STATUTORY INSTRUMENTS

2018 No. 226

CRIMINAL LAW, ENGLAND AND WALES
FIRE AND RESCUE SERVICES, ENGLAND
LOCAL GOVERNMENT, ENGLAND
LONDON GOVERNMENT
POLICE, ENGLAND AND WALES

The Policing and Crime Act 2017 (Consequential Amendments) Regulations 2018

Made - - - - 21st February 2018

Coming into force in accordance with regulation 1

The Secretary of State, in exercise of the powers conferred by sections 180(1) and (3) of the Policing and Crime Act 2017(**1**), makes the following Regulations.

A draft of these Regulations has been laid before Parliament and has been approved by each House of Parliament in accordance with section 180(4) of that Act.

Citation and commencement

1.—(1) These Regulations may be cited as the Policing and Crime Act 2017 (Consequential Amendments) Regulations 2018.

(2) Subject to paragraphs (3) to (5), these Regulations come into force on the day after these Regulations are made.

(3) Regulations 4 and 14 come into force 21 days after the day on which these Regulations are made.

(4) Regulation 7 comes into force on 1st March 2018.

(5) Regulations 11 and 12 come into force on 1st April 2018.

(**1**) 2017 c. 3.

Amendment to the Fire Services Act 1947

2.—(1) The Fire Services Act 1947(**2**) is amended as follows.

(2) After section 26(2)(aa) (firefighters' pension scheme) insert—

"(ab) for treating, for all or any of the purposes of the Scheme, holding office as the London Fire Commissioner as employment by a fire and rescue authority in England where the terms and conditions of appointment to that office include—

(i) resolving operational incidents, or

(ii) leading and supporting others in the resolution of operational incidents;".

Amendments to the Trustee Investments Act 1961

3.—(1) The Trustee Investments Act 1961(**3**) is amended as follows.

(2) In section 11(4)(a) (local authority investment schemes)(**4**) after "a combined authority established under section 103 of that Act," insert "a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004(**5**)".

(3) In Part 2 of Schedule 1 (narrower-range investments requiring advice)(**6**) in paragraph 9, after sub-paragraph (i), insert—

"(j) a fire and rescue authority created by an order under section 4A of the Fire and Rescue Services Act 2004.".

Amendment to the Contempt of Court Act 1981

4.—(1) The Contempt of Court Act 1981(**7**) is amended as follows.

(2) In Schedule 1 (times when proceedings are active for purposes of section 2), in paragraph 7(**8**)—

(a) in sub-paragraph (c), omit "England and Wales or";

(b) after sub-paragraph (c), insert—

"(ca) in the case of proceedings in England and Wales commenced by arrest without warrant, if the person arrested is notified that the person is not to be prosecuted (whether under section 34(5C), 37(6B), 37B(5), 37CA(6), 41(11), 42(13), 43(21) or 44(10) of the Police and Criminal Evidence Act 1984(**9**) or otherwise);".

Amendment to the Police and Criminal Evidence Act 1984

5.—(1) The Police and Criminal Evidence Act 1984(**10**) is amended as follows.

(**2**) 1947 c. 41; repealed by sections 52 and 54 of, and Schedule 2 to, the Fire and Rescue Services Act 2004 (c. 21). Subsections (1) to (5) of section 26 continue to have effect, for the purposes of a scheme established under that section, in relation to England and Scotland by virtue of S.I. 2004/2306 and in relation to Wales by virtue of S.I. 2004/2918 W.25.

(**3**) 1961 c. 62.

(**4**) Relevant amendments were made by section 99 of, and paragraphs 77 and 78 of Schedule 16 to, the Police Reform and Social Responsibility Act 2011 (c. 13).

(**5**) 2004 c. 21.

(**6**) Relevant amendments were made by section 99 of, and paragraphs 77 and 78 of Schedule 16 to, the Police Reform and Social Responsibility Act 2011.

(**7**) 1981 c. 49.

(**8**) Paragraph 7 was amended by paragraph 4 of Schedule 1 to the Prosecution of Offences Act 1985 (c. 23) and by paragraph 34 of Schedule 17 to the Crime and Courts Act 2013 (c. 22).

(**9**) 1984 c. 60. Section 37B(5) was inserted by paragraph 3 of Schedule 2 to the Criminal Justice Act 2003 (c. 44). Sections 34(5C), 37(6B) and 37CA(6) were inserted by section 66 of the Policing and Crime Act 2017. Sections 41(11), 42(13), 43(21) and 44(10) were inserted by section 67 of the Policing and Crime Act 2017.

(**10**) 1984 c. 60.

(2) In section 118(2A) (treatment of lawful custody in certain cases)(**11**) omit "22,".

Amendments to Part 8 of the Local Government Finance Act 1988

6. The Schedule to these Regulations (amendments to Part 8 of the Local Government Finance Act 1988)(**12**) has effect.

Amendment to the Criminal Justice and Public Order Act 1994

7.—(1) The Criminal Justice and Public Order Act 1994(**13**) is amended as follows.

(2) In section 137(9) (cross border powers of arrest etc)(**14**), in the definition of "designated police station", for "the 1989 Order" substitute "the Police and Criminal Evidence (Northern Ireland) Order 1989".

Amendments to the Police Act 1996

8.—(1) The Police Act 1996(**15**) is amended as follows.

(2) In Schedule 6 (appeals to police appeals tribunals)—

(a) in paragraph 1(1)(**16**), after "a senior officer" insert "or a former senior officer";

(b) in paragraph 2(1)(**17**), for "a member of a police force (other than a senior officer) or a special constable" substitute "a person to whom sub-paragraph (3) applies";

(c) after paragraph 2(2), insert—

"(3) The persons to whom this sub-paragraph applies are—

(a) a member of a police force (other than a senior officer),

(b) a former member of a police force (other than a former senior officer),

(c) a special constable, and

(d) a former special constable.".

Amendment to the Criminal Justice Act 2003

9.—(1) The Criminal Justice Act 2003(**18**) is amended as follows.

(2) In section 24B(5) (application of PACE provisions)(**19**) for "section 24A(2)(b)" substitute "section 24A(2)(c)".

Amendments to the Fire and Rescue Services Act 2004

10.—(1) The Fire and Rescue Services Act 2004(**20**) is amended as follows.

(**11**) Section 118(2A) was inserted by section 107(9) of, and paragraph 9(9) of Schedule 7 to, the Police Reform Act 2002 (c. 30).
(**12**) 1988 c. 41.
(**13**) 1994 c. 33.
(**14**) Section 137(9) was amended by paragraph 47 of Schedule 7 to the Serious Organised Crime and Police Act 2005 (c. 15) and paragraph 2 of Schedule 17 to the Policing and Crime Act 2017.
(**15**) 1996 c. 16.
(**16**) There have been amendments to paragraph 1 but none is relevant.
(**17**) Sub-paragraph (1) was substituted by paragraph 11 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (c. 4). There have been other amendments to sub-paragraph (1) but none is relevant.
(**18**) 2003 c. 44.
(**19**) Section 24B was inserted by section 18 of the Police and Justice Act 2006 (c. 48) and subsection (5) was amended by section 64(8)(b) of the Policing and Crime Act 2017 (c. 3).
(**20**) 2004 c. 21.

(2) In section 24 (best value)(**21**) after subsection (2) insert—

"(2A) When carrying out an inspection under section 10 of the Local Government Act 1999 as applied by subsection (1) of a fire and rescue authority created by an order under section 4A, an inspector must not review or scrutinise decisions made, or other action taken, by the fire and rescue authority in connection with the discharge of an excluded function.

(2B) In subsection (2A) "excluded function", in relation to a fire and rescue authority, means a function which is an excluded function in relation to that authority for the purposes of subsection (A6) of section 28 (inspections by English inspectors) (see subsections (A7) and (A8) of that section).".

(3) After section 34(2)(b)(pensions etc)(**22**) insert—

"(ba) provide for treating, for any purpose of the scheme, to the extent specified in the scheme and subject to any conditions specified in the scheme, holding office as the London Fire Commissioner as if it were employment by a fire and rescue authority in England where the terms and conditions of appointment to that office include—

(i) resolving operational incidents, or

(ii) leading and supporting others in the resolution of operational incidents;".

Amendment to the Housing and Planning Act 2016

11.—(1) The Housing and Planning Act 2016(**23**) is amended as follows.

(2) In Schedule 20 (authorities specified for purposes of section 210)(**24**), for paragraph 7 substitute—

"**7.** The London Fire Commissioner.".

Amendment to the High Speed Rail (London-West Midlands) Act 2017

12.—(1) The High Speed Rail (London-West Midlands) Act 2017(**25**) is amended as follows.

(2) In Part 2 (interference with highways) of Schedule 4 (highways) in paragraph 3(11), for paragraph (b) substitute—

"(b) the London Fire Commissioner,".

Transitional provision in relation to amendment of the Criminal Justice Act 2003

13.—(1) Regulation 9 does not apply in relation to a person in respect of an offence for which a conditional caution is given if the person was—

(a) first arrested for the offence on or before 2nd April 2017; or

(b) given the conditional caution on or before 2nd April 2017.

(2) In this regulation "conditional caution" has the same meaning as in Part 3 of the Criminal Justice Act 2003.

(**21**) Section 24 was amended by paragraph 26 of Schedule 8 to the Local Government and Public Involvement in Health Act 2007 (c. 28).

(**22**) The powers conferred by section 34 of the Fire and Rescue Services Act 2004 are now vested in Welsh Ministers so far as they are exercisable in Wales. There were previously vested in the National Assembly for Wales by virtue of section 62 of that Act. By virtue of paragraphs 30 and 32 of Schedule 11 to the Government of Wales Act 2006 (c. 32), they were transferred to Welsh Ministers. Powers under section 34 of the Fire and Rescue Services Act 2004 are now vested in Scottish Ministers so far as they are exercisable in Scotland (S.I. 2005/849). Section 34 was amended by paragraph 27 of Schedule 8 to the Public Service Pension Act 2013 (c. 25) and section 8(8) of, and paragraphs 1 and 11 of Schedule 1 to, the Policing and Crime Act 2017 (c. 3).

(**23**) 2016 c. 22.

(**24**) Schedule 20 is not yet in force.

(**25**) 2017 c. 7.

Saving provision in relation to amendment of the Contempt of Court Act 1981

14.—(1) Regulation 4 does not apply in relation to proceedings in respect of a publication made before the day on which regulation 4 comes into force.

(2) In this regulation 'publication' has the same meaning as in section 2(1) of the Contempt of Court Act 1981(**26**)

Nick Hurd
Minister of State
Home Office

21st February 2018

(**26**) Section 2(1) was amended by paragraph 31(1)(a) of Schedule 20 to the Broadcasting Act 1990 c. 42.