

# Police and Fire Reform (Scotland) Bill

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## 2nd Groupings of Amendments for Stage 2

This document provides procedural information which will assist in preparing for and following proceedings on the above Bill. The information provided is as follows:

- the list of groupings (that is, the order in which amendments will be debated). Any procedural points relevant to each group are noted;
- a list of any amendments already debated;
- the text of amendments to be debated on the second day of Stage 2 consideration, set out in the order in which they will be debated. **THIS LIST DOES NOT REPLACE THE MARSHALLED LIST, WHICH SETS OUT THE AMENDMENTS IN THE ORDER IN WHICH THEY WILL BE DISPOSED OF.**

### Groupings of amendments

#### **Local authority role in policing**

203, 173, 53, 205, 54, 55, 56, 206, 57, 207, 58, 59, 60, 61, 208

#### **Regulations: conduct and performance**

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#### **Police Appeals Tribunal**

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#### **The Police Investigations and Review Commissioner**

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**Police transitional arrangements**

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**Limitation on mobility of transferred constables**

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**Status of SFRS**

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**Forensic services**

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## THIS IS NOT THE MARSHALLED LIST

### Amendments in debating order

#### Local authority role in policing

##### **Graeme Pearson**

**203** In section 45, page 19, line 17, at end insert—

<( ) The chief constable must provide to each local authority as soon as reasonably practicable details of the resources allocated to policing in its area as at—

(a) 1 April 2012, and

(b) 1 April in each subsequent year.>

##### **Alison McInnes**

**173** In section 46, page 19, line 19, leave out subsection (1) and insert—

<( ) Priorities and objectives for the policing of each local authority area must be agreed between the local commander and the local authority.>

##### **Kenny MacAskill**

**53** In section 46, page 19, line 25, at end insert—

<( ) A local authority may provide feedback by reference to any local police plan in force for the area.>

##### **Lewis Macdonald**

**205** In section 46, page 19, line 25, 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.>

##### **Kenny MacAskill**

**54** In section 46, page 19, line 32, at end insert—

<(4) A local commander may refer a requirement under subsection (3) to the chief constable if the local commander considers that complying with the requirement would or might prejudice—

(a) the carrying out of any operation by the Police Service, or

(b) the prosecution of offenders.

(5) A requirement referred under subsection (4) has effect only if it is confirmed by the chief constable.>

##### **Kenny MacAskill**

**55** In section 47, page 19, line 37, leave out from beginning to end of line 2 on page 20 and insert—

<(b) in paragraph (e), for “a police force” substitute “the Police Service of Scotland”.

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- (2) The chief constable must delegate the carrying out of the chief constable's functions under section 16(1)(e) of the Local Government in Scotland Act 2003 in each local authority area to the local commander for that area.
- (3) Subsection (2) does not affect—
  - (a) the chief constable's responsibility for the carrying out of the delegated functions,
  - (b) the chief constable's ability to carry out the delegated functions.>

### **Kenny MacAskill**

- 56** In section 48, page 20, line 4, at beginning insert <As soon as is reasonably practicable after the first strategic police plan is approved under section 34,>

### **Lewis Macdonald**

- 206** In section 48, page 20, line 12, at end insert—
- <( ) includes costings and an explanation of budget provision 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,>

### **Kenny MacAskill**

- 57** In section 48, page 20, line 22, leave out <such> and insert <—
- (i) the joint central committee of the Police Federation for Scotland,
  - (ii) such persons as appear to the local commander to be representative of senior officers,
  - (iii) such persons as appear to the local commander to be representative of superintendents (including chief superintendents),
  - (iv) such persons as appear to the local commander to be representative of police staff, and
  - (v) such other>

### **David McLetchie**

- 207** In section 48, page 20, line 24, at end insert—
- <( ) If the local authority does not approve a local police plan submitted to it—
    - (a) the local authority must notify the Authority that it has not approved the plan, and
    - (b) the local commander may proceed to implement the plan.>

### **Kenny MacAskill**

- 58** In section 48, page 20, line 26, leave out from <at> to end of line 28 and insert <if—
- (a) a new strategic police plan is approved under section 34, or
  - (b) the plan is not replaced under subsection (5A) or modified under subsection (7) during the period of 3 years beginning with the date of publication of the plan.
- (5A) Following a review under subsection (5)(a), the local commander may prepare and submit a replacement plan to the local authority for approval.

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(5B) Following a review under subsection (5)(b), the local commander must prepare and submit a replacement plan to the local authority for approval.>

### **Kenny MacAskill**

59 In section 48, page 20, line 31, leave out from <(after)> to <(appropriate)> in line 32

### **Kenny MacAskill**

60 In section 48, page 20, line 32, at end insert—

<( ) Subsections (3) to (5) apply in relation to a modified local police plan as they apply in relation to the plan being modified.>

### **Kenny MacAskill**

61 In section 48, page 20, line 33, leave out subsection (8)

### **David McLetchie**

208 In section 48, page 20, line 35, at end insert—

<( ) Where, in the opinion of the local commander, there has been or is likely to be a material failure to achieve the main priorities and objectives for the policing of the local authority's area, the local commander must report that to the local authority as soon as practicable.>

## **Regulations: conduct and performance**

### **Kenny MacAskill**

62 In section 53, page 22, line 36, leave out from <(or)> to <(unsatisfactory)>

### **Kenny MacAskill**

63 In section 53, page 23, line 1, leave out from <(decide)> to end of line 3 and insert <(determine any case which relates to the standard of behaviour or performance of a senior officer).>

### **Kenny MacAskill**

64 In section 55, page 23, line 14, after <(c.16)> insert <(other than pensions)>

## **Police Appeals Tribunal**

### **Kenny MacAskill**

65 In section 60, page 25, line 19, leave out <(on grounds of confidentiality)>

## **The Police Investigations and Review Commissioner**

### **Kenny MacAskill**

66 In section 63, page 27, line 2, leave out <(a serious criminal)> and insert <(an)>

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**Kenny MacAskill**

- 67 In section 63, page 27, line 9, at beginning insert <where requested to do so by the Authority or the chief constable,>

**Kenny MacAskill**

- 68 In section 63, page 27, line 13, leave out from <and> to end of line 17

**Kenny MacAskill**

- 69 In section 63, page 27, leave out lines 18 to 22

**Kenny MacAskill**

- 70 In section 65, page 28, leave out line 22

**Kenny MacAskill**

- 71 In section 65, page 28, line 23, leave out from <which> to <33A(1)> in line 24 and insert <—
- (i) which the Commissioner is investigating in pursuance of paragraph (b)(i) of section 33A(1); or
  - (ii) in respect of which criminal proceedings have been brought following such an investigation by the Commissioner;>

**Kenny MacAskill**

- 72 In section 65, page 28, line 25, after <investigated> insert <—
- (i) by the Commissioner in pursuance of paragraph (b)(ii) of section 33A(1); or
  - (ii)>

**Kenny MacAskill**

- 73 In section 66, page 28, line 33, leave out from second <matter> to <police> in line 34 and insert <incident in relation to which there is an indication that the Authority, the Police Service or a person serving with the police has been involved>

**Kenny MacAskill**

- 74 In section 66, page 28, leave out line 35

**Kenny MacAskill**

- 75 In section 66, page 28, line 36, leave out from <which> to end of line 37 and insert <—
- (i) which the Commissioner is investigating in pursuance of paragraph (b)(i) of section 33A(1); or
  - (ii) in respect of which criminal proceedings have been brought following such an investigation by the Commissioner;>

**Kenny MacAskill**

- 76 In section 66, page 28, line 38, after <investigated> insert <—
- (i) by the Commissioner in pursuance of paragraph (b)(ii) of section 33A(1); or

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(ii)>

**Kenny MacAskill**

- 77 In section 66, page 29, line 1, leave out <has been or is capable of being> and insert <or has been,>

**Kenny MacAskill**

- 79 In section 67, page 29, line 29, after <constable;> insert—
- <( ) such persons as appear to them to be representatives of senior officers;
  - ( ) such persons as appear to them to be representatives of superintendents (including chief superintendents);
  - ( ) the joint central committee of the Police Federation for Scotland;>

**Kenny MacAskill**

- 80 In section 68, page 30, line 1, leave out from <publish> to <report> in line 3 and insert <provide a copy of a report prepared under subsection (1)>

**Kenny MacAskill**

- 81 In section 68, page 30, line 6, at end insert <; and
- ( ) if the Commissioner considers it appropriate to do so, publish the report in such manner as the Commissioner considers appropriate.>

**Roderick Campbell**

- 209 In section 68, page 30, line 13, at end insert—
- <( ) If the Commissioner determines that it is necessary to disclose information of the type mentioned in subsection (3)(a) or (b), the Commissioner must give the person named or likely to be identified not less than seven days' notice of the intention to do so.>

**Kenny MacAskill**

- 82 In section 69, page 30, line 20, after first <in> insert <the carrying out of a complaint handling review or in>

**Kenny MacAskill**

- 83 In section 69, page 30, line 23, leave out <an> and insert <a review or>

**Kenny MacAskill**

- 84 In section 69, page 30, line 23, leave out <the investigation> and insert <it>

**Kenny MacAskill**

- 85 In section 70, page 30, line 33, leave out from <by> to <public> in line 34

**Kenny MacAskill**

**Supported by: Alison McInnes**

- 86 After section 70, insert—



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### <Protection from actions for defamation

After section 46 of the 2006 Act, insert—

#### “Protection from actions for defamation

- (1) For the purposes of the law of defamation—
  - (a) any statement made by the Commissioner or any of the Commissioner’s staff—
    - (i) in carrying out a complaint handling review or in carrying out an investigation in pursuance of paragraph (b), (c) or (d) of section 33A(1);
    - (ii) in communicating with any person for the purposes of such a review or investigation;
    - (iii) in a report on such a review or investigation; or
    - (iv) in a report made under section 43,  
has absolute privilege;
  - (b) any statement made to the Commissioner or any of the Commissioner’s staff in relation to an investigation carried out in pursuance of paragraph (b), (c) or (d) of section 33A(1) has absolute privilege; and
  - (c) any statement made to the Commissioner or any of the Commissioner’s staff in relation to a relevant complaint or a complaint handling review is privileged unless the statement is shown to have been made with malice.
- (2) In subsection (1), “statement” has the same meaning as in the Defamation Act 1996 (c. 31).”.>

### David McLetchie

**210** After section 70, insert—

#### <Appointment of staff

In schedule 4 of the 2006 Act (staff), in sub-paragraph 7(1), after “appropriate” insert “, but may not appoint a person who is a constable or a member of police staff”.>

### Kenny MacAskill

**145** In schedule 6, page 96, line 13, at end insert—

<( ) in subsection (3), after paragraph (b) insert “; and

- (c) if the Commissioner considers it appropriate to do so, publish the report drawn up under paragraph (b) in such manner as the Commissioner considers appropriate.”.>

### Kenny MacAskill

**146** In schedule 6, page 96, line 19, at end insert—

<( ) In section 36—

- (a) in subsection (1), after “subsection” insert “(1A) or”,
- (b) after subsection (1) insert—  
“(1A) This subsection applies to a complaint handling review if—

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- (a) it relates or, if it took place, would relate to a relevant complaint in respect of which the appropriate authority in relation to the complaint—
  - (i) has concluded its consideration of the complaint; and
  - (ii) has communicated its findings to the complainer;
- (b) a period of 3 months or longer has elapsed between the date on which those findings were so communicated and the date on which the Commissioner was requested to carry out the complaint handling review; and
- (c) the Commissioner is not satisfied that there are exceptional circumstances which justified the delay in requesting the review.”.>

### **Kenny MacAskill**

**148** In schedule 6, page 99, line 7, at end insert—

<( ) in paragraph 3—

- (i) in sub-paragraph (2)(a), for “3” substitute “5”,
- (ii) in sub-paragraph (2)(b), for “2” substitute “3”.>

### **Kenny MacAskill**

**149** In schedule 6, page 100, line 7, leave out from <and> to end of line 9 and insert <or any other enactment relating to constables (including any such provision or other enactment creating offences against or as regards constables), with such modifications as are considered appropriate, in relation to a person appointed under arrangements made under sub-paragraph (2).>

## **Disclosure**

### **Kenny MacAskill**

**78** In section 67, page 29, leave out lines 21 to 23

### **Kenny MacAskill**

**96** In section 82, page 35, line 18, leave out subsection (6)

### **Roseanna Cunningham**

**137** In section 117, page 63, line 35, leave out from beginning to end of line 2 on page 64

## **HMICS**

### **Kenny MacAskill**

**87** In section 74, page 32, leave out line 5 and insert—

<(2) The inspectors of constabulary may make such other inquiries as they think fit about—>

### **Graeme Pearson**

**247** In section 74, page 32, line 9, at end insert—

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<( ) Inquiries under subsection (1)(a) 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 police priorities and local police plans are met.>

### **Kenny MacAskill**

**88** After section 74, insert—

#### **<HMICS plan**

- (1) The inspectors of constabulary must prepare a plan setting out—
  - (a) priorities for inquiries to be carried out by them, and
  - (b) information on how inquiries will be carried out in a way which is proportionate, accountable and transparent.
- (2) The inspectors of constabulary—
  - (a) must keep the plan under review, and
  - (b) may from time to time revise the plan.
- (3) The inspectors of constabulary must, in preparing a plan (and any revised plan), consult such persons as they consider appropriate.
- (4) The inspectors of constabulary must publish the plan (and any revised plan) in such manner as they consider appropriate (having regard to the desirability of it being accessible to those whom the inspectors of constabulary consider likely to have an interest in it).>

### **Kenny MacAskill**

**89** In section 77, page 32, line 27, leave out <or inspection>

### **Kenny MacAskill**

**90** In section 77, page 32, line 27, leave out <74> and insert <74(1) and any other information in relation to the report that the inspectors of constabulary think fit>

### **Kenny MacAskill**

**91** In section 77, page 32, line 28, leave out <or inspection>

### **Kenny MacAskill**

**92** In section 77, page 33, line 1, leave out subsection (4)

### **Kenny MacAskill**

**93** After section 77, insert—

#### **<HMICS reports: other inquiries**

- (1) The inspectors of constabulary must, on completing an inquiry under section 74(2), give a report of the inquiry to the Authority and, where the report relates to the Police Service, to the chief constable.
- (2) The inspectors of constabulary must—
  - (a) as soon as is reasonably practicable after giving the report under subsection (1)—

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- (i) give to the Scottish Ministers a copy of the report and any other information in relation to the report that the inspectors of constabulary think fit, and
  - (ii) publish the report in such manner as they consider appropriate (having regard to the desirability of it being accessible to those whom the inspectors of constabulary consider likely to have an interest in it), and
- (b) give the Scottish Ministers any other information relating to the inquiry that the Scottish Ministers may request.
- (3) The inspectors of constabulary must lay before the Scottish Parliament a copy of a report given by them under this section.>

### **Kenny MacAskill**

94 After section 77, insert—

#### **<Inquiry reports: consideration and action**

In carrying out their respective functions, the Authority and the chief constable must have regard to a report given by the inspectors of constabulary under section 77 or (*HMICS reports: other inquiries*) and, having done so, must take such measures (if any) as they think fit in relation to the report.>

### **Kenny MacAskill**

95 In section 78, page 33, line 5, leave out <to the Scottish Ministers under section 77> and insert <by the inspectors of constabulary under section 77 or (*HMICS reports: other inquiries*)>

## **Provision of goods and services**

### **Kenny MacAskill**

97 In section 84, page 36, line 15, after <persons> insert <, or types of person,>

### **Kenny MacAskill**

98 In section 84, page 36, line 24, after <persons> insert <, or types of person,>

## **Assaulting police**

### **Kenny MacAskill**

100 In section 87, page 37, line 31, at end insert—

<(A1) It is an offence for a person to assault—

- (a) a person (“A”) acting in a capacity mentioned in subsection (2), or
- (b) a person assisting A while A is acting in such capacity.>

### **Kenny MacAskill**

101 In section 87, page 37, line 32, leave out <assault,>

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### **Kenny MacAskill**

**102** In section 87, page 38, line 8, after <subsection> insert <(A1) or>

### **Kenny MacAskill**

**103** In section 87, page 38, line 10, at end insert—

- <( ) A complaint may include a charge that is framed so as to comprise (in a combined form) the specification of both an offence under subsection (A1) and an offence under subsection (1).
- ( ) Where a charge in a complaint is so framed the charge is to be regarded as being a single yet cumulative charge.>

### **Independent Custody Visiting**

#### **Lewis Macdonald**

**248** Leave out section 90

#### **Lewis Macdonald**

**249** In section 91, page 40, line 15, leave out from <where> to end of line 21 and insert <—

- ( ) where there are urgent and compelling grounds of public safety, natural disaster or serious disorder in the place to be visited that temporarily prevent the carrying out of such a visit, and
- ( ) the Scottish Ministers have notified the Authority that such grounds exist and that access should accordingly be refused.>

#### **Lewis Macdonald**

**250** Leave out section 91

#### **Lewis Macdonald**

**251** Leave out section 92

#### **Lewis Macdonald**

**252** Leave out section 93

### **Scottish Policing Commission**

#### **Graeme Pearson**

**242\*** After section 93, insert—

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### <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.>

##### **Graeme Pearson**

243 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.

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- 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).>

### **Police transitional arrangements**

#### **Kenny MacAskill**

- 212** In section 95, page 42, line 28, at end insert—

<(1) Schedule (*Period before establishment of Police Service*) makes provision about the period before the Police Service is established.>

#### **Kenny MacAskill**

- 213** After schedule 3, insert—

#### <SCHEDULE (introduced by section 95(1))

##### PERIOD BEFORE ESTABLISHMENT OF POLICE SERVICE

- 1 This schedule applies during the period before 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).
- 2 An appointment under section 7 has effect only where the individual has made the declaration set out in section 10 before a sheriff or justice of the peace.
- 3 An individual appointed under section 7—
- (a) holds the office of constable,

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- (b) is to hold and vacate office on such terms and conditions as the Scottish Ministers may determine,
  - (c) has power to do anything that the individual considers appropriate in anticipation of—
    - (i) the establishment of the Police Service, or
    - (ii) the coming into force of any provision of this Act, and
  - (d) in the case of the chief constable, is accountable to the Authority.
- 4 Sections 18, 19, 21(1) and (2), 22 and 23 apply in relation to an individual who is so appointed as if those sections were in force.
- 5 Despite paragraph 2(1) of schedule 1, the Authority may consist of—
- (a) the chairing member, or
  - (b) the chairing member and fewer than 6 other members.
- 6 It is for the Authority to hold the chief constable to account for the performance of senior officers' functions.
- 7 The Authority may—
- (a) pay remuneration and allowances to, and reimburse expenses reasonably incurred by, senior officers, and
  - (b) provide and maintain anything necessary or desirable in connection with the functions of senior officers.
- 8 The reference in section 4(1) to the Authority's functions includes a reference to any functions which the Authority anticipates having by virtue of the coming into force of any provision of this Act.>

### **Kenny MacAskill**

- 214** In schedule 4, page 75, line 4, after <Act> insert <(including any individual who, immediately before that day, is engaged in service which is "relevant service" for the purposes of section 38A of the 1967 Act)>

### **Kenny MacAskill**

- 215** In schedule 4, page 75, line 6, leave out <to continue>

### **Kenny MacAskill**

- 104** In schedule 4, page 75, line 12, after <4(2),> insert <(4) and 7(4B),>

### **Kenny MacAskill**

- 216** In schedule 4, page 75, line 21, at end insert—

*<Senior officers appointed under section 7*

An individual who, immediately before the appointed day, holds the office of chief constable, deputy chief constable or assistant chief constable by virtue of appointment in accordance with section 7 is, on and after the appointed day, to serve as a constable of the Police Service.>



**THIS IS NOT THE MARSHALLED LIST**

**Kenny MacAskill**

- 105** In schedule 4, page 75, line 31, leave out from <but,> to <and> in line 32 and insert <(and accordingly to hold the rank of deputy chief constable) but>

**Kenny MacAskill**

- 106** In schedule 4, page 76, line 2, leave out <deputy> and insert <assistant>

**Kenny MacAskill**

- 107** In schedule 4, page 76, line 3, leave out <but is> and insert <(and accordingly to hold the rank of assistant chief constable) but is otherwise>

**Kenny MacAskill**

- 108** In schedule 4, page 77, line 22, leave out <38(3)(a)> and insert <38A(3)(a)>

**Kenny MacAskill**

- 109** In schedule 4, page 77, line 23, at end insert—
- <(4A) Sub-paragraph (4B) applies to an individual who—
    - (a) is to revert to the Police Service by virtue of sub-paragraph (4)(c),
    - (b) would have (but for this paragraph) reverted to the individual’s police force at the rank of deputy chief constable, and
    - (c) is not appointed to the office of deputy chief constable of the Police Service in accordance with section 7.
  - (4B) An individual to whom this sub-paragraph applies is, on and after the date that the individual reverts to the Police Service by virtue of sub-paragraph (4)(c), to be treated as having been appointed to the office of assistant chief constable in accordance with section 7 (and accordingly is to hold the rank of assistant chief constable) but is otherwise to continue to have the same conditions of service, including rates of pay, as if the individual had continued to be a deputy chief constable of the police force which has ceased to exist.>

**Kenny MacAskill**

- 110** In schedule 4, page 77, line 25, leave out <deputy chief constable or>

**Kenny MacAskill**

- 111** In schedule 4, page 77, line 26, leave out from <corresponding> to end of line 31 and insert <of assistant chief constable of the Police Service in accordance with section 7.>

**Lewis Macdonald**

- 254** In schedule 4, page 78, line 38, at end insert—
- <( ) The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to the transfer of police functions under this Act, whether or not they would so apply apart from this sub-paragraph.>

**Kenny MacAskill**

- 112** In schedule 4, page 81, line 3, at end insert—

## **THIS IS NOT THE MARSHALLED LIST**

- <( ) A person mentioned in sub-paragraph (2)(b) or (c) must provide the Scottish Ministers with such information or assistance as they may reasonably require for the purposes of or in connection with the making of a police property transfer scheme.>

### **Kenny MacAskill**

- 113** In schedule 4, page 81, line 16, at end insert—

- <( ) A joint police board must provide the Scottish Ministers with such information or assistance as they may reasonably require for the purposes of or in connection with the making of a local authority property transfer scheme.>

### **Limitation on mobility of transferred constables**

#### **Lewis Macdonald**

- 253** In schedule 4, page 78, leave out lines 20 to 25

#### **John Lamont**

- 217** In schedule 4, page 78, line 20, leave out <ceases to> and insert <does not>

#### **John Lamont**

- 218** In schedule 4, page 78, line 20, leave out <to a constable> and insert—

<(a)>

#### **John Lamont**

- 219** In schedule 4, page 78, leave out line 23

#### **John Lamont**

- 220** In schedule 4, page 78, line 25, at end insert—

<(b) where the necessity of a constable moving home arises in direct consequence of that constable being promoted to a higher rank on or after the appointed day.>

### **Status of SFRS**

#### **Lewis Macdonald**

- 255** In section 99, page 45, line 17, at end insert—

<( ) is to be regarded as if it is a local authority,>

### **Composition of SFRS**

#### **Roseanna Cunningham**

- 120** In section 99, page 45, line 22, leave out from <not> to end of line 23 and insert <—

## **THIS IS NOT THE MARSHALLED LIST**

- (a) a person appointed by the Scottish Ministers to chair SFRS (“the chairing member”), and
- (b) not fewer than 6 nor more than 10 other members appointed by the Scottish Ministers.>

### **Lewis Macdonald**

**256** In section 99, page 45, line 25, at end insert—

- <( ) No fewer than half 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**

**257** In section 99, page 45, line 25, 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.>

### **Jenny Marra**

**258** In section 99, page 45, line 25, at end insert—

- <( ) The Scottish Ministers must appoint to SFRS at least 1 person from persons nominated from among members of staff of SFRS.>

### **Jenny Marra**

**259** In section 99, page 45, line 25, at end insert—

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

### **Roseanna Cunningham**

**121** In section 99, page 45, line 26, leave out <(1)> and insert <(1)(b)>

### **Roseanna Cunningham**

**122** In section 99, page 45, line 28, at end insert—

- <( ) Members of SFRS may elect from their number a member to act as deputy to the chairing member.>

### **Jenny Marra**

**260** In section 99, page 45, leave out line 32

### **Roseanna Cunningham**

**123** In section 99, page 46, leave out lines 6 and 7 and insert—

- <( ) The Scottish Ministers may by order modify sub-paragraph (1).>

## **THIS IS NOT THE MARSHALLED LIST**

### **Roseanna Cunningham**

**124** In section 99, page 46, leave out lines 16 to 26

### **Roseanna Cunningham**

**125** In section 99, page 46, leave out line 30

### **Roseanna Cunningham**

**223** After section 118, insert—

#### **<Membership of SFRS: transitory provision**

- (1) Subsection (2) applies until the coming into force of section 99(1) for the purpose of inserting section 1A(2) into the 2005 Act.
- (2) Despite paragraph 2(1) of schedule 1A to the 2005 Act, SFRS may consist of—
  - (a) the chairing member, or
  - (b) the chairing member and fewer than 6 other members.>

### **First appointment of Chief Officer: terms and conditions**

#### **Lewis Macdonald**

**261** In section 99, page 47, line 25, at end insert—

- <( ) As soon as reasonably practicable after determining terms and conditions under sub-paragraph (3), the Scottish Ministers must make a statement to the Scottish Parliament setting out the reasons for the determination.>

### **SFRS governance, strategic planning and accountability**

#### **Graeme Pearson**

**262** In section 99, page 48, line 22, at end insert—

- <(1A) In considering its own procedure under sub-paragraph (1)(a), SFRS must have regard to the transparency of its proceedings, in particular it must—
- (a) hold its meetings in public,
  - (b) publish its agendas and papers,
  - (c) publish any correspondence it has with local authorities, including the Convention of Scottish Local Authorities,
  - (d) publish any correspondence it has with, and any directions it receives from, the Scottish Ministers, and
  - (e) publish any reports it receives from the Chief Officer.
- (1B) SFRS must publish a strategy setting out what steps it will take to ensure public engagement in its proceedings.

**THIS IS NOT THE MARSHALLED LIST**

- (1C) A strategy under sub-paragraph (1B) must be published within 6 months of the establishment of SFRS and must be reviewed at the end of every subsequent year.>

**Roseanna Cunningham**

- 126** In section 99, page 48, line 26, at end insert—

*<Governance and accountability*

SFRS must try to ensure that each of its members, when acting in the capacity of member—

- (a) acts consistently with any principle of good governance which appears to SFRS to constitute best practice, and
- (b) acts in a way which is as accountable and transparent as is reasonably practicable.>

**Roseanna Cunningham**

- 128** In section 99, page 50, leave out lines 11 and 12

**Roseanna Cunningham**

- 129** In section 99, page 50, leave out lines 15 and 16

**Roseanna Cunningham**

- 221** In section 112, page 55, leave out lines 5 to 7 and insert—

- <( ) Before preparing the strategic plan, SFRS must make arrangements for obtaining views on what the plan should contain from persons whom it considers likely to have an interest in how SFRS carries out its functions.
- ( ) When preparing the strategic plan, SFRS must—
  - (a) have regard to the framework document,
  - (b) send a copy of a draft plan to the persons mentioned in subsection (4),
  - (c) invite the recipients to comment on the draft plan within such reasonable period as SFRS may specify, and
  - (d) have regard to any comments received within that period.>

**Roseanna Cunningham**

- 222** In section 112, page 56, leave out lines 5 to 7 and insert—

- <( ) Before preparing a new strategic plan, SFRS must make arrangements for obtaining views on what the plan should contain from persons whom it considers likely to have an interest in how SFRS carries out its functions.
- ( ) When preparing a new strategic plan, SFRS must—
  - (a) have regard to the framework document,
  - (b) send a copy of a draft plan to the persons mentioned in section 41A(4),
  - (c) invite the recipients to comment on the draft plan within such reasonable period as SFRS may specify, and
  - (d) have regard to any comments received within that period.>

## THIS IS NOT THE MARSHALLED LIST

### **Roseanna Cunningham**

- 136 In section 114, page 59, line 19, after <report> insert—  
<( ) give a copy of the report to the Scottish Ministers,>

### **Lewis Macdonald**

- 271 In section 114, page 59, line 23, at end insert—  
<( ) the average number of members of staff of SFRS during the reporting year,>

## **Functions and powers of SFRS**

### **Jenny Marra**

- 263 In section 99, page 48, line 37, at end insert—  
<( ) Where SFRS intends to exercise the power in subparagraph (2)(a) to enter into a contract for the supply, maintenance or replacement of uniforms it must reserve the right to participate to economic operators 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**

- 264 In section 99, page 49, line 1, leave out <(2)(b)> and insert <(2)(a), (b)>

### **Roseanna Cunningham**

- 127 In section 99, page 49, line 1, after <(2)(b)> insert <or (e)>

### **Jenny Marra**

- 265 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.”>

### **Roseanna Cunningham**

- 130 In section 108, page 52, leave out lines 19 to 22

**THIS IS NOT THE MARSHALLED LIST**

**Lewis Macdonald**

**266** Leave out section 109

**Lewis Macdonald**

**267** Leave out section 110

**Lewis Macdonald**

**274** In schedule 6, page 110, line 36, leave out from <but> to <mark> in line 37 and insert <including the Scottish marine area as defined by section 1 of the Marine (Scotland) Act 2010 (asp 5)>

**Roseanna Cunningham**

**163** In schedule 7, page 115, line 40, at end insert—  
<Section 16(5) and (6).>

**Local fire and rescue plans etc.**

**Alison McInnes**

**244** In section 113, page 56, leave out lines 34 to 36 and insert—  
<( ) Priorities and objectives for SFRS in connection with the carrying out of its functions in each local authority area must be agreed between SFRS and the relevant local authority.>

**Lewis Macdonald**

**268** In section 113, page 56, line 36, at end insert—  
<( ) The Chief Officer must provide to each local authority as soon as reasonably practicable details of the resources allocated to fire and rescue services in its area as at—  
(a) 1 April 2012, and  
(b) 1 April in each subsequent year.>

**Lewis Macdonald**

**269** In section 113, page 57, line 9, at end insert—  
<( ) the number of members of staff of SFRS expected to be deployed in the local authority's area,>

**Roseanna Cunningham**

**131** In section 113, page 57, line 20, leave out <such persons as SFRS thinks fit> and insert <—  
(i) such persons as SFRS considers represent employees of SFRS, and  
(ii) such other persons as SFRS considers appropriate.>

**Roseanna Cunningham**

**132** In section 113, page 58, line 20, after <area> insert <(including reports given by reference to any local fire and rescue plan in force for the area)>

## **THIS IS NOT THE MARSHALLED LIST**

### **Roseanna Cunningham**

**133** In section 113, page 58, line 27, at end insert—

<( ) SFRS’s function in relation to the provision of feedback to it under section 41K(1),>

### **Roseanna Cunningham**

**134** In section 113, page 58, line 33, leave out from first <in> to end of line 34

### **Roseanna Cunningham**

**135** In section 113, page 59, line 2, leave out from <keep> to end of line 13 and insert <monitor and provide feedback to SFRS on the manner in which SFRS carries out its functions in the authority’s area and (in particular) may provide to SFRS—

- (a) its views on any matter concerning or connected to the manner in which SFRS carries out those functions in the authority’s area,
  - (b) any recommendations for improvements in the manner in which SFRS carries out those functions in the authority’s area that it thinks fit.
- (2) A local authority may provide feedback by reference to any local fire and rescue plan in force for its area.”.>

### **Lewis Macdonald**

**270** In section 113, page 59, line 13, at end insert—

<(3) A local authority may raise concerns with SFRS regarding the performance or conduct of the Local Senior Officer for the authority’s area.>

## **Inspectors of SFRS**

### **Graeme Pearson**

**272** In section 117, page 63, line 1, leave out from <If> to <(b),>

## **SFRS: prohibition on employment of police**

### **John Lamont**

**245** After section 117, insert—

#### **<Prohibition on employment of police**

In section 51 of the 2005 Act (prohibition on employment of police), after “constable” insert “, other than a special constable appointed under section 9 of the Police and Fire Reform (Scotland) Act 2012 (asp 00),”.>



## THIS IS NOT THE MARSHALLED LIST

### Transfer schemes: fire and rescue

#### **Lewis Macdonald**

**273** In schedule 5, page 82, line 34, at end insert—

*<Transfer of fire and rescue functions*

The Transfer of Undertakings (Protection of Employment) Regulations 2006 (S.I. 2006/246) apply to the transfer of fire and rescue functions under this Act, whether or not they would so apply apart from this paragraph.>

#### **Roseanna Cunningham**

**138** In schedule 5, page 84, line 10, leave out <appointed> and insert <transfer>

#### **Roseanna Cunningham**

**139** In schedule 5, page 84, line 31, at end insert—

<( ) A person mentioned in sub-paragraph (2)(b) or (c) must provide the Scottish Ministers with such information or assistance as they may reasonably require for the purposes of or in connection with the making of an SFRS property transfer scheme.>

#### **Roseanna Cunningham**

**140** In schedule 5, page 85, line 3, at end insert—

<( ) A joint board must provide the Scottish Ministers with such information or assistance as they may reasonably require for the purposes of or in connection with the making of a local authority property transfer scheme.>

### Parliamentary procedure for orders

#### **Kenny MacAskill**

**141** In section 120, page 64, line 19, after <121> insert <or 122>

#### **Roseanna Cunningham**

**246** In section 120, page 64, line 23, leave out <or paragraph 2(1)(b) of schedule 4> and insert <, paragraph 2(1)(b) of schedule 4 or paragraph 1 of schedule 5>

### Minor and consequential amendments and repeals

#### **Kenny MacAskill**

**224** In schedule 6, page 86, line 15, at end insert—

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

In section 51A of the Health and Safety at Work etc. Act 1974 (application of Part to police)—

(a) in subsection (2E), for paragraph (a) substitute—

“(a) section 24 of the Police and Fire Reform (Scotland) Act 2012 (asp 00);”

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- (b) in subsection (3)(b), for “each chief officer of police in Scotland” substitute “the chief constable of the Police Service of Scotland”.

### *Rehabilitation of Offenders Act 1974 (c.53)*

In section 9B of the Rehabilitation of Offenders Act 1974 (unauthorised disclosure of spent alternatives to prosecution: Scotland), in subsection (1)(a)(ii), after “court,” insert “the Police Service of Scotland or another”.>

### **Kenny MacAskill**

- 142** In schedule 6, page 86, leave out lines 16 to 22

### **Kenny MacAskill**

- 225** In schedule 6, page 86, line 22, at end insert—

### *<Slaughter of Animals (Scotland) Act 1980 (c.13)*

In section 22 of the Slaughter of Animals (Scotland) Act 1980 (interpretation), in the definition of “constable” for “Police (Scotland) Act 1967” substitute “Police and Fire Reform (Scotland) Act 2012”.

### *Law Reform (Miscellaneous Provisions) (Scotland) Act 1980 (c.55)*

In Schedule 1 to the Law Reform (Miscellaneous Provisions) (Scotland) Act 1980, in Part I, in Group B—

- (a) after paragraph (f) insert—

“(fa) members and staff of the Scottish Police Authority;”,

- (b) for paragraph (i) substitute—

“(i) constables of the Police Service of Scotland (including constables engaged on temporary service within the meaning of section 15 of the Police and Fire Reform (Scotland) Act 2012 (asp 00));”,

- (c) for paragraph (n) substitute—

“(n) persons appointed under section 26(1) of the Police and Fire Reform (Scotland) Act 2012;”,

- (d) after paragraph (w) insert—

“(wza) persons who, at any time within the 5 years immediately preceding the date at which the eligibility, in terms of section 1 of this Act, for jury service is being considered, were members or employees of the Scottish Police Services Authority;”.

### *Civic Government (Scotland) Act 1982 (c.45)*

- (1) The Civic Government (Scotland) Act 1982 is amended as follows.

- (2) In section 8 (interpretation of Parts 1 and 2)—

- (a) for paragraph (a) of the definition of “authorised civilian employee” substitute—

## THIS IS NOT THE MARSHALLED LIST

- “(a) appointed by the Scottish Police Authority under section 26(1) of the Police and Fire Reform (Scotland) Act 2012 (asp 00); and”,
- (b) for the definition of “chief constable” substitute—
- ““chief constable” means the chief constable of the Police Service of Scotland;”.
- (3) In section 61(2) (protection of insecure premises), for “police authority” substitute “Scottish Police Authority”.
- (4) In section 62(12) (notification of processions), for the definition of “chief constable” substitute—
- ““chief constable” means the chief constable of the Police Service of Scotland; and”.
- (5) In section 77(1) (financial provisions relating to lost or abandoned property) for the words from “police” where it first occurs to “1967” substitute “Scottish Police Authority”.
- (6) In section 79 (interpretation of Part 4), for the definition of “chief constable” substitute—
- ““chief constable” means the chief constable of the Police Service of Scotland;”.
- (7) In section 85(1) (financial provisions: property of persons in custody) for the words from “police” where it first occurs to “1967” substitute “Scottish Police Authority”.
- (8) In section 86(1) (interpretation of Part 7 etc.) for the words from “for” where it first occurs to the end substitute “of the Police Service of Scotland.”.
- (9) In section 86D (duty of care etc.), for “the proviso to section 17(3)(b) of the Police (Scotland) Act 1967” substitute “section 17(3)(a) of the Police and Fire Reform (Scotland) Act 2012”.
- (10) In section 86F (retention of relevant property by police authority)—
- (a) in subsection (1)—
- (i) for “a chief constable” substitute “the chief constable”,
- (ii) for “police authority” substitute “Scottish Police Authority”,
- (b) the title of the section becomes “**Retention of relevant property by Scottish Police Authority**”.
- (11) In section 86J (references in Part 7A to “chief constable”), for the words from “for” where it first occurs to the end substitute “of the Police Service of Scotland.”.
- (12) In paragraph 3 of Schedule 2 (definitions)—
- (a) in the definition of “authorised civilian employee”, for paragraph (a) substitute—
- “(a) appointed by the Scottish Police Authority under section 26(1) of the Police and Fire Reform (Scotland) Act 2012 (asp 00), and”,
- (b) for the definition of “chief constable” substitute—
- ““chief constable” means the chief constable of the Police Service of Scotland;”.
- (13) In Schedule 2A (retention and disposal of certain property)—

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- (a) in paragraph 3, for the words “the proviso in section 17(3)(b) of the Police (Scotland) Act 1967” substitute “section 17(3)(a) of the Police and Fire Reform (Scotland) Act 2012”,
- (b) in paragraph 8, for the definition of “chief constable” substitute—
  - ““chief constable” means the chief constable of the Police Service of Scotland;”.

### *Roads (Scotland) Act 1984 (c.54)*

- (1) The Roads (Scotland) Act 1984 is amended as follows.
- (2) In section 33(2) (snow gates), in the entry beginning with “constable” for the words from “sections” to “(interpretation)” substitute “section 97 of the Police and Fire Reform (Scotland) Act 2012 (asp 00)”.
- (3) In section 37(1)(a) (consultation and local inquiries as regards road humps), for the words from “officer” to “situated” substitute “constable of the Police Service of Scotland”.
- (4) In section 59(5) (control of obstructions in roads), for “police authority” substitute “Scottish Police Authority”.
- (5) In section 86 (removal of builders’ skips causing danger or obstruction)—
  - (a) in subsection (4), for “police authority” substitute “Scottish Police Authority”,
  - (b) in subsection (5), for “police authority” (in both places where it occurs) substitute “Scottish Police Authority”,
  - (c) in subsection (6), for “police authority” substitute “Scottish Police Authority”.
- (6) In section 98 (control of stray and other animals on roads)—
  - (a) in subsection (2), for “police authority” substitute “Scottish Police Authority”,
  - (b) in subsection (3), for “police authority” substitute “Scottish Police Authority”,
  - (c) in subsection (4), for “police authority” substitute “Scottish Police Authority”.
- (7) After section 120, insert—

#### **“120A Delegation by the Scottish Police Authority**

- (1) The Scottish Police Authority may delegate to the chief constable of the Police Service of Scotland any of its functions under the sections mentioned in subsection (2).
- (2) The sections are—
  - (a) section 59;
  - (b) section 86; and
  - (c) section 98.”.

### *Prisons (Scotland) Act 1989 (c.45)*

In section 14 of the Prisons (Scotland) Act 1989 (legalised police cells)—

- (a) in subsection (1)—
  - (i) for “a police authority” substitute “the Scottish Police Authority”,

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- (ii) for “police authority” where it second occurs substitute “Scottish Police Authority”,
- (b) in subsection (3), in the proviso, for “police authority” substitute “Scottish Police Authority”,
- (c) in subsection (4), for “police authority” substitute “Scottish Police Authority”,
- (d) in subsection (5), for the words from “police” to “cells” substitute “Scottish Police Authority”.

### *Criminal Justice and Public Order Act 1994 (c.33)*

- (1) The Criminal Justice and Public Order Act 1994 is amended as follows.
- (2) In section 102(5) (arrangements for the provision of prisoner escorts), for “prescribed under section 9(1A)(b) of the Police (Scotland) Act 1967 (c.77)” substitute “under section 28 of the Police and Fire Reform (Scotland) Act 2012 (asp 00)”.
- (3) In section 163 (local authority powers to provide closed-circuit television)—
  - (a) in subsection (3), after “area” insert “or, in Scotland, the local commander designated for the local authority’s area”,
  - (b) in subsection (4), after the definition of “local authority” insert—

““local commander” has the meaning given by section 45 of the Police and Fire Reform (Scotland) Act 2012 (asp 00);”.

### *Local Government etc. (Scotland) Act 1994 (c.39)*

In section 150(1) of the Local Government etc. (Scotland) Act 1994 (traffic signs), for “chief officer of police for the area concerned” substitute “chief constable of the Police Service of Scotland”.

### *Children (Scotland) Act 1995 (c.36)*

- (1) The Children (Scotland) Act 1995 is amended as follows.
- (2) In section 78 (powers of arrest etc. in relation to exclusion order)—
  - (a) in subsection (4)—
    - (i) paragraphs (a) and (b) are repealed, and
    - (ii) after “delivered” insert “to the chief constable of the Police Service of Scotland”,
  - (b) in subsection (5), for “each chief constable specified in subsection (4) above” substitute “the chief constable of the Police Service of Scotland”.
- (3) In section 93(1) (interpretation of Part II), in the definition of “constable” for “a police force within the meaning of the Police (Scotland) Act 1967” substitute “the Police Service of Scotland”.>

### **Kenny MacAskill**

**226** In schedule 6, page 86, line 27, at end insert—

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- <( ) In section 18(4)(b) (prints, samples etc. in criminal investigations), for “any police force” substitute “the Police Service of Scotland”.
- ( ) In section 18A (retention of samples etc.: prosecutions for sexual and violent offences)—
  - (a) in subsection (5), for “relevant chief constable” substitute “chief constable of the Police Service of Scotland”,
  - (b) in subsection (11), the definition of “the relevant chief constable” is repealed.
- ( ) In section 18C (section 18B: extension of retention period where relevant offer relates to certain sexual or violent offences)—
  - (a) in subsection (2), for “relevant chief constable” substitute “chief constable of the Police Service of Scotland”,
  - (b) in subsection (11), the definition of “the relevant chief constable” is repealed.
- ( ) In section 18F (retention of samples etc. relating to children: appeals)—
  - (a) in subsection (1), for “relevant chief constable” substitute “chief constable of the Police Service of Scotland”,
  - (b) in subsection (10), the definition of “the relevant chief constable” is repealed.
- ( ) In section 19(4)(b) (prints, samples etc. in criminal investigations: supplementary provisions), for “police force which instructed the analysis” substitute “Police Service of Scotland”.
- ( ) In section 19C (use of certain samples etc.)—
  - (a) in subsection (1)(e)—
    - (i) for paragraph (i) substitute—

“(i) the Police Service of Scotland (“the Police Service”),”,
    - (ii) in paragraph (ii), for “Services Authority” substitute “Authority (“the Authority”),”,
    - (iii) in paragraph (iii), for “a police force” substitute “the Police Service or the Authority”,
  - (b) in subsection (4), for the words from “a” where it first occurs to “force” where it third occurs substitute “the Police Service, the Authority or a person acting on behalf of the Police Service or the Authority, the Police Service”,
  - (c) in subsection (5), for the words from “A” to “force” where it second occurs substitute “The Police Service, the Authority or a person acting on behalf of the Police Service or the Authority”.
- ( ) In section 194I(4) (power of Scottish Criminal Cases Review Commission to obtain documents), in the definition of “public body”, for paragraph (a) substitute—

“(a) the Police Service of Scotland;”.
- ( ) In section 307(1) (interpretation)—
  - (a) in the definition of “constable”, for “Police (Scotland) Act 1967” substitute “Police and Fire Reform (Scotland) Act 2012”,
  - (b) in the definition of “officer of law”, for paragraph (c) substitute—

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“(c) any person who is appointed under section 26 of the Police and Fire Reform (Scotland) Act 2012 who is either authorised by the chief constable of the Police Service of Scotland in relation to such service and execution or is a police custody and security officer;”.

- ( ) In Schedule 9 (certificates as to proof of certain routine matters), in the entry for the Firearms Act 1968 (c.27), in the second column, for “police force maintained for the authority’s area” substitute “Police Service of Scotland”.

### *Police Act 1996 (c.16)*

- (1) The Police Act 1996 is amended as follows.
- (2) In section 59(2) (police federations), for “section 26(2A) of the Police (Scotland) Act 1967” substitute “under section 49 of the Police and Fire Reform (Scotland) Act 2012 in so far as relating to the matters described in section 53 of that Act.”.
- (3) In section 60(2) (regulations for police federations)—
  - (a) in paragraph (c), for “police authorities” substitute “the Scottish Police Authority”,
  - (b) in paragraph (d), for “police authorities” substitute “the Scottish Police Authority”,
  - (c) in paragraph (e), for “26 of the Police (Scotland) Act 1967” substitute “49 of the Police and Fire Reform (Scotland) Act 2012”.
- (4) In section 62(1A)(a) (functions of the Board with respect to regulations), for “26 or 27 of the Police (Scotland) Act 1967” substitute “49 of the Police and Fire Reform (Scotland) Act 2012”.
- (5) In section 99(1) (jurisdiction of metropolitan police officers), for “a police force maintained under the Police (Scotland) Act 1967” substitute “the Police Service of Scotland”.

### *Police Act 1997 (c.50)*

- (1) The Police Act 1997 is amended as follows.
- (2) In section 93 (authorisations to deal with property etc.)—
  - (a) in subsection (3)—
    - (i) after paragraph (za) insert—

“(zb) if the authorising officer is within subsection (5)(d), by a constable of the Police Service of Scotland;”
    - (ii) in paragraph (a), for “(5)(d) to” substitute “(5)(e),”,
    - (iii) after paragraph (e) insert—

“(ea) if the authorising officer is within subsection (5)(ia), by a staff officer of the Police Investigations and Review Commissioner;”
  - (b) after subsection (3A) insert—

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- “(3ZA)An authorisation under this section may be given by the authorising officer within subsection (5)(ia) only where it relates to the taking of action in pursuance of paragraph (b)(i) of section 33A(1) of the Police, Public Order and Criminal Justice (Scotland) Act 2006.”,
- (c) in subsection (5)—
- (i) for paragraph (d) substitute—
- “(d) the chief constable of the Police Service of Scotland, or any deputy chief constable or assistant chief constable of the Police Service of Scotland who is designated for the purposes of this paragraph by the chief constable;”,
- (ii) after paragraph (i) insert—
- “(ia) the Police Investigations and Review Commissioner.”.
- (d) in subsection (6)(b), for the words from “of” to “maintained” substitute “or (ia) of subsection (5), means Scotland”.
- (3) In section 94 (authorisations given in absence of authorising officer)—
- (a) in subsection (1)(b), for “, (c) or (d)” substitute “or (c)”,
- (b) in subsection (2), after paragraph (g) insert—
- “(ga) where the authorising officer is within paragraph (ia) of that subsection, by a staff officer of the Police Investigations and Review Commissioner who is designated by the Commissioner for the purposes of this section;”.
- (4) In section 95 (authorisations: form and duration etc.)—
- (a) in subsection (6), for “or (e),” substitute “(d), (e)”,
- (b) in subsection (7), for “, (c), (d) or (j)” substitute “or (c)”.
- (5) In section 105(3) (appeals), for “, (c) or (d)” substitute “or (c)”.
- (6) In section 107(4) (supplementary provisions)—
- (a) in paragraph (a), for “police authority” substitute “the Scottish Police Authority”,
- (b) after paragraph (b) insert—
- “(bza)the functions of the Police Investigations and Review Commissioner under section 33A(1)(b)(i) of the Police, Public Order and Criminal Justice (Scotland) Act 2006.”.
- (7) In section 120A(4) (refusal and cancellation of registration), for “A chief constable of a police force in Scotland” substitute “The chief constable of the Police Service of Scotland”.
- (8) In section 126 (interpretation of Part 5)—
- (a) in the definition of “chief officer”, for sub-paragraph (ii) substitute—
- “(ii) the chief constable of the Police Service of Scotland, and”,
- (b) in the definition of “police authority”, for sub-paragraph (i) substitute—
- “(i) the Scottish Police Authority, and”.>



## THIS IS NOT THE MARSHALLED LIST

### Kenny MacAskill

- 227 In schedule 6, page 87, line 4, after <Service> insert <and any other senior officer of the Police Service who is designated by the chief constable for the purposes of this section>

### Kenny MacAskill

- 228 In schedule 6, page 87, line 12, leave out lines 12 to 16 and insert—

<( ) for subsection (2) substitute—

“(2) An authorisation for the carrying out of intrusive surveillance shall not be granted by the chief constable or any other senior officer of the Police Service except on an application by a constable of the Police Service.”.>

### Kenny MacAskill

- 229 In schedule 6, page 87, line 38, leave out from beginning to end of line 22 on page 88

### Kenny MacAskill

- 230 In schedule 6, page 89, line 2, leave out from <“The> to end of line 9 and insert <“A person who granted an authorisation for the carrying out of intrusive surveillance”,

( ) in subsection (1)(a), for the words from “an”, where second occurring, to “surveillance” substitute “the authorisation”,

( ) in subsection (1)(b), for “such an” substitute “the”,

( ) after subsection (1) insert—

“(1A) Where an authorisation for the carrying out of intrusive surveillance is granted by a senior officer of the Police Service designated by the chief constable under section 10(1A)(a), the chief constable shall also be entitled to appeal under this section.

(1B) Where an authorisation for the carrying out of intrusive surveillance is granted by a staff officer designated by the Police Investigations and Review Commissioner under section 12ZA(2), the Commissioner shall also be entitled to appeal under this section.”.>

### Kenny MacAskill

- 231 In schedule 6, page 89, leave out lines 16 to 21 and insert—

<( ) In section 20 (cancellation of authorisations)—

(a) after subsection (2) insert—

“(2A) Where an authorisation under this Act was granted or, as the case may be, last renewed by a senior officer of the Police Service and it is not reasonably practicable for that senior officer to cancel it under subsection (1) above, any senior officer of the Police Service designated by the chief constable for the purposes of section 10 above may cancel the authorisation if satisfied as to either of the matters mentioned in subsection (1) above.

## THIS IS NOT THE MARSHALLED LIST

- (2B) Where an authorisation under this Act was granted or, as the case may be, last renewed by the Police Investigations and Review Commissioner and it is not reasonably practicable for the Commissioner to cancel it under subsection (1) above, any person designated by the Commissioner for the purposes of section 12ZA above may cancel the authorisation if satisfied as to either of the matters mentioned in subsection (1) above.”.>

### **Kenny MacAskill**

- 232** In schedule 6, page 89, line 38, at end insert—

<( ) after the definition of “residential premises” insert—

““senior officer” has the same meaning as in the Police and Fire Reform (Scotland) Act 2012 (asp 00);”>

### **Kenny MacAskill**

- 143** In schedule 6, page 90, line 13, leave out <15(4)> and insert <15(3)>

### **Kenny MacAskill**

- 144** In schedule 6, page 90, line 33, at end insert—

<( ) in paragraph 6, for “Chief Inspector” substitute “Inspectors”,>

### **Kenny MacAskill**

- 147** In schedule 6, page 98, line 28, at end insert—

<( ) In section 52(1) (application for football banning order)—

(a) in the opening words, for “a police force” substitute “the Police Service of Scotland”,

(b) paragraphs (a) and (b) are repealed.

( ) In section 57(3) (variation of football banning order)—

(a) in paragraph (b), for the words from “police” to “resides” substitute “Police Service of Scotland”,

(b) paragraphs (c) and (d) are repealed.

( ) In section 69(1) (interpretation), in the definition of “the football banning orders authority”, for the words from “police force” to “area” substitute “Police Service of Scotland”.>

### **Kenny MacAskill**

- 150** In schedule 6, page 101, line 12, at end insert—

<*Protection of Vulnerable Groups (Scotland) Act 2007 (asp 14)*

(1) The Protection of Vulnerable Groups (Scotland) Act 2007 is amended as follows.

(2) In section 18 (police information etc.)—

(a) in subsection (1)—

(i) the words “of a police force or the Scottish Crime and Drug Enforcement Agency” are repealed,

## THIS IS NOT THE MARSHALLED LIST

- (ii) the words “or the Scottish Crime and Drug Enforcement Agency” (where second occurring) are repealed,
  - (b) in subsection (2)—
    - (i) for “A person” substitute “The chief constable”,
    - (ii) for “person”, where second occurring, substitute “chief constable”,
  - (c) in subsection (3), for “appropriate police authority or the Scottish Police Services Authority” substitute “Scottish Police Authority”.
- (3) In section 38 (police access to lists of individuals barred from regulated work)—
- (a) in subsection (1), for the words from “chief” to “Agency” substitute “the chief constable”,
  - (b) in subsection (2), for the words from “police” to “Agency” substitute “constables of the Police Service of Scotland”.
- (4) In section 75 (sources of information)—
- (a) in subsection (2), for the words from “A” to “Agency” substitute “The chief constable”,
  - (b) in subsection (3)—
    - (i) for “A person” substitute “The chief constable”,
    - (ii) for “person”, where second occurring, substitute “chief constable”,
  - (c) in subsection (4), for the words “appropriate police authority or the Scottish Police Services Authority” substitute “Scottish Police Authority”.
- (5) In section 76 (police access to scheme information)—
- (a) in subsection (1)—
    - (i) in the opening words, for the words from “chief” to “Agency” substitute “the chief constable”,
    - (ii) in paragraph (c), for the words from “police forces” to “Agency” substitute “constables of the Police Service of Scotland”,
  - (b) in subsection (2) the words from “police forces” to “Agency” substitute “constables of the Police Service of Scotland”.
- (6) In section 97 (interpretation)—
- (a) in the definition of “chief constable”, for “a police force in Scotland” substitute “the Police Service of Scotland”,
  - (b) the definition of “police authority” is repealed.>

### **Kenny MacAskill**

**151** In schedule 6, page 102, line 10, leave out <Service>

### **Kenny MacAskill**

**152** In schedule 6, page 102, leave out lines 33 to 38

### **Kenny MacAskill**

**153** In schedule 6, page 103, line 2, leave out from beginning to <(4)(a)> in line 3 and insert—

## THIS IS NOT THE MARSHALLED LIST

<(1) The Criminal Justice and Licensing (Scotland) Act 2010 is amended as follows.

(2) In section 117(4)(a) (meaning of “investigating agency”)>

### **Kenny MacAskill**

**154** In schedule 6, page 103, line 4, at end insert—

<(3) In section 164(3) (persons to have regard to code of practice on disclosure), for paragraph (a) substitute—

“(a) constables of the Police Service of Scotland.”.>

### **Roseanna Cunningham**

**155** In schedule 6, page 106, line 9, at end insert—

<*Vehicle Excise and Registration Act 1994 (c.22)*

In Schedule 2 to the Vehicle Excise and Registration Act 1994 (exempt vehicles)—

(a) in paragraph 4(2)(b), for “a relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5))” substitute “the Scottish Fire and Rescue Service”, and

(b) in paragraph 5—

(i) for “a relevant authority (as defined in section 6 of the Fire (Scotland) Act 2005 (asp 5))” substitute “the Scottish Fire and Rescue Service”, and

(ii) for “authority’s” substitute “Scottish Fire and Rescue Service’s”.>

### **Roseanna Cunningham**

**156** In schedule 6, page 109, leave out lines 24 to 27 and insert—

<( ) for subsection (6), substitute—

“(6) Those persons are—

(a) SFRS,

(b) such persons as the Scottish Ministers consider represent employees of SFRS,

(c) such persons as the Scottish Ministers consider represent local authorities, and

(d) such other persons as the Scottish Ministers consider appropriate.”.>

### **Roseanna Cunningham**

**157** In schedule 6, page 110, line 34, after <Act> insert—

<“local authority” means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994 (c.39); and “area” in relation to a local authority, means the local government area for which the authority is constituted,>

### **Roseanna Cunningham**

**158** In schedule 6, page 111, line 8, at end insert—

<*Corporate Manslaughter and Corporate Homicide Act 2007 (c.19)*

## THIS IS NOT THE MARSHALLED LIST

In section 6(2) of the Corporate Manslaughter and Corporate Homicide Act 2007 (duty of care for certain organisations in emergencies), for paragraph (b) substitute—

“(b) the Scottish Fire and Rescue Service;”.>

### Kenny MacAskill

233 In schedule 6, page 112, line 17, at end insert—

<Local Government etc. (Scotland) Act 1994 (c.39)

In section 43(4) of the Local Government etc. (Scotland) Act 1994 (consultation on guidance as to exercise of traffic powers)—

(a) after “consult” insert—

“(a)”, and

(b) for the words from “and”, where it first occurs, to the end substitute—

“(b) the chief constable of the Police Service of Scotland,

(c) the Scottish Fire and Rescue Service, and

(d) the authorities for the areas to which the guidance relates.”.>

### Kenny MacAskill

234 In schedule 7, page 113, line 8, at end insert—

<Local Government (Scotland) Act 1973 (c.65) Section 56(9)(b).  
Section 63.  
Section 64(7).  
Section 236(2)(g).

Social Work (Scotland) Act 1980 (c.49) In section 94, the definition of “constable”.

Criminal Justice (Scotland) Act 1980 (c.62) In section 81(1), the definition of “constable”.

Civic Government (Scotland) Act 1982 (c.45) Section 77(2).  
Section 85(2).  
Section 86F(4).

Prisons (Scotland) Act 1989 (c.45) In section 14(4), the words “in their area”.  
Section 14(7).

The Criminal Justice and Public Order Act 1994 (c.33) In section 163(4), the definition of “chief officer of police”.

Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c.40) In Schedule 2, Part III, the entries relating to the Police (Scotland) Act 1967 (c.77).

Criminal Procedure (Scotland) Act 1995 (c.46) In section 194I(4), the definition of “police force”.  
Section 280(5)(b)(i) and (iii).>

### Kenny MacAskill

235 In schedule 7, page 113, line 11, leave out <62(1A)> and insert <60A.

Section 61(1)(ca), (cb), (cc), (cd) and (6).

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Section 62(1A)(b), (1AA), (1AB) and (1AC).  
In section 62(2), the words “, or for the purposes  
of subsection (1AA) or (1AC) above,”.>

**Kenny MacAskill**

**236** In schedule 7, page 113, line 13, at end insert—

<Section 64(4E) and (4F).>

**Kenny MacAskill**

**237** In schedule 7, page 113, line 13, at end insert—

<Crime and Punishment (Scotland) Act 1997 Section 45 and 46.  
(c.48) Section 63(1)(a)(iii).

Police Act 1997 (c.50)

Section 93(3)(f), (3B) to (3E), (5)(j) and (6)(cc).  
In section 94(2)(a), the words “or (d)”.  
Section 94(2)(h), (4)(aa) and (5) to (7).  
Section 107(4)(ba).>

**Kenny MacAskill**

**238\*** In schedule 7, page 113, line 22, leave out <Section> and insert <Sections 12 and>

**Kenny MacAskill**

**239** In schedule 7, page 113, line 24, at end insert—

<Section 16(2) and (7)>

**Kenny MacAskill**

**240** In schedule 7, page 113, line 26, leave out <20(6)(b)> and insert <20(3), (6) and (7)>

**Kenny MacAskill**

**159** In schedule 7, page 113, line 37, leave out <paragraph> and insert <paragraphs 1(b) and>

**Kenny MacAskill**

**160** In schedule 7, page 113, line 40, leave out <Section 46.> and insert—

<In section 46(1), the words “or a joint police  
board”.

In section 46(3)(a), the words “or, as the case may  
be, board”.

In section 46(3)(b), the words “or board” and “or,  
as the case may be, board”.>

**Kenny MacAskill**

**161** In schedule 7, page 114, line 26, at end insert—

<In schedule 4, paragraph 2(1)(f).>

## THIS IS NOT THE MARSHALLED LIST

### **Kenny MacAskill**

**162** In schedule 7, page 114, line 28, after <for> insert <“constable”,>

### **Roseanna Cunningham**

**164** In schedule 7, page 116, line 8, at end insert—

<In section 79(1), the definition of “local authority”.>

### **Kenny MacAskill**

**241** In schedule 7, page 116, line 23, at end insert—

<Local Government etc. (Scotland) Act 1994 Section 8(5).  
(c.39)

In Section 8(7), the definitions of “fire personnel”  
and “police personnel”.

Section 55(7).

In section 55(12), the words from “any” to  
“1967”.>

### **Full business case**

### **David McLetchie**

**211** In section 124, page 65, line 9, at end insert—

<( ) Before making an order under subsection (2) the Scottish Ministers must publish a full  
business case for the implementation of the provisions of this Act.>

