

# Police and Fire Reform (Scotland) Bill

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## Marshalled List of Amendments selected for Stage 3

The Bill will be considered in the following order—

Sections 1 to 125  
Long Title

Schedules 1 to 7

Amendments marked \* are new (including manuscript amendments) or have been altered.

### Section 2

#### Kenny MacAskill

- 5 In section 2, page 1, line 14, at end insert—  
<( ) to promote the policing principles set out in section 32,>

#### Kenny MacAskill

- 6 In section 2, page 1, line 15, at end insert—  
<( ) to keep under review the policing of Scotland,>

#### Kenny MacAskill

- 7 In section 2, page 1, line 16, at end insert <(including, in particular, the chief constable’s carrying out of the duties imposed by or mentioned in section 17)>

### Section 3

#### Kenny MacAskill

- 8 In section 3, page 2, line 5, at end insert—  
<( ) the Authority must, before the beginning of each financial year, provide to the chief constable details of how it intends to allocate the financial resources it expects to have available to it in respect of that financial year.  
( ) In this section, “financial year” means each period of a year ending on 31 March.>

### Section 4

#### Jenny Marra

- 35 In section 4, page 2, line 15, at end insert—  
<(2A) In exercising the power in subsection (2)(a) the Authority must reserve the right to participate in respect of at least one contract in each 3-year period to specified economic operators.

(2B) For the purposes of subsection (2A)—

- (a) “each 3-year period” means each subsequent period of 3 years beginning with the day on which the Police Service is established (being the day appointed under section 124(2) for the coming into force of section 6),
- (b) “specified economic operators” means bodies which operate supported businesses, supported employment programmes or supported factories within the meaning of Article 19 of Directive 2004/18/EC of the European Parliament and of the Council of 31st March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.>

**Lewis Macdonald**

36 In section 4, page 2, line 15, at end insert—

<( ) The Authority may not, without the consent of the Scottish Ministers, exercise the power in subsection (2)(a) to enter into a contract of such a type as may be prescribed by the Scottish Ministers.>

**Section 5**

**John Lamont**

37 In section, 5, page 2, line 34, at end insert—

<( ) Before giving the first direction under this section the Scottish Ministers must draw up and publish a statement setting out the circumstances in which giving a direction may be regarded as being in respect of the matters specified in subsection (2).>

**Section 16**

**Kenny MacAskill**

9 In section 16, page 7, line 9, leave out <person> and insert <individual>

**Kenny MacAskill**

10 In section 16, page 7, line 11, leave out <A person> and insert <An individual>

**Kenny MacAskill**

11 In section 16, page 7, line 11, leave out second <person> and insert <individual>

**Kenny MacAskill**

12 In section 16, page 7, line 26, leave out subsection (4) and insert—

<(4) An individual engaged on temporary service under such arrangements holds the office of constable.>

## Section 17

### Kenny MacAskill

13 In section 17, page 8, line 19, leave out subsection (4) and insert—

<(4) The chief constable must seek to ensure that the policing of Scotland is done—

(a) with due regard to the policing principles, and

(b) in accordance with—

(i) the strategic police priorities,

(ii) the most recently approved strategic police plan, and

(iii) the relevant annual police plan.

(4A) The chief constable must ensure that the policing of Scotland is done with due regard to any recommendations made or guidance issued by the Authority on the policing of Scotland.>

### Kenny MacAskill

14 In section 17, page 8, line 29, leave out <(4)(a)(ii)> and insert <(4A)>

## Section 26

### Lewis Macdonald

38 In section 26, page 12, line 9, at end insert—

<( ) The Authority or, as the case may be, the chief constable may not, without the consent of the Scottish Ministers, appoint individuals under subsection (1) by virtue of arrangements under subsection (2)(b) in such circumstances as may be prescribed by the Scottish Ministers.>

## Before section 40

### John Lamont

39 Before section 40, insert—

#### <Examination of Police Service costs

(1) The Scottish Ministers must prepare a full business case for the implementation of the provisions of this Act.

(2) The Scottish Ministers must publish the business case prepared under subsection (1) before the establishment of the Police Service (being the day appointed by order under section 124(2) for the coming into force of section 6).

(3) The Auditor General must, as soon as practicable after the day on which section 6 comes fully into force, examine the costs of the Police Service compared to the costs of the delivery of police services in Scotland prior to the coming into force of this Act.

(4) The Auditor General must—

(a) report the results of an examination under subsection (3) to the Scottish Parliament and the Authority, and

- (b) publish the results.>

## Section 45

### Lewis Macdonald

- 40 In section 45, page 20, line 6, after <must> insert <, after consulting the local authority,>

### Lewis Macdonald

- 41 In section 45, page 20, line 9, at end insert—

- <( ) The chief constable must provide to each local authority as soon as reasonably practicable—
- (a) such information as can reasonably be identified about the resources which were allocated to policing in its area as at 1 April 2012, and
  - (b) details of the resources to be allocated to policing in its area as at—
    - (i) 1 April 2013, and
    - (ii) 1 April in each subsequent year.>

## Section 46

### Jenny Marra

- 42 In section 46, page 20, line 12, at end insert—

- <( ) If a local authority appoints a committee or other body to carry out any of its functions under this Part, the proportion of both men and women appointed to the committee or other body must be at least 40 per cent of the membership.>

### Lewis Macdonald

- 43 In section 46, page 20, line 17, at end insert—

- <( ) A local authority may specify policing measures that it wishes the local commander to include in a local policing plan.>

### Lewis Macdonald

- 44 In section 46, page 20, line 19, at end insert—

- <( ) A local authority may raise concerns with the chief constable concerning—
- (a) the performance or conduct of the local commander, or
  - (b) the policing of its area where it has been unable to reach agreement with the local commander.>

### John Lamont

- 45 In section 46, page 20, line 33, at end insert—

- <( ) The Scottish Ministers must provide to each local authority such sums as it may reasonably require to enable it to fulfil its role in policing.>

## Section 48

### Lewis Macdonald

46 In section 48, page 21, line 17, at end insert—

- <( ) includes costings and an explanation or budget provisions for each section of the plan,
- ( ) sets out the number of constables and police staff expected to be deployed in the local authority's area,>

### John Lamont

47 In section 48, page 22, line 12, at end insert—

- <(7B) Before the first strategic plan is approved under section 34, the Authority must agree with such bodies as appear to it to be representative of local authorities a mechanism for resolving any disagreement between a local commander and the relevant local authority on the local police plan.>

5

### John Lamont

47A As an amendment to amendment 47, line 5, at end insert—

- <(7C) The mechanism agreed under subsection (7B) must be submitted to the Scottish Policing Commission for approval.>

## Section 50

### Lewis Macdonald

48 In section 50, page 22, line 29, at end insert <, in particular the conditions of retirement of the chief constable.

- ( ) Such regulations must make provision preventing the chief constable from being reappointed following retirement.>

## Section 74

### Graeme Pearson

49 In section 74, page 33, line 35, at end insert—

- <( ) Inquiries under subsection (1) may, in particular, be made about the adequacy of the numbers of constables and police staff to ensure that objectives set out in the strategic policy priorities and local police plans are met.>

## After section 92

### Lewis Macdonald

50 After section 92, insert—

**<Statement on compliance with objective of OPCAT**

The Scottish Ministers must make a statement to the Scottish Parliament on the actions it is taking to comply with the objective of OPCAT within 6 months after the day on which section 91 comes into force.>

**After section 93**

**Graeme Pearson**

2 After section 93, insert—

**<CHAPTER**

**SCOTTISH POLICING COMMISSION**

**Scottish Policing Commission**

- (1) There is to be a body to be known as the Scottish Policing Commission (“the Commission”).
- (2) The Commission is to consist of—
  - (a) the member of the Parliament who is for the time being convener of the Justice Committee or such other committee whose remit includes responsibility for scrutiny of the Scottish Minister or Junior Scottish Minister responsible for policing, and
  - (b) 4 other members of the Parliament appointed in accordance with standing orders.
- (3) The functions of the Commission are—
  - (a) to keep the arrangements for policing established in this Act under review, and
  - (b) to report to the Parliament as it considers appropriate on the operation of those arrangements.
- (4) A report under subsection (3)(b) may include recommendations as to the effective operation of those arrangements.
- (5) In carrying out its functions, the Commission—
  - (a) must have regard to the policing principles set out in section 32, and
  - (b) may require any person or body exercising functions under this Act to provide it with such documents, information and explanations about the exercise of those functions as the Commission reasonably considers necessary in connection with the discharge of its functions.
- (6) Schedule (*Scottish Policing Commission*) makes further provision about the Commission.>

**Section 95**

**Kenny MacAskill**

15 In section 95, page 45, line 13, at end insert—

<(A1) A person mentioned in subsection (A3) must provide the Authority with such information and assistance as the Authority may reasonably require.

5 (A2) A person mentioned in subsection (A3) must provide the chief constable with such information and assistance as the chief constable may reasonably require.

(A3) Those persons are—

- 10 (a) a police authority within the meaning of the Police (Scotland) Act 1967 (“the 1967 Act”),
- (b) a joint police Board constituted by an amalgamation scheme made under the 1967 Act,
- (c) a chief constable of a police force maintained under the 1967 Act,
- (d) the Scottish Police Services Authority.>

### **Lewis Macdonald**

**15A** As an amendment to amendment 15, line 12, at end insert—

<(A4) The information and assistance provided under subsections (A1) and (A2) must include details of the resources allocated to policing in each local authority area as at 1 April 2012.>

## **Section 97**

### **Kenny MacAskill**

**16** In section 97, page 45, line 34, at end insert <and

- ( ) any individual engaged on temporary service as a constable of the Police Service under arrangements made under section 16,>

### **John Finnie**

**1** In section 97, page 46, line 18, at end insert—

<“joint central committee of the Police Federation for Scotland” means the 3 central committees of the Police Federation for Scotland sitting together as a joint committee,>

## **Section 99**

### **Roseanna Cunningham**

**17** In section 99, page 48, line 6, leave out <person> and insert <member>

### **Roseanna Cunningham**

**18** In section 99, page 48, line 8, leave out <6 nor more than 10> and insert <10 nor more than 14>

### **Jenny Marra**

**52** In section 99, page 48, line 11, at end insert—

- <( ) The proportion of both men and women appointed to SFRS must be at least 40 per cent of the membership.>

**Lewis Macdonald**

53 In section 99, page 48, line 11, at end insert—

- <( ) In appointing members, the Scottish Ministers must have due regard to representation among members of SFRS of persons with knowledge of communities and fire and rescue services in all regions of Scotland.>

**Lewis Macdonald**

54 In section 99, page 48, line 11, at end insert—

- <( ) No fewer than one third of the members of SFRS, excluding the chairing member, must be members of local authorities.
- ( ) The Scottish Ministers must select the members of local authorities to be members of SFRS from nominations made by the Convention of Scottish Local Authorities.
- ( ) The number of members nominated by the Convention of Scottish Local Authorities must be no more than twice the number of positions to be filled.>

**Lewis Macdonald**

56 In section 99, page 50, line 6, at end insert—

- <( ) In determining the terms and conditions for the appointment of the Chief Officer, the Scottish Ministers, or as the case may be, the SFRS must make provision for the retirement of the Chief Officer and, in particular, such provision must prevent the Chief Officer from being reappointed following retirement.>

**John Lamont**

**Supported by: Graeme Pearson**

19 In section 99, page 51, line 1, at end insert—

*<Public access*

- (1) SFRS must ensure that its proceedings and those of its committees and sub-committees are held in public.
- (2) Despite sub-paragraph (1), SFRS or, as the case may be, any of its committees or sub-committees may decide to hold all or part of any proceedings in private.
- (3) SFRS must publish—
  - (a) agendas for its proceedings and those of its committees and sub-committees,
  - (b) the papers relating to those proceedings,
  - (c) such reports of those proceedings as it thinks fit.
- (4) Despite sub-paragraph (3), SFRS may decide that all or part of any agenda, paper or report need not be published.
- (5) SFRS must publish a statement setting out—
  - (a) the circumstances in which its proceedings and those of its committees and sub-committees may be held in private, and

- (b) the circumstances in which agendas, papers and reports need not be published.>

**Jenny Marra**

57 In section 99, page 51, line 19, at end insert—

<(2A) In exercising the power in sub-paragraph (2)(a) SFRS must reserve the right to participate in respect of at least one contract in each 3-year period to specified economic operators.

(2B) For the purposes of sub-paragraph (2A)—

- (a) “each 3-year period” means each subsequent period of 3 years beginning with the day on which the Police Service is established (being the day appointed under section 124(2) for the coming into force of section 6),
- (b) “specified economic operators” means bodies which operate supported businesses, supported employment programmes or supported factories within the meaning of Article 19 of Directive 2004/18/EC of the European Parliament and of the Council of 31st March 2004 on the coordination of procedures for the award of public works contracts, public supply contracts and public service contracts.>

**Lewis Macdonald**

58 In section 99, page 51, line 19, at end insert—

<( ) SFRS may not, without the consent of the Scottish Ministers, exercise the power in sub-paragraph (2)(a) to enter into a contract of such a type as may be prescribed by the Scottish Ministers.>

**Roseanna Cunningham**

20 In section 99, page 52, line 35, leave out from <, or> to <that> in line 37

**Before section 100**

**Jenny Marra**

59 Before section 100, insert—

**<General functions of SFRS**

Before section 8 of the 2005 Act (fire safety), insert—

**“7A General functions of SFRS**

The general functions of SFRS are to include—

- (a) saving life;
- (b) protecting property; and
- (c) rendering humanitarian services.”.>

## Section 109

### Lewis Macdonald

60 In section 109, page 55, line 7, at end insert—

<(1A) SFRS may not, without the consent of the Scottish Ministers, enter into such arrangements in such circumstances as may be prescribed by the Scottish Ministers.>

## Section 110

### Lewis Macdonald

61 In section 110, page 55, line 19, at end insert—

<(1A) SFRS may not, without the consent of the Scottish Ministers, enter into such arrangements in such circumstances as may be prescribed by the Scottish Ministers.>

## Section 113

### Lewis Macdonald

62 In section 113, page 59, line 24, at end insert—

<( ) The Chief Officer must provide to each local authority as soon as reasonably practicable—

- (a) such information as can reasonably be identified about the resources which were allocated to fire and rescue services in its area as at 1 April 2012, and
- (b) details of the resources to be allocated to fire and rescue services in its area as at—
  - (i) 1 April 2013, and
  - (ii) 1 April in each subsequent year.>

### Lewis Macdonald

63 In section 113, page 59, line 33, at end insert—

<( ) the number of members of staff of SFRS expected to be deployed in the local authority's area,>

### Lewis Macdonald

64 In section 113, page 61, line 11, at beginning insert <After consulting the local authority,>

### Lewis Macdonald

65 In section 113, page 61, line 38, at end insert—

<( ) A local authority may raise concerns with SFRS regarding the performance of conduct of the Local Senior Officer for the authority's area.”.>

## Section 114

### Lewis Macdonald

66 In section 114, page 62, line 11, at end insert—

<( ) the average number of members of staff of SFRS during the reporting year,>

## Section 118A

### Roseanna Cunningham

21 In section 118A, page 66, line 29, at end insert—

<(A1) A person mentioned in subsection (A2) must provide SFRS with such information or assistance as SFRS may reasonably require.

(A2) Those persons are—

- 5
- (a) a fire and rescue authority within the meaning of section 1 of the 2005 Act,
  - (b) a joint fire and rescue board constituted by a scheme made under section 2(1) of the 2005 Act.>

### Lewis Macdonald

21A As an amendment to amendment 21, line 8, at end insert—

<(A3) The information and assistance provided under subsection (A1) must include details of the resources allocated to fire and rescue services in each local authority area as at 1 April 2012.>

### Roseanna Cunningham

22 In section 118A, page 66, line 34, leave out <6> and insert <10>

## Before section 120

### John Finnie

67 Before section 120, insert—

#### <Parliamentary scrutiny of operation of Act

- (1) The Scottish Parliament must make arrangements for keeping under review the operation of this Act.
- (2) The Scottish Parliament must publish reports in pursuance of subsection (1).>

## Section 124

### Kenny MacAskill

23 In section 124, page 67, line 34, leave out subsection (1) and insert—

- <(1) The following provisions of this Act come into force on the day after Royal Assent—
- (a) in Part 1, sections 1 (and schedule 1), 2(1)(b), (2) and (3), 4, 7, 38, 39, 41(1), (3), (4) and (5), 81(1), (2)(a) and (10), 85, 86, 95(1) (and schedule 3A) and 97,
  - (b) in Part 2, sections 99(1) (but only for the purpose of inserting section 1A(1) and (3) into the 2005 Act) and (2), 111, 115, 118A(1) and (2) and 119, and
  - (c) this Part (other than section 123).>

## **Schedule 1**

### **Kenny MacAskill**

- 24** In schedule 1, page 69, line 13, leave out <person> and insert <member>

### **Kenny MacAskill**

- 25** In schedule 1, page 69, line 15, leave out <6 nor more than 10> and insert <10 nor more than 14>

### **Lewis Macdonald**

- 68** In schedule 1, page 69, line 16, at end insert—

- <( ) No fewer than one third of the members of the Authority, excluding the chairing member, must be members of local authorities.
- ( ) The Scottish Ministers must select the members of local authorities to be members of the Authority from nominations made by the Convention of Scottish Local Authorities.
- ( ) The number of members nominated by the Convention of Scottish Local Authorities must be no more than twice the number of positions to be filled.>

### **Alison McInnes**

- 3** In schedule 1, page 69, line 18, at end insert—

- <( ) The appointment under sub-paragraph (1) (or as the case may be reappointment under paragraph 3(4)) of members is subject to the approval of the Scottish Parliament>

### **John Lamont**

- 69** In schedule 1, page 69, line 18, at end insert—

- <( ) In appointing members, the Scottish Ministers must have regard to the desirability of ensuring that membership—
  - (a) includes, but is not limited to, persons who—
    - (i) are members of a local authority,
    - (ii) as far as possible adequately represent the regions of Scotland,
    - (iii) have no other current or previous direct connection to policing, and
  - (b) includes persons with a range of professional expertise, including financial expertise.>

**Jenny Marra**

70 In schedule 1, page 69, line 18, at end insert—

<( ) The proportion of both men and women appointed to the Authority must be at least 40 per cent of the membership.>

**Lewis Macdonald**

71 In schedule 1, page 69, line 18, at end insert—

<( ) In appointing members, the Scottish Ministers must have due regard to representation among members of the Authority of persons with knowledge of communities and policing in all regions of Scotland.>

**Lewis Macdonald**

72 In schedule 1, page 71, line 26, at end insert—

<( ) The Authority may not, without the consent of the Scottish Ministers, appoint individuals under sub-paragraph (1) by virtue of arrangements under sub-paragraph (2)(b) in such circumstances as may be prescribed by the Scottish Ministers.>

**John Lamont**

**Supported by: Graeme Pearson**

26 In schedule 1, page 73, line 5, at end insert—

<*Public access*

- (1) The Authority must ensure that its proceedings and those of its committees and sub-committees are held in public.
- (2) Despite sub-paragraph (1), the Authority or, as the case may be, any of its committees or sub-committees may decide to hold all or part of any proceedings in private.
- (3) The Authority must publish—
  - (a) agendas for its proceedings and those of its committees and sub-committees,
  - (b) the papers relating to those proceedings,
  - (c) such reports of those proceedings as it thinks fit.
- (4) Despite sub-paragraph (3), the Authority may decide that all or part of any agenda, paper or report need not be published.
- (5) The Authority must publish a statement setting out—
  - (a) the circumstances in which its proceedings and those of its committees and sub-committees may be held in private, and
  - (b) the circumstances in which agendas, papers and reports need not be published.>

**Lewis Macdonald**

73 In schedule 1, page 73, line 10, after <determine> insert <, except its powers under section 14(1),>

### After schedule 3

#### Graeme Pearson

4 After schedule 3, insert—

<SCHEDULE  
(introduced by section (*Scottish Policing Commission*))

#### SCOTTISH POLICING COMMISSION

- 1 The member of the Scottish Policing Commission (“the Commission”) holding office under section (*Scottish Policing Commission*)(2)(a) on a dissolution of the Parliament continues to hold office until a convener of the Justice Committee, or such other committee whose remit includes responsibility for scrutiny of the Scottish Minister or Junior Scottish Minister responsible for policing, is appointed following a general election.
- 2 A member of the Commission appointed under section (*Scottish Policing Commission*) (2)(b) holds office until the Parliament is dissolved unless the member previously resigns, ceases to be a member of the Parliament otherwise than by virtue of a dissolution or is removed from office by resolution of the Parliament.
- 3 The validity of any act of the Commission is not affected by any vacancy in its membership or by any defect in the appointment, or qualification for membership, of any member.
- 4 The Commission may—
  - (a) determine its own procedure,
  - (b) appoint one of its members to preside at its meetings.
- 5 The parliamentary corporation is to provide the Commission, or ensure that the Commission is provided, with the property, staff and services required for its purposes.
- 6 The Commission may give directions to the corporation for the purpose of or in connection with the exercise of the corporation’s functions in relation to the Commission.
- 7 Any expenses incurred by the Commission in the exercise of its functions are to be paid by the corporation.
- 8 For the purposes of the law of defamation, the following are absolutely privileged—
  - (a) any statement made in proceedings of the Commission,
  - (b) the publication under the authority of the Commission of any statement, and
  - (c) any report to the Parliament under section (*Scottish Policing Commission*)(3)(b).
- 9 In paragraph 8, “statement” has the same meaning as in the Defamation Act 1996 (c. 31).>

### Schedule 3A

#### Kenny MacAskill

27 In schedule 3A, page 77, line 22, leave out <6> and insert <10>

## Schedule 4

### John Lamont

- 74 In schedule 4, page 82, line 24, leave out <ceases to> and insert <does not>

### John Lamont

- 75 In schedule 4, page 82, line 24, leave out <to a constable> and insert—  
<(a)>

### John Lamont

#### Supported by: Lewis Macdonald

- 76 In schedule 4, page 82, leave out line 27

### John Lamont

- 77 In schedule 4, page 82, line 29, at end insert—  
<(b) where the necessity of the constable moving home arises in direct consequence of that constable being promoted to a higher rank on or after the appointed day.>

### Kenny MacAskill

- 28 In schedule 4, page 84, line 37, after <Authority> insert <or the chief constable appointed in accordance with section 7>

### Kenny MacAskill

- 29 In schedule 4, page 85, line 2, at end insert <, or  
(e) a chief constable of a police force.>

### Kenny MacAskill

- 30 In schedule 4, page 85, line 6, leave out <or (c)> and insert <, (c) or (e)>

### Kenny MacAskill

- 31 In schedule 4, page 85, line 11 after <Authority> insert <or, as the case may be, the chief constable>

### Kenny MacAskill

- 32 In schedule 4, page 85, line 13, after <Authority> insert <or, as the case may be, the chief constable>

## Schedule 7

### Kenny MacAskill

- 33 In schedule 7, page 126, line 8, at end insert—

<Children and Young Persons (Scotland)  
Act 1937 (c.37)>

Section 101(3).

**Kenny MacAskill**

**34** In schedule 7, page 126, line 15, leave out <1980> and insert <1968>

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Published in Edinburgh by APS Group Scotland

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Printed in Scotland by APS Group Scotland

ISBN 978-1-4061-9207-0

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