

POLICE REFORM ACT 2002: SUMMARY

PART 1: POWERS OF THE SECRETARY OF STATE

1. Part 1 gives effect to a number of the measures in Chapter 7 (Making it Happen) of the white paper *Policing a New Century: A Blueprint for Reform* to enable the police to drive up standards to those of the best. It makes new provisions regarding the supervision of police forces. The Secretary of State is to be under a duty to produce an annual national policing plan and present it to Parliament; he is to have a power to issue codes of practices to chief officers; and the power to issue directions to police authorities as well as some of the existing regulation-making powers are to be widened.

National Policing Plan (Section 1)

2. There is no single place where the Government's priorities, performance indicators and plans for new developments come together. Police authorities and forces are required to plan for coming years on the basis of the various requirements set out in the Police Act 1996 and elsewhere without a clear sense of where the Government believes the police service should be going. To address this, this section places a duty on the Secretary of State to prepare, after consultation with the Association of Chief Police Offices (ACPO), the Association of Police Authorities (APA) and others, a National Policing Plan which will be laid before Parliament. The plan will set out strategic priorities for the police service for the coming 3-year period. The Plan will include the Home Secretary's objectives for police authorities and identify proposals for making regulations and for issuing codes of practice and guidance.

Codes of practice for chief officers (Section 2)

3. In order to provide greater consistency and quality of service across all forces, a mechanism is needed to identify and spread good practice. The white paper set out a three-tiered approach: regulations, binding in law; codes of practice, to which chief officers must have regard, but which are open to variation for good reasons; and guidance, which is purely advisory, and much of which will continue to be non-statutory. This section makes provision regarding the second tier. Under the Police Act 1996, the Secretary of State can already issue codes of practice to police authorities; this section allows him to issue such codes to chief officers. Once issued, the Secretary of State would have the power to revise or amend any code of practice. Where the Secretary of State proposes to issue a code, he must ask the Central Police Training and Development Authority (CPTDA) to prepare a draft of the code. CPTDA must in turn consult ACPO, the APA and such other persons as it thinks fit. Within the CPTDA it is expected that the National Centre for Policing Excellence will take the lead in drawing up the draft of a code. Codes will be laid before Parliament, subject to the removal of any sensitive information.

Powers to require inspection and report (Section 3)

4. Section 3 amends section 54 of the Police Act 1996 to extend the Secretary of State's powers to require inspection and reports. The Secretary of State can, at any

time, require HM Inspectorate of Constabulary (HMIC) to inspect the whole or any part of any police force, NCIS or the NCS.

Directions to police authorities and directions as to action plans (Sections 4 and 5)

5. Where quality of service to the public is not as high as local communities have the right to expect, the Government will look to the chief constable and the police authority to take whatever steps are necessary to put this right. Where effective service is not being achieved, and improvements are not forthcoming, then as a last resort, the Home Secretary should be able to require that the necessary action is taken to ensure an effective service. Section 40 of the Police Act 1996 currently enables the Secretary of State to direct a police authority to take specific remedial action following an adverse inspection report by HMIC. Section 4 of the Police Reform Act broadens the circumstances in which the direction-making power may be exercised. First, as it stands the power is exercisable only in response to a specifically commissioned inspection by HMIC; in future the power will be exercisable after either a routine or a special inspection. Second, it is a necessary prerequisite of the existing power that HMIC concludes that the force as a whole is not efficient or effective. Under the new section the trigger will be that the force or a part of it is not efficient or effective either as a whole or in any aspect of its operations (or will become so unless remedial measures are taken). Section 5 of the Police Reform Act introduces a new power enabling the Secretary of State to direct a police authority to produce, in conjunction with the relevant chief officer, an action plan to address the poor performance highlighted by HMIC.

Regulation of equipment and of procedures and practices (Sections 6 and 7)

6. These sections provide for the first-tier (binding regulations) of the arrangements for delivering good practice across all forces. Section 6 amends section 53 of the Police Act 1996 to extend the Secretary of State's regulation-making powers in respect of equipment for police use. It allows the Secretary of State to require all police forces in England and Wales to use, or keep available for use, only equipment which is specified, and the Secretary of State can apply conditions to the use of equipment. The Secretary of State can also prohibit forces from using specified equipment. The section requires the Secretary of State to consult ACPO, the APA and such other persons as he sees fit before making any regulations.

7. Section 7 enables the Secretary of State to make regulations requiring all forces in England and Wales to adopt particular procedures or practices where he considers that it is necessary, in the national interest, that a common approach is needed to facilitate joint or coordinated operations by two or more forces. Regulations may only be made where HM Chief Inspector of Constabulary is satisfied that they are necessary. Where the Secretary of State proposes to make regulations, he must seek the advice of the Central Police Training and Development Authority (CPTDA). CPTDA must in turn consult ACPO, the APA and such other persons as it thinks fit.

Equivalent provision for NCIS and NCS (Section 8 and Schedule 1)

8. Section 8 and Schedule 1 make provision in relation to NCIS corresponding to that in sections 2, 4 and 5 and in relation to NCS to that in sections 2, 4, 5, 6 and 7.

PART 2: COMPLAINTS AND MISCONDUCT

9. Part 2 establishes a new system for handling complaints against the police. It replaces the Police Complaints Authority with a new body, the Independent Police Complaints Commission (IPCC).

The Independent Police Complaints Commission (Sections 9 to 11 and Schedule 2)

10. Section 9 and Schedule 2 provides for the establishment of the Independent Police Complaints Commission, for appointment of its chairman and members, for its constitution, and for the abolition of the Police Complaints Authority. Section 10 sets out the functions of the IPCC and section 11 provides for the publication of annual and other reports.

Complaints, matters and persons to which Part 2 applies (Section 12)

11. This section defines those complaints or other conduct matters to be brought within the new complaints system. The intention is that any conduct of a person serving with the police which has an adverse effect on a member of the public or is sufficiently serious to bring the police into disrepute, whether the subject of a complaint or not, should be dealt with effectively and efficiently in order that public confidence in the police can be maintained. The section will allow for greater access to the complaints system by providing that a representative of the victim or an independent group may make a complaint on the victim's behalf.

Handling of complaints and conduct matters etc. (Sections 13 and 14 and Schedule 3)

12. Section 13 introduces Schedule 3, which sets out the arrangements for the handling of complaints and conduct matters and for the carrying out of investigations. Section 14 excludes from the provisions in Schedule 3 any part of a complaint in its widest sense that relates to the direction and control of a police force by its chief officer or a person deputised by him. However, provision is made for the Secretary of State to issue guidance on how a complaint about direction and control should be handled. The key procedural features of the new system as set out in Schedule 3 are:

- A right of appeal for the complainant at three levels: refusal to record a complaint, proper use of the local resolution process and, at the end of an investigation, on the outcome, disclosure of sufficient information and proposed disciplinary action;
- IPCC to see all serious cases and other cases which cause concern whether or not a complaint has been made;
- IPCC will have the power to call in any case, whether or not a complaint has been made;
- IPCC will have an independent body of investigators and will be able to investigate complaints itself;
- IPCC will have the power to manage or supervise police investigations of complaints or other conduct matters; and
- IPCC can intervene in disciplinary proceedings by presenting or instructing counsel on the case against an officer.

Co-operation, assistance and information (Sections 15 to 21)

13. Section 15 places a general duty on the police authority and chief officer of a police force and an inspector of constabulary carrying out any of his functions in relation to that force to keep themselves informed of the manner in which complaints or other conduct matters are dealt with under this part and that they comply with the provisions in this Part. The section also places a duty on police authorities, chief officers and the Directors General of NCIS and NCS to provide assistance to other forces and to the Commission for the purpose of carrying out investigations and to co-operate with such investigations. Section 16 covers payment for the provision of a person's assistance by one force to another or to the Commission under section 15.

14. Section 17 places a duty on police authorities and chief officers to provide the Commission with all information and documents in accordance with requirements as specified in regulations made by the Secretary of State. Section 18 places a duty on both the chief officer and the police authority for a police force to allow access to its premises and to documents on those premises to any person nominated by the Commission for the purpose of:

- any investigation to do with that force in which it is involved; or
- any examination by the Commission of the efficiency and effectiveness of the arrangements in that force for the handling of complaints and other conduct matters.

15. Section 19 enables the Secretary of State to make an order which would authorise the Commission to use specific surveillance powers and covert human intelligence sources for the purpose of carrying out its functions where there is evidence of criminal activity. Section 20 places a duty on the Commission and on the appropriate authority (i.e. a chief officer or police authority) to keep the complainant informed in as full a manner as possible of the progress and results of the investigation. Section 21 places a similar duty on those bodies with respect to other interested persons who have a right to be kept informed.

Guidance and regulations (Sections 22 to 24)

16. Section 22 enables the Commission, with the approval of the Secretary of State and after consultation, to issue guidance to police authorities, chief officers and others serving with the police. The guidance will be on the exercise or performance of the duties and powers placed on them for the handling of complaints, conduct matters or any other related matters. Section 23 enables regulations to be made about the procedures to be followed under any provision of Part 2. Section 24 requires the Home Secretary to consult the Commission, ACPO, the APA and such other persons as he thinks fit before making any regulations under Part 2.

Conduct of persons in other forms of police service (Sections 25 to 27)

17. Section 25 enables complaints provisions corresponding to those in Part 2 to be applied to NCIS and NCS. Section 26 similarly enables corresponding provisions to be applied to other bodies of constables and places a duty on the Secretary of State to apply them to the British Transport Police and Ministry of Defence Police. Section 27 ensures regulations are made setting out the procedure for handling complaints against the Commission's staff.

PART 3: REMOVAL, SUSPENSION AND DISCIPLINING OF POLICE OFFICERS

18. The white paper set out measures for better selection, better training and professional performance assessment of senior managers in the police service. With these measures in place, the likelihood of circumstances arising that require the removal of a chief officer must be rare. Nonetheless, it is prudent to ensure that proper arrangements are in place should they ever need to be used. Part 3 accordingly updates the circumstances in which senior officers can be removed in the interests of the efficiency or effectiveness of the force, provides for the issue of regulations regarding the procedure for removing senior officers, and makes provision for the suspension of senior officers. It also makes some alterations to the conduct of disciplinary proceedings. In addition, it confers on police officers the protections provided by the Public Interest Disclosure Act 1998.

Resignation in the interests of efficiency and effectiveness (Section 30)

19. This section extends existing powers in the Police Act 1996 to call on senior officer to retire in the interests of efficiency or effectiveness, to allow for officers to step down by way of resignation as well.

Procedural requirements for removal of senior officers (Section 31)

20. This section requires that where a police authority exercises its powers to remove a chief officer in the interests of efficiency or effectiveness it must give the officer concerned its reasons for removal in writing and afford him or her the opportunity to make representations in person at a hearing.

Suspension of senior officers (Section 32)

21. This section introduces a new power for police authorities, on their own initiative or when required to do so by the Secretary of State (for the latter of which, see also section 33), to suspend chief officers who are or may be called on to retire or resign in the interests of the efficiency or effectiveness of their force. As a safeguard against arbitrary or unfair use by the police authority, the approval of the Secretary of State is required.

Removal etc. of senior officers at the instance of the Secretary of State (Section 33)

22. This section sets out revised powers for intervention by the Secretary of State. He will be able to require a police authority to call on the chief constable of a force outside London or the Commissioner or Deputy Commissioner of the Metropolitan police to retire or resign in the interests of efficiency or effectiveness. When exercising this power the Home Secretary must give the officer concerned an explanation in writing of the grounds for removal and afford him or her an opportunity to make representations to the inquiry that must be established under section 42 of the Police Act 1996. The section also enables the Home Secretary to require suspension of officers in certain circumstances. The section also streamlines the process for considering cases brought under these powers.

Regulations concerning procedure for removal of senior officers (Section 34)

23. This section introduces a regulation-making power in respect of procedural matters in the hearing of representations and other aspects of proceedings taken under the 1996 Act's powers to call on an officer to retire or resign in the interests of efficiency or effectiveness. The Home Secretary is required to consult before making any regulations.

Disciplinary regulations for special constables (Section 35)

24. This section enables the Secretary of State to make regulations under section 51 of the 1996 Act as to the conduct of special constables. This will place special constables on a similar footing as regular officers as regards to disciplinary proceedings.

Conduct of disciplinary proceedings (Section 36)

25. This section extends the regulation-making powers in section 50 and 51 of the Police Act 1996 so that regulations may be made relating to the role of the IPCC in disciplinary proceedings and the right of specified persons to participate in or to be present at disciplinary proceedings, and also to enable inference to be drawn from a failure to mention a fact when questioned or charged in disciplinary proceedings.

Protected disclosures by police officers (Section 37)

26. This section, along with the consequential amendments to the Employment Rights Act 1996 and the Public Interest Disclosure Act 1998 in Schedule 8, affords protection to police officers who make protected disclosures. The purpose of these changes is to ensure that police officers will be able to report wrongdoing by other officers with the assurance of full protection if they are subsequently discriminated against or suffer detriment for doing so. In such circumstances, they will be able to make a claim to an employment tribunal.

PART 4: POLICE POWERS

27. The police alone cannot win the fight against crime and disorder. It requires a co-ordinated response from the community as a whole. Local authorities, the private sector and others all have to work in partnership with the police to develop and implement local crime and disorder reduction strategies. To achieve this to the full depends on increasing the police presence in the community and matching it with greater public involvement of other agencies. This part sets out measures to develop and support the role of the 'extended police family'. Part 4 also contains the legislative provisions necessary to facilitate more effective use of police support staff. In addition, it also adds to the list of offences for which someone can be arrested without warrant and places independent custody visiting on a statutory footing. It contains provisions regarding the taking of blood samples from those involved in road traffic incidents. It makes provision for powers for constables in relation to vehicles used in a manner constituting a public nuisance and strengthens the arrangements in relation to anti-social behaviour orders and sex offender orders. It confers on the British Transport Police (BTP) additional police powers to allow them to deal more effectively with truants in their railways jurisdiction and matters connected with fixed penalty notices for motoring offences. It also enables the National Crime Squad (NCS) to dispose of property that comes into its possession during the course of an investigation.

CHAPTER 1: EXERCISE OF POLICE POWERS BY CIVILIANS

Police powers for police authority employees and contracted-out staff (Sections 38 and 39 and Schedule 4)

28. Section 38 enables chief officers of police to designate suitably skilled and trained civilians under their direction and control to exercise powers and undertake duties in carrying out specified functions. A chief officer can designate support staff to perform functions in four categories: community support officer; investigating officer; detention officer; and escort officer. The powers that may be conferred on each of these four categories of police support staff are set out in Schedule 4. Under section 38, the Directors General of the National Criminal Intelligence Service and of the National Crime Squad are similarly empowered to designate support staff as investigating officers. In addition, section 39 allows for the powers in Parts 3 and 4 of Schedule 4 (detention and escort officers respectively) to be conferred by the chief officer of a force on employees of companies contracted to provide detention and escort services to that force.

29. The powers in Schedule 4 include, in the case of community support officers, the power to issue a range of fixed penalty notices relating to anti-social behaviour. It further provides that where a person fails to comply with a request to give their name and address or gives details that are suspected of being false, a community support officer can detain them, for a period of up to 30 minutes, pending the arrival of a constable. Reasonable force may be used to effect the detention. Schedule 4 also gives the power to request a name and address from a person who has been, or is, acting in an anti-social manner. Community support officers may also have powers, amongst other things, to confiscate alcohol and tobacco in defined circumstances, seize vehicles used to cause alarm, to direct traffic for certain specific purposes, and enforce (but not set up) cordoned areas established under the Terrorism Act 2000. Community support officers would have a vital role to play in support of the police in increasing public safety and contributing to the regeneration of an area.

30. The powers conferred on civilian investigating officers are mainly linked to entry, search and seizure. For example, powers to obtain and execute search warrants, to seize evidence and to apply to a judge for access to confidential material. It also covers powers to enter and search premises following arrest. Investigating officers could also have a role in other aspects of the investigating process such as interviewing. This is recognised through other powers available in this Part: the power to arrest for further offences which may come to light during interview and the power to warn interviewees about the consequences of any failure to account for their presence at a particular place. The powers in Part 2 of Schedule 4 are particularly relevant to the work of Scene of Crime Officers, many of whom are already civilians, and civilian investigators working in specialist areas such as financial and Information Technology crime.

31. The powers that could be exercised by civilian detention officers at police stations relate to the handling of persons in custody – an area of work in which civilians are increasingly involved – such as powers to search detained persons, to take fingerprints and certain samples without consent and to take photographs. Providing civilians with these and other powers will broaden the scope of the work they can undertake and ensure their work is underpinned by the law.

32. The powers that may be conferred on escort officers include enabling civilians to transport arrested persons to police stations. More broadly it allows civilians to escort detained persons between police stations or between police stations and other locations specified by the custody officer.

Community safety accreditation schemes (Section 40)

33. This section enables chief officers of police to establish and maintain a scheme that accredits suitably skilled and trained non-police employees with powers to undertake specified functions in the support of the police. For example, a chief officer may accredit street wardens employed by the local authority with powers to address some anti-social behaviour offences.

Accreditation under community safety accreditation schemes (Section 41 and Schedule 5)

34. Section 41 sets out procedures in respect of applications for accreditation and the grant and withdrawal of accreditation. An application for accreditation must not be granted unless the chief officer was satisfied that the employer is suitable to supervise a person who has such an accreditation, and that the accredited person is suitable to exercise the specified powers and duties, is capable of carrying out the relevant functions and has been adequately trained. The section also introduces Schedule 5, which details the powers that can be exercised by an accredited person if specified in his accreditation. The list of powers is more limited than those that can be conferred on community support officers. Accredited persons can, for example, issue fixed penalty notices for offences of cycling on a footway; dog fouling and litter, but cannot issue fixed penalty notices under the Criminal Justice and Police Act 2001. Accredited persons may also have conferred on them the same powers to require name and address in the same circumstances as community support officers. Accredited persons cannot detain persons; nor can they use reasonable force when exercising their powers.

Supplementary provisions relating to designations and accreditations (Section 42)

35. Section 42 makes provision in relation to the uniform or badge to be worn by designated and accredited persons respectively, for the modification or withdrawal of a designation or accreditation and in respect of liabilities arising from actions committed by designated and accredited persons.

Railway safety accreditation scheme (Section 43)

36. This section allows the Secretary of State to make regulations to enable the chief constable of the British Transport Police (BTP) to establish and maintain a railway safety accreditation scheme. The scheme would be largely modelled on the community safety accreditation schemes of chief officers of Home Office police forces provided for in section 40, albeit that the railway safety accreditation scheme may differ where necessary to meet the specific needs of the railways. For example, it would allow the BTP's chief constable to accredit suitably trained security staff employed by train operating companies with powers to deal with certain anti-social activity on the railways. It also enables the chief officer of the BTP to confer on such persons two powers particularly relevant to railway safety that are not available to accredited persons generally. Those powers are the powers to issue fixed penalty notices for the offences of trespassing on a railway and throwing stones at trains.

Removal of restriction on powers conferred on traffic wardens (Section 44)

37. This section confers on traffic wardens the same power to stop vehicles as that currently held by police officers. Furthermore, it makes clear that the power to stop also includes a power to stop vehicles for tests of their roadworthiness and compliance with construction and use regulations.

Code of practice relating to chief officers' powers under Chapter 1 (Section 45)

38. This section requires the Secretary of State to issue a code of practice about the exercise by chief officers of their powers and duties under Chapter 1 of Part 4.

Offences against designated and accredited persons etc. (Section 46)

39. This section sets out various offences relating to assaulting, obstructing or impersonating designated and accredited persons.

CHAPTER 2: MODIFICATION OF CERTAIN POLICE POWERS

Powers of arrest (Sections 48 and 49 and Schedule 6)

40. Section 48 and Schedule 6 have the effect of adding the following offences to the list of arrestable offences in the Police and Criminal Evidence Act 1984: assaulting a police officer, driving while disqualified, and making off without payment. Section 49 provides for a specific power of arrest for the offence of failing to stop when requested to do so by a police officer.

Persons acting in an anti-social manner (Section 50)

41. This section provides a uniformed constable with the power to require a name and address from a person he believes has been acting, or is acting, in an anti-social manner.

Persons in police detention (Sections 51 to 53)

42. Section 51 places independent custody visiting on a statutory footing. Section 52 modifies the arrangements for the review of detained persons to cover a situation where a person is asleep at the time when a review should take place. Section 53 ensures that the normal PACE provisions apply in the case of a train or tram driver arrested for a drink-driving offence.

Specimens and samples (Sections 54 to 58)

43. Section 54 allows registered health care professionals to take the same range of samples in police detention as medical practitioners (i.e. intimate samples other than urine samples or dental impressions). Section 55 allows registered health care professionals as well as medical practitioners to take blood samples in routine drink-driving cases once a person's consent has been given. Sections 56 and 57 allow a blood sample to be taken without a person's consent in drink-driving cases (most commonly when a person is unconscious following a traffic accident), but provides that on regaining consciousness he should be asked if he consents to analysis of the sample. A refusal of consent will be an offence, in the same way as, at present, it is an offence if a conscious person refuses to consent to the taking of a sample. Section 58 makes equivalent provisions to those in sections 55 to 57 in respect of persons working on public transport systems such as railways.

Seizure of vehicles (Sections 59 and 60)

44. Section 59 gives the police new powers to deal with the anti-social use of motor vehicles on public roads or off-road. It includes powers to stop and to seize and to remove motor vehicles where they are being driven off-road contrary to section 34 of the Road Traffic Act 1988 or on the public road or other public place without due care and attention or reasonable consideration for other road users, contrary to section 3 of the 1988 Act. Section 60 allows the Secretary of State to make regulations relating to the removal, retention, release or disposal of motor vehicles seized in accordance with section 59.

Anti-social behaviour (Sections 61 to 66)

45. These sections are aimed at further enhancing the effectiveness of anti-social behaviour orders (ASBOs). Section 61 extends the use of ASBOs to registered social landlords and the British Transport Police. The section also extends the area over which an ASBO can be made and allows for the protection of persons anywhere within a defined area in England and Wales. Section 62 enables the Secretary of State to add other non-Home Office police forces (e.g. the Royal Parks Police) to the list of relevant authorities that may apply for an ASBO. Section 63 enables county courts to make orders to save time where they are already dealing with an eviction notice or other civil proceedings against an individual. Section 64 enables an order to be imposed in addition to a sentence on conviction for a criminal offence involving anti-social behaviour. Section 65 introduces a system of interim orders so that communities can be protected pending the outcome of a full hearing. Section 66 amends the consultation requirements for relevant authorities applying for ASBOs or orders made in country courts. The section requires a Home Office police force or local authority to consult the other before applying for an ASBO. The British Transport Police and a registered social landlord must consult the relevant Home Office police force and local authority before making an application.

Sex offenders (Sections 67 to 74)

46. These sections contain measures to improve the use and effectiveness of sex offender orders. The effect of sections 67 (England and Wales), 70 (Scotland) and 72 (Northern Ireland) is to give greater flexibility to the police in how they apply for and amend sex offender orders in three different ways:

- Police forces that know that an offender is intending to come to their area will be able to apply for an order prior to the offender's arrival.
- Police forces will be able to make an application to any court in their police area rather than only to a court in the area where some of the risky behaviour took place.
- Police forces will be able to vary orders at courts in their own police area without having to go back to the original court that made the order (this is not necessary for Northern Ireland as there is no limitation on which court may hear a variation).

47. These sections also make it possible for the prohibitions in the orders to extend to the United Kingdom as a whole by amplifying the definition of "the public" to "the public in the United Kingdom, or any particular members of that public."

48. New sections 68 (England and Wales) and 73 (Northern Ireland) introduce interim sex offender orders to England and Wales and Northern Ireland respectively, allowing police forces to immediately put into place preventative measures whenever

necessary. Interim orders will have the same effect as full orders. Interim sex offender orders already exist in Scotland.

49. New sections 69 (England and Wales), 71 (Scotland) and 74 (Northern Ireland) makes breach of an order or an interim order, whichever jurisdiction created it, an offence in England and Wales, Scotland and Northern Ireland respectively. In effect, sex offender orders will become enforceable across the UK.

British Transport Police (Sections 75 and 76)

50. Section 75 extends to the British Transport Police (BTP) the provisions in the Crime and Disorder Act 1998 which allow a police constable to remove a child or young person found by him in a public place if the constable believes that they truanting. Section 76 would enable the BTP Chief Constable to authorise BTP support staff to deal with certain elements of the fixed penalty notice process in respect of offences under the Road Traffic Offenders Act 1988, thereby bringing the BTP into line with Home Office forces. The section also extends to the BTP powers in the Road Traffic Offenders Act 1988 to issue conditional offers for traffic offences caught by enforcement cameras.

Application of Police (Property) Act 1897 to NCS (Section 77)

51. This section amends the Police (Property) Act 1897 to provide that the Act applies to the National Crime Squad. The 1897 Act enables police forces to dispose of property that comes into their possession during the course of an investigation.

PART 5: MINISTRY OF DEFENCE POLICE

52. Part 5 (sections 78 to 81) contains provisions regarding the Ministry of Defence Police. Section 78 provides that when an MDP officer is seconded to another UK police force (including NCS and NCIS) he is to be under the direction and control of the chief officer of that force and have the same powers and privileges as a member of that force. Section 79 enables disciplinary arrangements within the MDP, currently akin to those which existed in Home Department Police Forces before 1 April 1999, to be brought into line with current practice. Section 80 requires HMIC to inspect and report on the MDP. Currently they inspect the Force on a non-statutory basis by invitation. Section 81 allows potential recruits to the MDP to hold firearms for the purpose of assessment without needing a firearms certificate. The purpose is to enable any applicants who are unlikely ever to be able to meet the Force's firearms requirements to be identified before being enlisted into the Force, thereby saving their time and effort and those of the Force.

PART 6: MISCELLANEOUS

53. Part 6 contains miscellaneous provisions covering aspects of recruitment and appointment to police forces, the National Crime Squad (NCS) and the National Criminal Intelligence Service (NCIS). It also covers various changes to other bodies with functions related to the police – police authorities, the NCS and the NCIS Service Authorities, Crime and Disorder Reduction Partnerships, the Police Information Technology Organisation (PITO), the Metropolitan Police Authority and the Common Council of the City of London. In addition, this Part makes provision for international joint investigation teams.

Appointment and attestation of police officers etc. (Sections 82 to 91)

54. Section 82 provides for the removal of the existing restrictions placed on the employment of certain non-British nationals in the police services of England and Wales and Scotland, the Northern Ireland Police Service, NCIS, NCS, BTP, UK Atomic Energy Authority Constabulary, Royal Parks Constabulary and the Special Constabulary. The removal of the bar is subject to the terms and conditions of appointment as set out in Regulations or other relevant documents. Section 83 modifies the form of the attestation made by all police officers and specials in England and Wales on appointment. The change makes it clear that police officers have a duty to uphold the rights of and protect everyone living or staying in the country, not just Her Majesty's subjects. Section 84 provides a power for the Secretary of State to delegate the approval of senior police appointments to HM Chief Inspector of Constabulary. In practice, HMCIC will act in agreement with the Senior Appointments Panel.

55. Section 85 makes provision for the post of Director General of the National Criminal Intelligence Service to be opened up to non-police officers. Sections 86 and 87 enable NCIS and NCS to recruit and retain investigators with the specialist skills necessary to tackle sophisticated criminals. NCIS and NCS will be able to recruit police officers of any rank directly from police forces, rather than rely, as now, solely on secondments. As a consequence of sections 86 and 87, sections 88 and 89 confer powers on the Home Secretary to make regulations as to the government and administration of NCIS and NCS and conditions of service within the two organisations. The regulation-making powers are similar to that contained in section 50 of the 1996 Act in respect of police forces. Sections 90 and 91 provide for the regulations made under sections 88 and 89 to be subject to consultation with the Police Negotiating Board and Police Advisory Board in the same way as regulations under section 50 of the 1996 Act.

Police authorities to produce three-year strategy plans (Section 92)

56. This section requires police authorities to produce, every three years, a plan that sets out the strategic direction and focus for the force area. The purpose of the plan is to develop the capacity of police authorities to focus on the medium to longer term direction of the force, which is often not possible in the annual plans that they already produce. In preparing, issuing or modifying strategy plans chief officers and police authorities must have regard to the National Policing Plan in force at the time.

Quorum for the Service Authorities under the 1997 Act (Section 93)

57. This section replaces the quorum for the NCIS/NCS Service Authority.

Expenses of members of police authorities etc. (Section 94)

58. This section amends the 1996 Act to enable police authorities to determine members expenses for themselves, where previously they were determined by the Home Secretary.

Duties under the Health and Safety at Work etc. Act 1974 (Section 95)

59. This section amends health and safety legislation so that police authorities are deemed to be the employers of police officers for the purposes of that legislation. The legislation previously provided for this role to be undertaken by chief officers of police.

President of ACPO (Section 96)

60. The Association of Chief Police Officers intend to move from a part-time, one-year presidency to a full-time three-year presidency. This section provides that whilst in post, the ACPO president will continue to hold the office of constable, with the rank of chief constable.

Crime and disorder reduction partnerships / Secretary of State's functions in relation to strategies (Sections 97 and 98)

61. Section 97 provides for police authorities, fire authorities and Primary Care Trusts to become responsible authorities, alongside chief officers and local authorities, for the purpose of formulating and implementing crime and disorder reduction strategies under section 6 of the Crime and Disorder Act 1998. The addition of Primary Care Trusts will enable Crime and Disorder Reduction Partnerships (CDRPs) and Drugs Action Teams (DATs) to be merged to simplify working relationships at the local level and will raise the National Drugs Strategy onto a statutory footing.

62. Section 98 provides that the Secretary of State may require responsible authorities to make provision in their strategies for specified areas of crime or disorder. Responsible authorities in England may also be required to ensure that any strategies combating the misuse of drugs encompass other specified forms of substance misuse. The section also requires responsible authorities to send copies of their strategies to the Home Secretary and, in Wales, to the National Assembly.

Power to modify the functions and structure of PITO (Section 99)

63. The Police Information Technology Organisation (PITO) was established by Part 4 of the Police Act 1997 to carry out activities relating to information technology equipment and systems for the use of the police service. PITO was established as an executive Non-Departmental Public Body in April 1998. This section provides a broad enabling power that will allow amendments, to Part 4 of the 1997 Act (and other enactments relating to PITO), to enable changes in the functions, name, structure, accountability and management practices of PITO.

Metropolitan Police Authority Housing (Section 100)

64. The Greater London Authority Act 1999 amended the Housing Act 1985 (the 1985 Act) by adding the Metropolitan Police Authority (MPA) to the definition of local authorities in section 4 of that Act. This meant that the MPA fulfilled the 'landlord conditions' for the purpose of creating secure tenancies under the 1985 Act, leading to a number of police officers occupying properties owned by the MPA being able to exercise a right to buy their properties at a discount once the two year qualifying period elapsed – which happened on 3 July 2002. The creation of the secure tenancies was unintended. This section will remove the MPA from the secure tenancy regime, and makes various other provisions regarding affected tenants, in particular, any secure tenant who has acquired the right to buy at the time of Royal Assent of the Bill will have a three month period of grace to exercise that right.

Provision of goods and services by police authorities (Section 101)

65. This section amends the Police Act 1996 so as to enable the Corporation of the City of London, in its capacity as Police Authority to the City of London Police, to be

able to benefit, as other police authorities do, from an extension of the Local Authorities Goods and Services Act 1970.

Liability for unlawful acts of constables etc. (Section 102)

66. This section clarifies the liabilities of chief officers of police, the Directors General of the National Criminal Intelligence Service and the National Crime Squad and the Central Police Training and Development Agency by making them liable for any unlawful conduct of those whom they employ or who act under their control.

International joint investigation teams (Sections 103 and 104)

67. Section 103 provides a legal basis for civil liabilities arising from operations of international joint investigation teams involving police officers from United Kingdom forces and law enforcement officers from abroad. The United Kingdom is obliged, if it agrees to the setting up of such teams through its participation in international agreements, such as the Convention of 29 May 2000 on Mutual Assistance in Criminal Matters between the Member States of the European Union, to provide arrangements for the satisfaction of civil claims that may arise from actions of team members when they are not operating in their own country. The section extends the liabilities of chief officers of police and the Directors General of NCIS and NCS by providing that they shall be liable for any unlawful conduct of members of international joint investigation teams formed in accordance with specified international agreements to which the United Kingdom is a party. Section 104 provides that, just as it is already an offence to assault or obstruct a person assisting a constable in the execution of his duty, it shall also be an offence to assault or obstruct members of international joint investigation teams who are from abroad and carrying out the team's functions.

PART 7: SUPPLEMENTAL

68. Part 7 (sections 105 to 108 and Schedules 7 and 8) contains minor amendments, repeals and general interpretation, commencement and extent provisions.

**HOME OFFICE
JULY 2002**