the savings associated with reform substantially outweigh the costs identified in the section above. On the basis of best estimates, efficiencies start outweighing costs from the second year.

Learning and Development

270. Savings from changes to learning and development have been estimated, on the basis of data and advice from experienced fire and rescue learning and development staff, to be £3.65m per annum from the fourth year. The range, to account for margins of uncertainty, is £2.56m -

£3.65m. These savings are based on: reduction of support staff roles across the current services and the Scottish Fire Services College; saving in procurement and learning and development contracts; a reduction of manager posts; and rationalisation of physical learning and development assets to prevent the duplication of facilities, particularly those of a specialist nature.

Corporate Services

271. Corporate services savings have been estimated as amounting to £8.03m per annum from the third year. The range, to account for margins of uncertainty, is £5.62m - £8.03m. These include: savings from shared service arrangements; a shared transaction service for finance/shared service arrangements; a shared transaction service for Human Resources/shared service arrangements, consolidation of health and safety teams and recruitment and management delayering; reduction in management layers, helpdesk and administration for ICT Hardware, Software and Administration and reduction in over-provision of ICT and telephony resources (particularly server capacity); savings achievable by consolidating pensions administration functions; and senior management reductions.

Fleet and Estate

272. Savings for fleet and estate were estimated to be £2.45m per annum from the fourth year. The range, to account for margins of uncertainty, is £1.72 - £2.45m. These savings include: spend reduction from collaborative procurement facilities for management services; reduction in contract costs from collaborative procurement of specialist equipment; reducing specialist maintenance costs; reduction in non-operational estate footprint/running costs; consolidation of fleet and equipment facilities into fewer sites; and improvement in asset utilisation.

Prevention and Protection

273. Savings for prevention and protection have been estimated at £2.96m per annum from the second year. The range, to account for margins of uncertainty, is £2.07m - £2.96m. This includes: reductions in duplication of senior management protection roles; more targeted enforcement visits to higher risk properties; and reductions in duplication of senior management prevention roles.

Response

274. Savings for response are estimated to be £13.5m per annum from the third year. The range, to account for margins of uncertainty, is £9.47m - £13.5m. This includes: rationalisation of common risk analysis tools and licences; smaller expert teams carrying out consolidated risk analysis and data input; reduced need for duplication and numbers of teams covering operational guidance and procedures; reduction in duplication of research and development teams; reviewing distribution and asset requirements for national resilience equipment; risk assessing and reviewing crewing and emergency cover practices; consolidating control rooms; and revenue generation from additional charging for certain special services such as lift rescues.

Annual Audit

275. The creation of a single service will also deliver savings in terms of annual audit costs. The current cost for auditing the eight services is £188k. It is anticipated that future costs, from the second year, will potentially be around 50% of current levels - and therefore there will be

savings of around £90k per annum. The range, to account for margins of uncertainty, is £63k-£90k.

Summary of Estimated Costs and Efficiency Savings

276. Table 3.1 sets out a summary of the financial implications of fire and rescue service reform (this includes costs that arise from the Bill provisions, the broader costs which may arise as a consequence of the Bill and the associated reform process, and estimated savings). Table 3.2 sets out the same information as table 3.1, but applies an addition to costs to take account of the potential for optimism bias and applies a potential reduction to savings of 30% to account for possible margins of uncertainty.

Table 3.1: Best-estimated costs and efficiency savings (£) from 1 April 2012 to 31 March 2028 arising from fire and rescue service reform. (This includes costs that arise from the Bill provisions, the broader costs which may arise as a consequence of the Bill and the associated reform process, and estimated savings.)

	Year 0 2012-13	Year 1 2013-14	Year 2 2014-15	Year 3 2015-16	Year 4 2016-17	Year 5 2017-18	Year 6 2018-19	TOTAL by 31 March 2028
Appointment of Scottish Fire and Rescue Service Board and Chief Officer. (Board reappointment costs of £10k occur in 2020-21) (Paragraph 230 and 231)	25k							35k
Remuneration of the Board* (Paragraph 232)		242k	242k	242k	242k	242k	242k	3.63m
Inspection of Crown Premises – transfer of responsibilities to SFRS* (Paragraph 239)		25k	25k	25k	25k	25k	25k	375k
Publicity* (Paragraph 241)		330k	330k	330k	330k	330k	330k	4.95m
VAT* (Paragraph 242)		4m	4m	4m	4m	4m	4m	60m
Pensions (Paragraph 245)		50k						50k
Shadow leadership (Paragraph 251)	500k							500k
Programme management, training and change (Paragraph 252)			1m	1m	1m			3m
Capital build and refurbishment (Paragraph 253)		1m	4.17m	4.17m	667k			10m
Disposal of assets (Paragraph 254)				(5m)	(5m)	(5m)		(15m)

These documents relate to the Police and Fire Reform (Scotland) Bill (SP Bill 8) as introduced in the Scottish Parliament on 16 January 2012

ICT (Paragraph 256 and 257)		4.0m	2.17m	2.17m	667k			9m
Transaction costs (Paragraph 258)		267k	167k	167k	300k			900k
Voluntary redundancy costs (Paragraph 259)		1.3m	1m	1m	700k			4m
Pay harmonisation* (Paragraph 261)			200k	400k	600k	800k	1m	12m
Learning and development* (Paragraph 270)		(550k)	(1.45m)	(2.35m)	(3.65m)	(3.65m)	(3.65m)	(48.2m)
Corporate services* (Paragraph 271)		(1m)	(7.18m)	(8.03m)	(8.03m)	(8.03m)	(8.03m)	(113m)
Fleet and estate* (Paragraph 272)		(500k)	(950k)	(950k)	(2.45m)	(2.45m)	(2.45m)	(31.8m)
Prevention and protection* (Paragraph 273)		(460k)	(2.96m)	(2.96 m)	(2.96m)	(2.96m)	(2.96m)	(41.9m)
Response* (Paragraph 274)		(400k)	(9.83m)	(13.5m)	(13.5m)	(13.5m)	(13.5m)	(186m)
Annual Audit* (Paragraph 275)			(90k)	(90k)	(90k)	(90k)	(90k)	(1.26m)
NET COST/(SAVING)	525k	8.3m	(9.15m)	(19.4m)	(27.2m)	(30.3m)	(25.1m)	(328m)

* These costs/(savings) are recurring. All other costs/(savings) are one-off and result from the setting up of the SFRS.

** Totals may not equate to the sum of constituent parts due to rounding.

Table 3.2: Best-estimated costs and efficiency savings (£) from 1 April 2012 to 31 March 2028 arising from fire and rescue service reform, adjusted for Optimism Bias on costs, and assuming a 30% reduction in savings. (This includes costs that arise from the Bill provisions, the broader costs which may arise as a consequence of the Bill and the associated reform process, and estimated savings.)

	Year 0 2012-13	Year 1 2013-14	Year 2 2014-15	Year 3 2015-16	Year 4 2016-17	Year 5 2017-18	Year 6 2018-19	TOTAL by 31 March 2028
Appointment of Scottish Fire and Rescue Service Board and Chief Officer. (Board reappointment costs of £10k occur in 2020-21) (Paragraph 230 and 231)	25k							35k
Remuneration of the Board* (Paragraph 232)		242k	242k	242k	242k	242k	242k	3.63m
Inspection of Crown Premises – transfer of responsibilities to SFRS* (Paragraph 239)		25k	25k	25k	25k	25k	25k	375k

These documents relate to the Police and Fire Reform (Scotland) Bill (SP Bill 8) as introduced in the Scottish Parliament on 16 January 2012

Publicity* (Paragraph 241)		505k	505k	505k	505k	505k	505k	7.58m
VAT* (Paragraph 242)		4m	4m	4m	4m	4m	4m	60m
Pensions (Paragraph 245)		50k						50k
Shadow leadership (Paragraph 251)	765k							765k
Programme management, training and change (Paragraph 252)			1.53m	1.53m	1.53m			4.59m
Capital build and refurbishment (Paragraph 253)		1.53m	6.38m	6.38m	1.01m			15.3m
Disposal of assets (Paragraph 254)				(5m)	(5m)	(5m)		(15m)
ICT (Paragraph 256 and 257)		6.12m	3.32m	3.32m	1.02m			13.8m
Transaction costs (Paragraph 258)		409k	256k	256k	459k			1.38m
Voluntary redundancy costs (Paragraph 259)		1.3m	1m	1m	700k			4m
Pay harmonisation* (Paragraph 261)			200k	400k	600k	800k	1m	12m
Learning and development* (Paragraph 270)		(385k)	(1.02m)	(1.65m)	(2.56m)	(2.56m)	(2.56m)	(33.8m)
Corporate services* (Paragraph 271)		(700k)	(5.03m)	(5.62m)	(5.62m)	(5.62m)	(5.62m)	(78.8m)
Fleet and estate* (Paragraph 272)		(350k)	(665k)	(665k)	(1.72m)	(1.72m)	(1.72m)	(22.3m)
Prevention and protection* (Paragraph 273)		(322k)	(2.07m)	(2.07m)	(2.07m)	(2.07m)	(2.07m)	(29.3m)
Response* (Paragraph 274)		(280k)	(6.86m)	(9.47m)	(9.47m)	(9.47m)	(9.47m)	(130m)
Annual Audit* (Paragraph 275)			(63k)	(63k)	(63k)	(63k)	(63k)	(882k)
NET COST/(SAVING)	790k	12.1m	1.75m	(6.88m)	(16.4m)	(20.9m)	(15.7m)	(187m)

* These costs/(savings) are recurring. All other costs/(savings) are one-off and result from the setting up of the SFRS.

** Totals may not equate to the sum of constituent parts due to rounding.

277. Table 3.1 gives the best estimates of the financial implications of fire and rescue reform. Table 3.3 presents an alternate way of looking at the figures, by assuming that some costs and savings may potentially have been incurred by means other than establishing a single service, for example by increasing collaboration between the current 8 services. It is difficult to predict exactly which costs and savings will be attributable to the single service structure and those which may have been achieved by taking other measures, particularly given that much of the current work, costs incurred and savings anticipate the establishment of a single service. Therefore, for consistency, figures in table 3.3 were calculated by looking at the difference

These documents relate to the Police and Fire Reform (Scotland) Bill (SP Bill 8) as introduced in the Scottish Parliament on 16 January 2012

between the costs and savings estimates for an 8 service model with increased collaboration and those associated with a single service as appraised in the OBC.

Table 3.3: Costs and Efficiency Savings (£) from 1 April 2012 to 31 March 2028 potentially arising due to structure

	Year 0 2012-13	Year 1 2013-14	Year 2 2014-15	Year 3 2015-16	Year 4 2016-17	Year 5 2017-18	Year 6 2018-19	TOTAL by 31 March 2028
Appointment of Scottish Fire and Rescue Service Board and Chief Officer. (Board reappointment costs of £10k occur in 2020-21) (Paragraph 230 and 231)	25k							35k
Remuneration of the Board* (Paragraph 232)		242k	242k	242k	242k	242k	242k	3.63m
Inspection of Crown Premises – transfer of responsibilities to SFRS* (Paragraph 239)		25k	25k	25k	25k	25k	25k	375k
Publicity* (Paragraph 241)		330k	330k	330k	330k	330k	330k	4.95m
VAT* (Paragraph 242)		4m	4m	4m	4m	4m	4m	60m
Pensions (Paragraph 245)		50k						50k
Shadow leadership (Paragraph 251)	500k							500k
Programme management, training and change (Paragraph 252)			1m	1m	1m			3m
Capital build and refurbishment (Paragraph 253)		1m	4.17m	4.17m	667k			10m
Disposal of assets (Paragraph 254)				(5m)	(5m)	(5m)		(15m)
ICT (Paragraph 256 and 277)		3.6m	2.17m	2.17m	667k			8.6m
Transaction costs (Paragraph 258)		267k	167k	167k	300k			900k
Voluntary redundancy costs (Paragraph 277)		700k	1m	800k	700k			3.2m
Pay harmonisation* (Paragraph 261)			200k	400k	600k	800k	1m	12m
Learning and development* (Paragraph 270)		(550k)	(1.45m)	(2.35m)	(3.65m)	(3.65m)	(3.65m)	(48.2m)

These documents relate to the Police and Fire Reform (Scotland) Bill (SP Bill 8) as introduced in the Scottish Parliament on 16 January 2012

Corporate services* (Paragraph 277)		(1m)	(5.63m)	(5.78m)	(5.78m)	(5.78m)	(5.78m)	(81.7m)
Fleet and estate* (Paragraph 277)					(1.5m)	(1.5m)	(1.5m)	(18m)
Prevention and protection* (Paragraph 277)			(2.5m)	(2.5m)	(2.5m)	(2.5m)	(2.5m)	(35m)
Response* (Paragraph 277)		(190k)	(6.62m)	(10.3m)	(10.3m)	(10.3m)	(10.3m)	(141m)
Annual Audit* (Paragraph 275)			(90k)	(90k)	(90k)	(90k)	(90k)	(1.26m)
NET COST/(SAVING)	525k	8.47m	(2.98m)	(12.7m)	(20.3m)	(23.4m)	(18.2m)	(233m)

* These costs/(savings) are recurring. All other costs/(savings) result from the set up of the Scottish Fire and Rescue Service.

** Totals might not equate to the sum of constituent parts due to rounding.

278. In relation to the best estimates, over the period assessed, the total net saving delivered from reform of the fire and rescue services is estimated to be £328m. This figure differs from that presented in the OBC, which was £337m (excluding optimism bias) due to the inclusion of additional and revised costs and efficiencies based on work completed subsequent to the publication of the OBCs.

SCOTTISH GOVERNMENT STATEMENT ON LEGISLATIVE COMPETENCE

279. On 16 January 2012, the Cabinet Secretary for Justice (Kenny MacAskill MSP) made the following statement:

“In my view, the provisions of the Police and Fire Reform (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

**PRESIDING OFFICER'S STATEMENT ON LEGISLATIVE
COMPETENCE**

280. On 12 January 2012, the Presiding Officer (Tricia Marwick MSP) made the following statement:

“In my view, the provisions of the Police and Fire Reform (Scotland) Bill would be within the legislative competence of the Scottish Parliament.”

*These documents relate to the Police and Fire Reform (Scotland) Bill (SP Bill 8) as introduced
in the Scottish Parliament on 16 January 2012*

POLICE AND FIRE REFORM (SCOTLAND) BILL

EXPLANATORY NOTES (AND OTHER ACCOMPANYING DOCUMENTS)

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