

# Police and Fire Reform (Scotland) Bill

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## 1st Marshalled List of Amendments for Stage 2

The Bill will be considered in the following order—

Section 1	Schedule 1
Sections 2 to 28	Schedule 2
Sections 29 to 57	Schedule 3
Sections 58 to 95	Schedule 4
Sections 96 to 118	Schedule 5
Sections 119 to 123	Schedules 6 and 7
Sections 124 and 125	Long Title

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

### Section 1

#### John Finnie

- 165 In section 1, page 1, line 8, after <Authority> insert <or, in Gaelic, Ùghdarras Poilis na h-Alba>

### Schedule 1

#### Lewis Macdonald

- 177 In schedule 1, page 66, line 7, at end insert—  
<( ) is to be regarded as if it is a local authority,>

#### Kenny MacAskill

- 1 In schedule 1, page 66, line 12, leave out from <not> to end of line 13 and insert—  
<(a) a person appointed by the Scottish Ministers to chair the Authority (“the chairing member”), and  
(b) not fewer than 6 nor more than 10 other members appointed by the Scottish Ministers.>

#### Alison McInnes

- 1A As an amendment to amendment 1, line 2, leave out <the Scottish Ministers> and insert <Her Majesty on the nomination of the Scottish Parliament>

#### Lewis Macdonald

- 1B As an amendment to amendment 1, line 4, leave out <6 nor more than 10> and insert <14>

**David McLetchie**

**1C** As an amendment to amendment 1, line 4, leave out <6> and insert <15>

**David McLetchie**

**1D** As an amendment to amendment 1, line 4, leave out <10> and insert <19>

**Lewis Macdonald**

**178** In schedule 1, page 66, line 13, at end insert—

- <( ) No fewer than half 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.>

**Lewis Macdonald**

**179** In schedule 1, page 66, line 15, 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.>

**Jenny Marra**

**180** In schedule 1, page 66, line 15, at end insert—

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

**David McLetchie**

**181** In schedule 1, page 66, line 15, at end insert—

- <( ) In appointing members, the Scottish Ministers must have regard to the desirability of ensuring that membership includes, but is not limited to, people who—
  - (a) are members of a local authority,
  - (b) as far as possible adequately represent the regions of Scotland,
  - (c) have no other current or previous direct connection to policing.>

**Kenny MacAskill**

**2** In schedule 1, page 66, line 16, leave out <(1)> and insert <(1)(b)>

**Kenny MacAskill**

**3** In schedule 1, page 66, line 18, at end insert—

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

**Kenny MacAskill**

- 4 In schedule 1, page 67, leave out lines 25 to 35

**Kenny MacAskill**

- 5 In schedule 1, page 68, leave out line 2

**Lewis Macdonald**

- 182 In schedule 1, page 68, line 31, leave out from beginning to <party> in line 32

**Graeme Pearson**

- 183 In schedule 1, page 70, line 7, at end insert—

<(1A) In considering its own procedure under sub-paragraph (1)(a), the Authority 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 constable.

(1B) The Authority must publish a strategy setting out what steps it will take to ensure public engagement in its proceedings.

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

**David McLetchie**

- 184 In schedule 1, page 70, line 7, at end insert—

<(1A) Sub-paragraph (1) is subject to sub-paragraph (1B).

(1B) The Authority must, except in circumstances which it has specified in standing orders—

(a) hold its meetings in public, and

(b) publish the agenda and papers for its meetings.>

**Lewis Macdonald**

- 185 In schedule 1, page 70, line 16, after <determine> insert <, except its powers under section 14(1),>

**Section 2**

**Lewis Macdonald**

- 186 In section 2, page 1, line 18, leave out <try to>

**David McLetchie**

- 187 In section 2, page 1, line 19, after <transparent> insert <, involves local authorities wherever possible>

**Section 4**

**Lewis Macdonald**

- 188 In section 4, page 2, line 10, at end insert—  
<( ) hold reserves,>

**Jenny Marra**

- 189 In section 4, page 2, line 14, at end insert—  
<( ) Where the Authority intends to exercise the power in subsection (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**

- 190 In section 4, page 2, line 15, leave out <(2)(b)> and insert <(2)(a), (b)>

**Kenny MacAskill**

- 6 In section 4, page 2, line 15, after <(2)(b)> insert <or (e)>

**Lewis Macdonald**

- 191 In section 4, page 2, line 30, at end insert—  
<( ) In exercising the power to enter into a contract, the Authority must have regard to any guidance issued to local authorities by the Scottish Ministers under section 52 of the Local Government in Scotland Act 2003.>

**Section 5**

**David McLetchie**

- 192 In section 5, page 2, line 33, 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).>

**Alison McInnes**

- 166 In section 5, page 3, line 4, at end insert—

<( ) Any direction given under this section with respect to the use by the Police Service of firearms, including electric shock dart guns (tasers), is to be made by order.>

## Section 6

### John Finnie

167 In section 6, page 3, line 11, after <Scotland> insert <(or, in Gaelic, Seirbheis Phoilis na h-Alba)>

## Section 7

### Lewis Macdonald

193 In section 7, page 3, line 22, at end insert—

<( ) The first appointment of a chief constable under subsection (1)(a) must be made at least 6 months 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).>

## Section 10

### John Finnie

168 In section 10, page 4, line 6, after <impartiality,> insert <and that I will uphold fundamental human rights and accord equal respect to all people,>

## Section 11

### Kenny MacAskill

7 In section 11, page 4, line 27, leave out <assistant>

### Kenny MacAskill

8 In section 11, page 4, line 27, at end insert—

<( ) Regulations made under subsection (5) may make such provision in consequence of the addition or removal of a rank as the Scottish Ministers consider appropriate including (in particular) provision—

- (a) creating or removing an office corresponding to the rank,
- (b) relating to the functions of senior officers,
- (c) modifying this or any other enactment.>

### John Finnie

169 In section 11, page 4, line 31, leave out <representative committees> and insert <joint central committee>

## Section 14

### Kenny MacAskill

- 9 In section 14, page 5, line 15, after <to> insert <resign or, where appropriate,>

### Kenny MacAskill

- 10 In section 14, page 5, line 16, at end insert <of the Police Service>

### Kenny MacAskill

- 11 In section 14, page 5, line 17, after <to> insert <resign or>

### Kenny MacAskill

- 12 In section 14, page 5, line 19, leave out <an> and insert <a written>

### Kenny MacAskill

- 13 In section 14, page 5, line 20, after <to> insert <resign or>

### Kenny MacAskill

- 14 In section 14, page 5, line 21, after <make> insert <written>

### Kenny MacAskill

- 15 In section 14, page 5, line 22, after <any> insert <written>

### Kenny MacAskill

- 16 In section 14, page 5, line 23, after second <to> insert <resign or>

### Kenny MacAskill

- 17 In section 14, page 5, line 24, at end insert—

<( ) Where—

- (a) a senior officer is called on to resign or retire, and
- (b) the officer has made written representations under subsection (2)(a)(ii),  
the Authority must provide the officer with written reasons for its decision.>

### Kenny MacAskill

- 18 In section 14, page 5, line 25, after <to> insert <resign or>

### Kenny MacAskill

- 19 In section 14, page 5, line 25, leave out second <retire> and insert <do so>

**Kenny MacAskill**

- 20 In section 14, page 5, line 26, after <to> insert <resign or>

**Section 15**

**Kenny MacAskill**

- 21 In section 15, page 5, line 31, leave out <in> and insert <on temporary>

**Kenny MacAskill**

- 22 In section 15, page 5, line 31, at end insert—

<( ) A constable on temporary service outwith the Police Service—

- (a) is to continue to hold the office of constable, and
- (b) except where contrary provision is made by regulations under subsection (2) or by or under any other enactment, is to continue to—
  - (i) have all the functions conferred on a constable by virtue of this or any other enactment or by rule of law,
  - (ii) have the powers and privileges of a constable throughout Scotland, and
  - (iii) be under the direction and control of the chief constable in relation to the constable's performance of policing functions.>

**Kenny MacAskill**

- 23 In section 15, page 5, line 33, leave out from <service> to end of line 35 and insert <temporary service in respect of which a constable—

- (i) may not be engaged in pursuance of subsection (1),
- (ii) may be so engaged only with the consent of the Authority or the Scottish Ministers (or both),
- (iii) is not to have any of the functions, powers or privileges of a constable,
- (iv) is not to be under the direction and control of the chief constable, and>

**Kenny MacAskill**

- 24 In section 15, page 6, line 1, leave out subsection (3)

**Kenny MacAskill**

- 25 In section 15, page 6, line 7, leave out <applying> and insert <modifying>

**Kenny MacAskill**

- 26 In section 15, page 6, line 9, leave out <, with such modifications as are considered appropriate,>

**Kenny MacAskill**

- 27 In section 15, page 6, line 21, leave out from <or> to end of line 22

## Section 17

### Kenny MacAskill

28 In section 17, page 7, line 20, leave out <, annual police plans>

### Kenny MacAskill

29 In section 17, page 7, line 21, leave out <36> and insert <34(3A)>

### Kenny MacAskill

30 In section 17, page 7, line 21, at end insert—  
<( ) is to prepare annual police plans (see section 35),>

### Kenny MacAskill

31 In section 17, page 8, line 11, leave out from beginning to <plan,>

## Section 18

### Kenny MacAskill

32 In section 18, page 8, line 25, leave out subsection (4)

### Kenny MacAskill

33 In section 18, page 8, line 30, leave out <or, as the case may be, assistant chief constable>

## Section 19

### Kenny MacAskill

34 In section 19, page 8, line 36, leave out <An individual holding the office of> and insert <A>

## Section 22

### John Finnie

170 In section 22, page 10, line 2, leave out <5> and insert <2>

## Section 26

### Lewis Macdonald

194 In section 26, page 11, line 24, leave out <individuals> and insert <police staff>

### Lewis Macdonald

195 In section 26, page 11, line 24, leave out <constables>

**Lewis Macdonald**

- 196 In section 26, page 11, line 26, leave out subsection (2)

**Lewis Macdonald**

- 197 In section 26, page 11, line 26, leave out <Individuals> and insert <Police staff>

**Section 28**

**Lewis Macdonald**

- 198\* In section 28, page 12, line 6, leave out <assist constables by carrying> and insert <carry>

**Section 29**

**Lewis Macdonald**

- 199 In section 29, page 12, line 29, at end insert—  
<( ) Where a certificate is revoked under subsection (2), the chief constable must report such a decision to the Authority.>

**Section 31**

**Kenny MacAskill**

- 35 In section 31, page 13, line 6, after <Service,> insert <the Police Investigations and Review Commissioner and>

**Kenny MacAskill**

- 36 In section 31, page 13, line 7, leave out from <(and)> to end of line 8

**Section 33**

**Kenny MacAskill**

- 37 In section 33, page 13, line 26, at end insert—  
<( ) the chief constable,>

**Alison McInnes**

- 171 In section 33, page 13, line 27, leave out from <such> to <authorities> and insert <each local authority>

**Lewis Macdonald**

- 200 In section 33, page 13, line 27, leave out from <such> to <authorities> and insert <the Convention of Scottish Local Authorities>

**Alison McInnes**

172 In section 33, page 13, line 28, at end insert—

<( ) As soon as reasonably practicable after completing consultation under subsection (3), the Scottish Ministers must make a statement to the Scottish Parliament setting out the reasons for any strategic police priorities they propose to determine.>

**Kenny MacAskill**

38 In section 33, page 13, line 32, at end insert—

<( ) The Scottish Ministers must lay a copy of the strategic police priorities before the Scottish Parliament.>

**Section 34**

**Kenny MacAskill**

39 In section 34, page 14, line 11, at end insert—

<(3A) The Authority must involve the chief constable in the preparation of a strategic police plan and the chief constable must provide the Authority with such assistance as it may reasonably require in that regard.>

**Section 35**

**Kenny MacAskill**

40 In section 35, page 15, line 4, leave out <Authority> and insert <chief constable>

**Kenny MacAskill**

41 In section 35, page 15, leave out line 8

**Kenny MacAskill**

42 In section 35, page 15, line 11, after <objectives> insert <for the policing of Scotland>

**Kenny MacAskill**

43 In section 35, page 15, line 13, leave out from <the> to <Authority> in line 14 and insert <policing which the chief constable>

**Kenny MacAskill**

44 In section 35, page 15, line 14, at end insert—

<( ) When preparing an annual police plan, the chief constable must—

- (a) send a copy of a draft plan to the Authority,
- (b) invite the Authority to comment on the draft plan within such reasonable period as the chief constable may specify, and
- (c) have regard to any comments received within that period.>

**Kenny MacAskill**

- 45 In section 35, page 15, line 15, leave out <Authority> and insert <chief constable>

**Kenny MacAskill**

- 46 In section 35, page 15, line 17, leave out <Authority> and insert <chief constable>

**Kenny MacAskill**

- 47 In section 35, page 15, line 18, leave out <Authority> and insert <chief constable>

**Section 36**

**Kenny MacAskill**

- 48 Leave out section 36

**Section 40**

**Lewis Macdonald**

- 201 In section 40, page 17, line 21, after <Scotland,> insert—  
<( ) the average number of constables and police staff employed during the reporting year in the policing of Scotland,>

**Kenny MacAskill**

- 49 In section 40, page 17, line 24, after <contain> insert <—  
(a)>

**Kenny MacAskill**

- 50 In section 40, page 17, line 29, at the beginning insert <an assessment of the performance by the Police Service during the reporting year>

**Kenny MacAskill**

- 51 In section 40, page 17, line 31, leave out subsection (4) and insert—  
<(4) The chief constable must—  
(a) within 3 months of the end of a reporting year, provide the Authority with a report setting out the chief constable’s assessment of the Police Service’s performance during that reporting year in the policing of Scotland, and  
(b) provide the Authority with such other assistance as it may reasonably require in relation to the preparation of an annual report.  
(4A) A report provided by the chief constable under subsection (4)(a) must, in particular, contain the chief constable’s assessment of the Police Service’s performance during the reporting year concerned—

- (a) in achieving, or in working towards achieving, the main objectives for the policing of Scotland set out in the most recently approved strategic police plan (by reference, where appropriate, to outcomes identified in that plan), and
- (b) in implementing the proposed arrangements set out in the annual police plan for the reporting year concerned.>

### **Section 41**

#### **Kenny MacAskill**

- 52** In section 41, page 18, line 16, leave out subsections (5) and (6)

### **After section 43**

#### **David McLetchie**

- 202** After section 43, insert—

**<Audit of Police Service costs**

- (1) 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.
- (2) The Auditor General must—
  - (a) report the results to the Scottish Parliament and the Authority, and
  - (b) publish the results.>

### **Section 45**

#### **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.>

### **Section 46**

#### **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.>

#### **Jenny Marra**

- 204** In section 46, page 19, line 20, 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.>

**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.>

**Section 47**

**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”.
- (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.>

## Section 48

### 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.
- (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.>

**Section 53**

**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.>

**Section 55**

**Kenny MacAskill**

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

**John Finnie**

- 174 In section 55, page 23, line 22, leave out <representative committees> and insert <joint central committee>

**Section 60**

**Kenny MacAskill**

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

### Section 63

#### Kenny MacAskill

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

#### 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

### Section 65

#### 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)>

### Section 66

#### 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
  - (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,>

**Section 67**

**Kenny MacAskill**

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

**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;>

**Section 68**

**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.>

**Section 69**

**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>

**Section 70**

**Kenny MacAskill**

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

**After section 70**

**Kenny MacAskill**

**Supported by: Alison McInnes**

86 After section 70, insert—

**<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”.>

**Section 74**

**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—>

**After section 74**

**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).>

## Section 77

### 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)>

## After section 77

### 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)—
    - (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.>

**Section 78**

**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*)>

**Section 82**

**Kenny MacAskill**

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

**Section 84**

**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,>

**Kenny MacAskill**

- 99 In section 84, page 36, line 35, leave out from <provides> to end of line 38 and insert <is required to provide in pursuance of section 31.>

**Section 87**

**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,>

**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.>

**Schedule 4**

**Kenny MacAskill**

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

**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.>

**Kenny MacAskill**

- 112 In schedule 4, page 81, line 3, 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 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.>

**Section 96**

**Kenny MacAskill**

- 114 Leave out section 96

**Section 97**

**Kenny MacAskill**

- 115 In section 97, page 43, line 21, at end insert—  
    <“chief constable” means the constable appointed to the office of chief constable under section 7(1)(a),  
    “constable” means an individual holding the office of constable who is serving as a constable of the Police Service and includes—  
        (a) the chief constable,  
        (b) other senior officers,  
        (c) any special constable, and  
        (d) any constable on temporary service outwith the Police Service,>

**Kenny MacAskill**

- 116 In section 97, page 43, line 23, at end insert—  
    <“inspectors of constabulary” means Her Majesty’s inspectors of constabulary appointed under section 71,>

**Kenny MacAskill**

- 117 In section 97, page 43, leave out lines 26 and 27 and insert—
- <(a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union (as it had effect before 1 December 2009) or any measure adopted under Article 87 of the Treaty on the Functioning of the European Union,>

**Kenny MacAskill**

- 118 In section 97, page 43, line 37, at end insert—
- <“local commander” means a constable designated under section 45(2),>

**John Finnie**

- 175 In section 97, page 43, line 37, 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,>

**Kenny MacAskill**

- 119 In section 97, page 44, line 3, at end insert—
- <“police custody and security officer” means an individual certified under section 28(1),>

**Section 99**

**John Finnie**

- 176 In section 99, page 45, line 8, after <Service> insert <or, in Gaelic, Seirbheis Smàlaidh agus Teasairginn na h-Alba>

**Roseanna Cunningham**

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

**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.>

**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).>

**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**

- 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**

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

**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

**Section 108**

**Roseanna Cunningham**

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

**Section 113**

**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)>

**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.”.>

**Section 114**

**Roseanna Cunningham**

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

**Section 117**

**Roseanna Cunningham**

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

**Schedule 5**

**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.>

**Section 120**

**Kenny MacAskill**

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

**Schedule 6**

**Kenny MacAskill**

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

**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**

- 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—

- (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**

**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**

**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).>

**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,
    - (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—

<(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)*

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;”.>

**Schedule 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).>

**Kenny MacAskill**

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

**Roseanna Cunningham**

**163** In schedule 7, page 115, line 40, at end insert—

<Section 16(5) and (6).>

**Roseanna Cunningham**

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

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

## Section 124

### 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.>

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