

**2012 No. 253 (C. 24)**

**FIRE AND RESCUE SERVICES**

**POLICE**

**The Police and Fire Reform (Scotland) Act 2012  
(Commencement No. 1, Transitional, Transitory and Saving  
Provisions) Order 2012**

*Made* - - - - - *13th September 2012*

*Laid before the Scottish Parliament* *14th September 2012*

*Coming into force* - - - *1st October 2012*

The Scottish Ministers make the following Order in exercise of the powers conferred on them by section 129(2) and (3) of the Police and Fire Reform (Scotland) Act 2012(a).

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Police and Fire Reform (Scotland) Act 2012 (Commencement No. 1, Transitional, Transitory and Saving Provisions) Order 2012 and comes into force on 1st October 2012.

(2) In this Order—

“the 2005 Act” means the Fire (Scotland) Act 2005(b);

“the 2012 Act” means the Police and Fire Reform (Scotland) Act 2012.

**Appointed day**

2.—(1) 1st October 2012 is the day appointed for the coming into force of the provisions of the 2012 Act specified in column 1 of the Schedule to this Order (the subject-matter of which is described in column 2 of the Schedule).

(2) Where a purpose is specified in column 3 of the Schedule in relation to any provision, that provision comes into force on 1st October 2012 for that purpose only.

**Transitional: annual police plans**

3. Section 35(1) of the 2012 Act (annual police plans) does not apply in respect of any yearly period which begins before 1st April 2013.

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(a) 2012 asp 8.

(b) 2005 asp 5.

### **Transitory: strategic police plan**

4.—(1) This article has effect until the day on which section 71 of the 2012 Act (Her Majesty’s inspectors of constabulary in Scotland) comes into force.

(2) The reference in section 34(5)(a)(ii) of the 2012 Act (strategic police plan) to the inspectors of constabulary is construed as if it were a reference to the inspectors of constabulary appointed under section 33(1) of the Police (Scotland) Act 1967(a).

### **Transitory: examinations by Auditor General**

5.—(1) This article has effect until the day on which section 6 of the 2012 Act (the Police Service of Scotland) comes into force.

(2) Section 42(4) of the 2012 Act (examination of Police Service by Auditor General) is modified as follows—

- (a) in paragraph (a), omit “or the Police Service”; and
- (b) in paragraph (b), after “resources” insert “the chief constable considers will be”.

### **Transitory: consultation requirements**

6.—(1) This article has effect until the day on which paragraph 33(11) of schedule 7 to the 2012 Act (interpretation) comes into force.

(2) For the purposes of section 66 of the 2012 Act (investigations: procedure), the following terms in the section inserted by that section have the following meanings—

- “chief constable” means the chief constable appointed under section 7 of the 2012 Act;
- “senior officers” means chief constables, deputy chief constables and assistant chief constables of police forces established under the Police (Scotland) Act 1967;
- “superintendents” and “chief superintendents” mean superintendents and chief superintendents of police forces established under the Police (Scotland) Act 1967; and
- “the Authority” means the Scottish Police Authority.

### **Transitory saving: fire and rescue authorities’ current framework document**

7.—(1) This article has effect until the day on which the repeal of section 42 of the 2005 Act (reporting) by schedule 8 to the 2012 Act comes into force.

(2) Despite the amendments made by paragraph 68(15) and (16) of schedule 7 to the 2012 Act—

- (a) sections 40(1), (3) and (6) of the 2005 Act (framework document) continue to have effect on and after 1st October 2012 as they had effect before that date, but only in relation to the framework document given effect by the Fire and Rescue Services (Framework) (Scotland) Order 2012(b);
- (b) sections 41(1), (2), (4), (5) and (6) of the 2005 Act (adherence) continue to have effect on and after 1st October 2012 as they had effect before that date, but only in relation to—
  - (i) the framework document mentioned in paragraph (a); and
  - (ii) any order made under section 41(4) of the 2005 Act before 1st October 2012.

### **Transitory: SFRS’s first strategic plan**

8.—(1) Paragraphs (2) and (3) have effect until the day on which the amendments made by paragraph 68(20) of schedule 7 to the 2012 Act come into force (interpretation).

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(a) 1967 c.77; section 33(1) was amended by S.I. 1999/1820.  
(b) S.S.I. 2012/146.

(2) For the purposes of section 114 of the 2012 Act (strategic plan), in relation to the insertion of section 41A into the 2005 Act (SFRS's first strategic plan), the reference in section 41A(4)(a) to the framework document is construed as a reference to the document prepared under, and having effect by virtue of, section 40 of the 2005 Act as amended by paragraph 68(15) of schedule 7 to the 2012 Act (SFRS framework document).

(3) For the purposes of paragraph 68(16) of schedule 7 to the 2012 Act (adherence to framework document), in relation to the amendments made to section 41 of the 2005 Act, the references in those amendments to the framework document are construed as references to the document prepared under, and having effect by virtue of, section 40 of the 2005 Act as amended by paragraph 68(15) of schedule 7 to the 2012 Act (SFRS framework document).

*KENNY MACASKILL*  
A member of the Scottish Government

St Andrew's House,  
Edinburgh  
13th September 2012

## SCHEDULE

Article 2

<i>Column 1</i> <i>Provisions of the Act</i>	<i>Column 2</i> <i>Subject-matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 5	Directions	
Section 11(1) to (4)	Ranks	
Section 15(1)	Temporary service outwith the Police Service of Scotland	For the purpose of making regulations under section 15(3) of the 2012 Act
Section 15(3) and (4)	Temporary service outwith the Police Service of Scotland	
Section 17(2)(c)	Chief constable's responsibility for the policing of Scotland	For the purpose of being involved in the preparation of the strategic police plan.
Section 17(2)(d)	Chief constable's responsibility for the policing of Scotland	
Section 24(1), (2)(a), (3) to (5)	Liability for unlawful conduct	
Sections 26 and 27	Police staff; terms and conditions of police staff	
Section 32, 33, 34(1) to (7), 35 and 36	Policing principles; Strategic police priorities; Strategic police plan; Annual police plans; Planning functions: considerations	
Section 41	Audit	
Section 42(1)(b) and (2) to (7)	Examinations by Auditor General	
Section 43	Examinations of Scottish Police Authority by Auditor General	
Sections 48 to 55	Governance and administration of police; appointments, promotions etc.; conditions of service; regulations: duties; disciplinary procedures: conduct and performance; personal records; consultation on regulations; regulations: supplementary	
Section 56(3)	Right to appeal to police appeals tribunal	
Section 64	Serious incidents involving the police	
Section 66	Investigations: procedure etc.	
Section 87	Provision of other goods and services	For the purpose of making orders under section 87(1)(b) and (3)(b) of the 2012 Act
Section 98(1) to (3)	Provision of information and assistance	

<i>Column 1 Provisions of the Act</i>	<i>Column 2 Subject-matter</i>	<i>Column 3 Purpose</i>
Section 98(5)	Transfer of constables, staff and property etc.	
Section 114	Strategic plan	For the purpose of inserting section 41A into the 2005 Act
Section 118	Directions by Scottish Ministers	
Section 121	Transfer of staff, property etc.	
Section 122(1) and (2)	Provision of information and assistance	
Section 128(1)	Minor and consequential amendments	For the purpose of commencing paragraphs 61, 62, 63(b), 65, 68(15) and (16), and 72(1), (2) and (3)(b) of schedule 7 of the 2012 Act
Schedule 3	Police Appeals Tribunal	
Schedule 5	Transfer of constables, staff and property etc.	
Schedule 6	Transfer of staff, property etc.	
Schedule 7, paragraphs 61, 62, 63(b) and 65	Consequential amendments	
Schedule 7, paragraph 68(15) and (16)	Consequential amendments	
Schedule 7, paragraph 72(1), (2) and (3)(b)	Consequential amendments	

## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order brings into force the following provisions of the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”) on 1st October 2012: sections 5; 11(1) to (4); 15(1) (3) and (4); 17(2)(c) and (2)(d); 24(1), (2)(a), (3) to (5); 26; 27; 32; 33; 34(1) to (7); 35; 36; 41; 42(1)(b) and (2) to (7); 43; 48 to 55; 56(3); 64; 66; 87; 98(1) to (3) and (5); 114; 118; 121; 122(1) and (2); 128(1); schedules 3, 5 and 6; paragraphs 61, 62, 63(b), 65, 68(15) and (16) and 72(1), (2) and (3)(b) of schedule 7.

Article 2 appoints 1st October 2012 as the day for the coming into force of the provisions mentioned in the Schedule to the Order. Some are partially commenced for restricted purposes only.

Article 3 makes transitional provision so that the first annual police plan is made in respect of the year from April 2013, removing the obligation to have a police plan in respect of the part-year period from commencement of this Order to 1st April 2013.

Article 4 makes transitory provision for the period between coming into force of this Order and the commencement of the provisions of the 2012 Act about inspectors of constabulary. It provides that the obligation on the Scottish Police Authority to send a copy of the draft strategic police plan to the inspectors of constabulary is to those inspectors as they exist under the current law.

Article 5 makes transitory provision for the period between the coming into force of this Order and the establishment of the Police Service of Scotland by the commencement of section 6 of the 2012 Act. It modifies section 42(4) of the 2012 Act in respect of that period, so that any examinations by the Auditor General of the best value arrangements being made by the chief constable cannot question the chief constable’s policy objectives but can examine the criteria used to assess the use of resources the chief constable expects will be available for use by the Police Service.

Article 6 makes transitory provision for the period between coming into force of this Order and the commencement of the amendments to the Police, Public Order and Criminal Justice (Scotland) Act 2006. Those amendments contain definitions and until they are commenced definitional provision is necessary to allow the new section 41D of that Act (which is commenced by this Order) to operate.

Article 7 makes a transitory saving provision for the period between coming into force of this Order and the commencement of the repeal of section 42 of the Fire (Scotland) Act 2005. The effect of the provision is to save the current fire framework document provisions so that they continue to apply until the current fire and rescue authorities are abolished. The commencement of the amendments in paragraph 68(15) and (16) of schedule 7 to the 2012 Act have the effect of creating new fire framework document provisions applying to the SFRS. The two sets of fire framework document provisions will operate until the current fire and rescue authorities are abolished (which is intended to be at the same point the repeal of section 42 of the Fire (Scotland) Act 2005 is commenced).

Article 8 makes transitory provision for the period between coming into force of this Order and the commencement of amendments to the Fire (Scotland) Act 2005 which insert definitional provision into that Act. The provision ensures that references to the framework document are defined and they refer to the framework document made in relation to the SFRS rather than the current fire and rescue authorities.

The Bill for the 2012 Act received Royal Assent on 7th August 2012. Section 129(1) of the 2012 Act brought into force sections 1 (and schedule 1), 2(1)(c), (2) and (3), 4, 7, 37, 38, 40(1), (3) and (4), 84(1), (2)(a) and (10), 88, 89, 98(4) (and schedule 4), 99, 101(1) (but only for the purpose of inserting section 1A(1) and (3) into the Fire (Scotland) Act 2005) and (2), 113, 117, 122(3) and (4) and 123 and Part 3 (other than section 128) on the day after Royal Assent.



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