
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 121

**FIRE AND RESCUE SERVICES
POLICE**

The Police and Fire Reform (Scotland)
Act 2012 (Supplementary, Transitional,
Transitory and Saving Provisions) Order 2013

Made - - - - 28th March 2013

Coming into force - - 1st April 2013

The Scottish Ministers make the following Order in exercise of the powers conferred on them by sections 126 and 127 of the Police and Fire Reform (Scotland) Act 2012⁽¹⁾ and all other powers enabling them to do so.

In accordance with section 125(3) of that Act, a draft of this instrument has been laid before and approved by resolution of the Scottish Parliament.

PART 1

PRELIMINARY

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Police and Fire Reform (Scotland) Act 2012 (Supplementary, Transitional, Transitory and Saving Provisions) Order 2013 and comes into force on 1st April 2013.

(2) In this Order, except where the context otherwise requires—

“the 1967 Act” means the Police (Scotland) Act 1967⁽²⁾;

“the 2006 Act” means the Police, Public Order and Criminal Justice Act 2006⁽³⁾;

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

“constable of a police force” includes the chief constable of a police force;

(1) [2012 asp 8](#).

(2) [1967 c.77](#).

(3) [2006 asp 10](#).

“police authority” and “joint police board” mean, respectively, a police authority or joint police board which was established under the 1967 Act;

“police force” means a police force which was maintained under the 1967 Act; and

“relevant authority” has the meaning given by section 6 of the Fire (Scotland) Act 2005⁽⁴⁾ as it had effect immediately before the coming into force of this Order.

PART 2

GENERAL PROVISIONS

Transitory: terminology

2.—(1) This article has effect until 1st April 2014.

(2) Where a document issued by, to or in relation to a constable of the Police Service, member of police staff or member of staff of the Authority refers, howsoever expressed, to—

- (a) a police force;
- (b) the Scottish Crime and Drug Enforcement Agency,

and would otherwise be valid, competent or without fault but for that reference, the document is to be construed as if it referred instead to the Police Service.

(3) Where a document issued by, to or in relation to a constable of the Police Service, member of police staff or member of staff of the Authority refers, howsoever expressed, to—

- (a) the Scottish Police Services Authority;
- (b) a police authority;
- (c) a joint police board,

and would otherwise be valid, competent or without fault but for that reference, the document is to be construed as if it referred instead to the Authority.

Transitional: protection of anything done or in process

3.—(1) The validity of anything done (or having effect as if done) before 1st April 2013 by or on behalf of, to or in relation to any office-holder, person or body mentioned in column 1 of the Table in paragraph (2) is not affected by the coming into force on that date of any provision of the 2012 Act or any subordinate legislation made thereunder or in consequence thereof.

(2) Subject to paragraphs (4) and (5), anything (including, for example, legal proceedings, investigations, applications or consultations) which, before 1st April 2013, is in the process of being done by or on behalf of, to or in relation to an office-holder, person or body mentioned in column 1 of the Table may be continued on and after that date by or on behalf of, to or in relation to an office-holder, person or body mentioned in the corresponding entry in column 2 of the Table.

<i>Column 1</i>	<i>Column 2</i>
a constable of a police force	a constable of the Police Service
a chief constable of a police force	the chief constable of the Police Service

(4) 2005 asp 5.

<i>Column 1</i>	<i>Column 2</i>
the Director General, Deputy Director General or a police member of the Scottish Crime and Drug Enforcement Agency	a constable of the Police Service
a person employed by a police authority or joint police board	a person employed by the Authority
a person employed by the Scottish Police Services Authority	a person employed by the Authority
a person employed by a relevant authority	a person employed by the Scottish Fire and Rescue Service
a police authority or joint police board	the Authority
the Scottish Police Services Authority	the Authority
a police force	the Police Service
a relevant authority	the Scottish Fire and Rescue Service

(3) Subject to paragraphs (4) and (5), anything done (or having effect as if done) (including, for example, warrants or authorisations) by or on behalf of, to or in relation to an office-holder, person or body mentioned in column 1 of the Table in paragraph (2) before 1st April 2013, has effect on and after that date as if done by or on behalf of, to or in relation to an office-holder, person or body mentioned in the corresponding entry in column 2 of that Table in so far as that is required for continuing its effect on or after that date; and, where appropriate, any such thing is, on and after that date, to have effect as if any reference therein to an office-holder, person or body mentioned in column 1 of the Table were a reference to the office-holder, person or body mentioned in the corresponding entry in column 2 of that Table.

(4) References to an office-holder or person in column 1 of the Table in paragraph (2) include references to an office-holder or person acting in a particular rank or capacity and, where necessary for the purpose of giving effect to paragraph (2) or (3), references to the corresponding office-holder or person in column 2 of the Table are references to the office-holder or person acting in a corresponding rank or capacity.

(5) Paragraphs (2) to (4) are subject to any express provision to the contrary made by this Order, the 2012 Act or any subordinate legislation made thereunder or in consequence thereof.

Supplementary: provision of information

4.—(1) The Authority must provide the Scottish Ministers with such reports, statistics or other information relating to a predecessor body or predecessor police force as they may reasonably require.

(2) Such information may, in particular, relate to—

- (a) a predecessor body or its functions;
- (b) a predecessor police force or its functions;
- (c) the state of crime before 1st April 2013.

(3) The chief constable must provide the Authority with such reports, statistics or other information relating to—

- (a) a predecessor police force or its functions;
- (b) a predecessor body or its functions, to the extent the chief constable holds the statistics or other information in question;

(c) the state of crime before 1st April 2013,
as it may reasonably require.

(4) Subsections (4) and (5) of section 84 of the 2012 Act apply to a requirement made under paragraph (3) as they do to a requirement made under section 84(3) of that Act.

(5) Subsections (8) to (10) of section 84 of the 2012 Act apply to any requirement under this article as they do to any requirement under section 84 of that Act.

(6) In this article—

“predecessor body” means a police authority, a joint police board or the Scottish Police Services Authority;

“predecessor police force” means a police force or the Scottish Crime and Drug Enforcement Agency.

Supplementary: provision of information

5.—(1) The Scottish Fire and Rescue Service must provide the Scottish Ministers with such reports, statistics and other information relating to a relevant authority or its functions as the Scottish Ministers may require.

(2) Information provided under this article may in particular relate to the outcomes of fires, events and other situations in relation to which a relevant authority made provision or took action before 1st April 2013.

PART 3

JOINT BOARDS

Interpretation of Part 3

6. In this Part—

“accounting authority” means a local authority named in column 2 of Table 1 or Table 2 in the Schedule;

“constituent local authority” means a local authority named in column 3 of Table 1 or Table 2 in the Schedule;

“joint board” means a joint board named in column 1 of Table 1 or Table 2 in the Schedule;

“joint fire and rescue board” means a joint fire and rescue board established under the Fire (Scotland) Act 2005⁽⁵⁾ and named in column 1 of Table 2 in the Schedule;

“joint police board” means a joint police board established under the 1967 Act named in column 1 of Table 1 in the Schedule; and

“the 1973 Act” means the Local Government (Scotland) Act 1973⁽⁶⁾.

Closure of accounts etc.

7.—(1) In respect of each joint board, the accounting authority mentioned in column 2 of the Tables in the Schedule corresponding to that joint board and its officers must, in relation to the accounts and reports for any period ending before 1st April 2013, discharge—

(a) any functions under—

(5) 2005 asp 5.

(6) 1973 c.65.

- (i) sections 96 to 102, 103A to 103J and 118 of the 1973 Act⁽⁷⁾;
 - (ii) the Local Authority Accounts (Scotland) Regulations 1985⁽⁸⁾; and
 - (iii) sections 3 to 5, 12 and 13 of the Local Government in Scotland Act 2003⁽⁹⁾,
- which would have fallen to be discharged on or after that date by that joint board or its officers; and
- (b) any such functions which fell to be discharged before that date but which have not been discharged.
- (2) As respects anything falling to be done on or after 1st April 2013 in relation to the accounts referred to in paragraph (1), the provisions referred to in that paragraph have effect as if those accounts were the accounts of the accounting authority, but—
- (a) the documents to which an auditor has the right of access under subsection (1) of section 100 of the 1973 Act⁽¹⁰⁾ include any documents relating to the joint board in question which are in the possession of—
 - (i) any constituent local authority corresponding to that joint board;
 - (ii) where the joint board in question was a joint police board, the Scottish Police Authority;
 - (iii) where the joint board in question was a joint fire and rescue board, the Scottish Fire and Rescue Service;
 - (b) the persons who may be required to give information under that subsection include any person who was an officer of the joint board in question, or an officer of a corresponding constituent local authority with knowledge of the joint board's functions, at any time during the period to which the accounts relate; and
 - (c) the references in subsection (3) of section 101 of the 1973 Act to any officer include any person who was an officer of the joint board in question, or an officer of a corresponding constituent local authority with knowledge of the joint board's functions, at any time during the period to which the accounts relate.

Access to documents and information

8.—(1) An accounting authority—

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- (7) Section 96 was amended by the Local Government (Scotland) Act 1975 (c.30), section 18; the Local Government etc. (Scotland) Act 1994 (c.39) ("the 1994 Act"), Schedule 4, paragraph 1; and the Public Finance and Accountability (Scotland) Act 2000 (asp 1) ("the 2000 Act"), schedule 4, paragraph 3(2). Section 97 was amended by the Local Government (Scotland) Act 1975 (c.30), Schedule 6, paragraph 48; the Local Government Act 1988 (c.9), section 35(2); the National Health Service and Community Care Act 1990 (c.19) ("the 1990 Act"), Schedule 7, paragraph 3; the Social Security Administration (Fraud) Act 1997 (c.47) ("the 1997 Act"), section 7(2); the Health Act 1999 (c.8), Schedule 5, paragraph 1; the 2000 Act, schedule 4, paragraph 3(3); the Local Government in Scotland Act 2003 (asp 1) ("the 2003 Act"), section 53; and S.I. 1991/1997 and 2008/948. Sections 97A and 97B were inserted by the Local Government Act 1988 (c.9), section 35(3). Section 97A was amended by the 2000 Act, schedule 4, paragraph 3(4) and the 2003 Act, section 6. Section 97B was amended by the 2003 Act, section 54(1). Section 98 was amended by the 2000 Act, schedule 4, paragraph 3(5). Section 99 was amended by the 2003 Act, section 55. Section 100 was amended by the Criminal Procedure (Scotland) Act 1975 (c.21), sections 289F and 289G; the 1990 Act, Schedule 7, paragraph 7(3); the 1994 Act, Schedule 13, paragraph 92(25) and Schedule 14, paragraph 1; the 2000 Act, schedule 4, paragraph 3(7); and the 2003 Act, section 54(2). Section 101 was amended by the Rating and Valuation (Amendment) (Scotland) Act 1984 (c.31), section 10(1) and the 2000 Act, schedule 4, paragraph 3(8). Section 101A was inserted by the 1997 Act, section 7(3). Section 102 was amended by the Local Government and Housing Act 1989 (c.42), section 185(b); the 1994 Act, Schedule 13, paragraph 92(26); the 2000 Act, schedule 4, paragraph 3(9)(b); the Ethical Standards in Public Life (Scotland) Act 2000 (asp 7), section 33(1); the 2003 Act, section 56; and the Public Services Reform (Scotland) Act 2010 (asp 8), section 129. Sections 103A to 103J were inserted by the Ethical Standards in Public Life etc. (Scotland) Act 2000 (asp 7), section 33(3). Section 118 was amended by the 1994 Act, Schedule 14, paragraph 1 and the Transport (Scotland) Act 2005 (asp 12), schedule 1, paragraph 15(3).
- (8) S.I. 1985/267. As amended by S.S.I. 2011/64.
- (9) 2003 asp 1.
- (10) 1973 c.65. As amended by the Public Finance and Accountability (Scotland) Act 2000 (asp 1), schedule 4, paragraph 3(7)(a).