

2012 No. 333 (C. 32)

FIRE AND RESCUE SERVICES

POLICE

**The Police and Fire Reform (Scotland) Act 2012
(Commencement No. 2, Transitory and Transitional Provisions
and Appointed Day) Order 2012**

<i>Made</i> - - - -	<i>4th December 2012</i>
<i>Laid before the Scottish Parliament</i>	<i>6th December 2012</i>
<i>Coming into force</i> - -	<i>1st January 2013</i>

The Scottish Ministers make the following Order in exercise of the powers conferred on them by section 129(2) and (3) of, and paragraph 1 of schedule 6 to, 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. 2, Transitory and Transitional Provisions and Appointed Day) Order 2012 and comes into force on 1st January 2013.

(2) In this Order “the 2012 Act” means the Police and Fire Reform (Scotland) Act 2012.

Commencement of the 2012 Act

2.—(1) 1st January 2013 is the day appointed for the coming into force of the provisions of the 2012 Act specified in column 1 of Schedule 1 (the subject-matter of which is described in column 2 of that Schedule).

(2) Where a purpose is specified in column 3 of Schedule 1 in relation to any provision, that provision comes into force on 1st January 2013 for that purpose only.

Transitory and transitional provision

3. Schedule 2 makes transitory and transitional provision.

Appointed day

4. The “appointed day” for the purposes of schedule 6 to the 2012 Act (transfer of staff, property, etc.) is 1st April 2013.

St Andrew’s House,
Edinburgh
4th December 2012

KENNY MACASKILL
A member of the Scottish Government

SCHEDULE 1
Commencement

Article 2

<i>Column 1</i> <i>Provisions of the 2012 Act</i>	<i>Column 2</i> <i>Subject-matter</i>	<i>Column 3</i> <i>Purpose</i>
Section 2(1)(b)	Functions of the Authority	
Section 3(1)(c) and (2)	Maintenance of the police	
Section 74(2)(b)	Functions of Inspectors of Constabulary	
Section 75(1), (3) and (4)	HMICS plan	
Section 76	HMICS powers	
Section 77	Duty to assist and co-operate with HMICS	
Section 79	HMICS reports: other inquiries	
Section 80	Inquiry reports: consideration and action	
Section 81(1)(b), (2) and (3)	Power to give directions after adverse HMICS report	
Section 85	Scrutiny and investigations: co-operation and information sharing	
Section 100	Crown application	
Section 119	Inspectors of SFRS	For the purpose of inserting sections 43B(1), (3)(b) and (4) to (7), 43C(1), (2) and (3), 43E, 43F(1), (3) and (4) and 43G of the 2005 Act.
Schedule 7, paragraph 13(3)	Consequential amendments	

SCHEDULE 2

Article 3

Transitory and transitional provision

Interpretation

1. In this Schedule—

“1967 Act inspectors” means the inspectors of constabulary appointed under section 33(1) of the Police (Scotland) Act 1967(a);

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

“2005 Act Chief Inspector” means the Chief Inspector of Fire and Rescue Authorities appointed under section 43(1)(a) of the 2005 Act;

“2005 Act Inspector” means—

(a) an Inspector of Fire and Rescue Authorities appointed under section 43(1)(b) or by virtue of section 43(4)(b) of the 2005 Act; and

(b) an Assistant Inspector of Fire and Rescue Authorities appointed under section 43(2) or by virtue of section 43(4)(c) of that Act;

“Assistant Inspector of the Scottish Fire and Rescue Service” means a person appointed under section 43A(2) or by virtue of section 43A(5)(c) of the 2005 Act;

“Chief Inspector of the Scottish Fire and Rescue Service” means the person appointed under section 43A(1)(a) or by virtue of section 43A(5)(a) of the 2005 Act; and

“Inspector of the Scottish Fire and Rescue Service” means a person appointed under section 43A(1)(b) or by virtue of section 43A(5)(b) of the 2005 Act.

Transitory modifications

2.—(1) Until 1st April 2013, the 2012 Act is modified as follows.

(2) Section 3(1) is to be read as if for “pursuance” to “2(1)(a)” there was substituted “anticipation of having, by virtue of the coming into force of section 2(1)(a), the function of maintaining the Police Service”.

(3) Section 74(2) is to be read as if “inspectors of constabulary” was a reference to the 1967 Act inspectors.

(4) In section 75—

(a) subsection (1) is to be read as if—

(i) the reference to “inspectors of constabulary” was a reference to the 1967 Act inspectors; and

(ii) in paragraph (a), for “them” there was substituted “inspectors of constabulary to be appointed under section 71 of, or by virtue of paragraph 16(1) of schedule 5 to, this Act”;

(b) subsection (3) is to be read as if the reference to “inspectors of constabulary” was a reference to the 1967 Act inspectors; and

(c) subsection (4) is to be read as if the references to “inspectors of constabulary”, in both places, were references to the 1967 Act inspectors.

(a) 1967 c.77. Section 33(1) has been amended by the Scotland Act (Consequential Modifications) (No. 2) Order 1999 (S.I. 1999/1820).

(b) 2005 asp 5.

- (5) In section 76—
- (a) subsection (1) is to be read as if—
 - (i) the reference to “inspectors of constabulary” was a reference to the 1967 Act inspectors; and
 - (ii) after “functions” there was inserted “under section 74(2)(b) or 75(1)”; and
 - (b) subsection (2) is to be read as if—
 - (i) the references to “any assistant inspector of constabulary” and “staff officers” were to assistant inspectors of constabulary and staff officers appointed under section 34 of the 1967 Act; and
 - (ii) after “functions”, there was inserted “under this section or section 74(2)(b) or 75(1)”.
- (6) Section 77 is to be read as if—
- (a) both references to “inspectors of constabulary” were references to the 1967 Act inspectors; and
 - (b) after “functions”, there was inserted “under section 74(2)(b), 75(1) or 76”.
- (7) Section 79 is to be read as if the references to “inspectors of constabulary”, in each place they occur, were references to the 1967 Act inspectors.
- (8) Section 80 is to be read as if—
- (a) the reference to “inspectors of constabulary” was to the 1967 Act inspectors; and
 - (b) the words “78 or” were omitted.
- (9) Section 81(1) is to be read as if—
- (a) the reference to “inspectors of constabulary” was to the 1967 Act inspectors; and
 - (b) the words “78 or” were omitted.
- (10) Section 85 is to be read as if—
- (a) the words “and the Police Investigations and Review Commissioner”, in each place they occur, were omitted; and
 - (b) the references to “inspectors of constabulary”, in each place they occur, were to the 1967 Act inspectors; and
 - (c) in subsection (4), the words in parenthesis were omitted.
- (11) In section 119—
- (a) the inserted section 43B(1) and (4) to (7) of the 2005 Act is to be read as if the references to “Inspector”, in each place they occur, were references to the 2005 Act Chief Inspector and any 2005 Act Inspector;
 - (b) the inserted section 43C of the 2005 Act is to be read as if—
 - (i) the references to the Chief Inspector, in each place they occur, were references to the 2005 Act Chief Inspector; and
 - (ii) in subsection (3), “(a) or” was omitted;
 - (c) the inserted section 43E of the 2005 Act is to be read as if the words “or 43D(3)” were omitted;
 - (d) the inserted section 43F(1) of the 2005 Act is to be read as if—
 - (i) “Chief Inspector” was a reference to the 2005 Act Chief Inspector; and
 - (ii) in paragraph (a), “Inspectors” was a reference to—
 - (aa) the Chief Inspector of the Scottish Fire and Rescue Service;
 - (bb) Inspectors of the Scottish Fire and Rescue Service; and
 - (cc) Assistant Inspectors of the Scottish Fire and Rescue Service;

- (e) the inserted section 43F(3) and (4) of the 2005 Act is to be read as if the references to the “Chief Inspector”, in each place they occur, were references to the 2005 Act Chief Inspector; and
- (f) the inserted 43G of the 2005 Act is to be read as if the references to “Inspectors”, in both places, were to the 2005 Act Chief Inspector and any 2005 Act Inspector.

Transitional provision

3.—(1) Anything done under the 2012 Act before 1st April 2013 by or in relation to the 1967 Act inspectors is to be treated, on and after that day, as having been done by or in relation to the inspectors of constabulary appointed under section 71 of, or by virtue of paragraph 16(1) of schedule 5 to, the 2012 Act.

(2) Anything done under the 2012 Act before 1st April 2013 by or in relation to an assistant inspector of constabulary appointed under section 34 of the 1967 Act is to be treated, on and after that day, as having been done by or in relation to an assistant inspector of constabulary appointed under section 72 of, or by virtue of paragraph 16(2) of schedule 5 to, the 2012 Act.

(3) Anything done under the 2012 Act before 1st April 2013 by or in relation to a staff officer appointed under section 34 of the 1967 Act is to be treated, on and after that day, as having been done by or in relation to a staff officer appointed under section 73, or by virtue of paragraph 16(3) of schedule 5 to, the 2012 Act.

(4) Anything done under the provisions of the 2005 Act specified in sub-paragraph (5) before 1st April 2013 by or in relation to the 2005 Act Chief Inspector is to be treated, on and after that day, as having been done by or in relation to the Chief Inspector of the Scottish Fire and Rescue Service.

(5) The provisions referred to in sub-paragraph (4) are—

- (a) section 43B(1), (4) and (5);
- (b) section 43C(2) and (3);
- (c) section 43F(1), (3) and (4); and
- (d) section 43G.

(6) Anything done under the provisions of the 2005 Act specified in sub-paragraph (7) before 1st April 2013 by or in relation to a 2005 Act Inspector is to be treated, on and after that day, as having been done by or in relation to an Inspector of the Scottish Fire and Rescue Service or an Assistant Inspector of the Scottish Fire and Rescue Service.

(7) The provisions referred to in sub-paragraph (6) are—

- (a) section 43B(1), (4) and (5); and
- (b) section 43G.

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 January 2013: sections 2(1)(b), 3(1)(c) and (2), 74(2)(b), 75(1), (3) and (4) 76, 77, 79, 80, 81(1)(b), (2) and (3), 85, 100 and 119 (for certain purposes) and paragraph 13(3) of schedule 7.

Article 2 appoints 1st January 2013 as the day for the coming into force of the provisions of the 2012 Act specified in Schedule 1.

Section 2(1)(b) and 3(1)(c) confer the functions on the Scottish Police Authority (“SPA”) of promoting the policing principles set out in section 32 of the 2012 Act and providing to the chief constable details of how it intends to allocate any resources it expects to have available to it. Schedule 2 makes a transitional modification of section 3(1)(a) to make it clear that this function is to be exercised in anticipation of the SPA having the function in section 2(1)(a) of the 2012 Act of maintaining the Police Service of Scotland (“the Service”) from 1st April 2013.

Sections 74(2)(b), 75(1), (3) and (4), 76, 77, 79, 80 and 81(1)(b), (2) and (3) are commenced to allow the inspectors of constabulary (“HMICS”) to exercise the functions of making inquiries as to the arrangements made by the SPA and the chief constable under section 37 of the 2012 Act (best value) and preparing an inspection plan for their inquiries generally. A range of ancillary functions are also conferred on HMICS by these provisions. The duties the SPA and the chief constable have in relation to those inquiries are also brought into force. Transitory modifications are made by Schedule 2 which have the effect of conferring the functions of HMICS under these provisions on the inspectors of constabulary appointed under the Police (Scotland) Act 1967, pending the appointment of inspectors under the 2012 Act from 1st April 2013.

Section 85 is also brought into force (subject to certain transitory modifications in Schedule 2) to ensure that HMICS and the Auditor General co-operate in the exercise of their respective functions in relation to the Service and the SPA.

Section 100, which makes provision about the application of the 2012 Act to the Crown, is brought into force.

Section 119 is commenced for the purpose of inserting sections 43B(1), (3)(b) and (4) to (7), 43C(1), (2) and (3), 43E and 43F(1), (3) and (4) into the Fire (Scotland) Act 2005 (“the 2005 Act”) in relation to the Inspectors of the Scottish Fire and Rescue Service (SFRS). These provisions bring into force the power of Inspectors to carry out inquiries as to the compliance by SFRS with its best value duties and requires the Chief Inspector to prepare an inspection plan in relation to those and other inquiries which may be carried out by the Inspectors. A number of ancillary functions are also brought into force, together with requirements for SFRS to exercise certain duties in relation to the Inspectors and their inquiries and reports.

Section 119 is also commenced for the purpose of inserting section 43G into the 2005 Act which requires the Inspectors to co-operate in the exercise of their respective functions in relation to SFRS.

Since Inspectors will not be appointed under the 2012 Act until 1st April 2013, Schedule 2 makes transitory modifications which have the effect of conferring the functions of Inspectors on the Chief Inspector of Fire and Rescue Authorities and Inspectors of Fire and Rescue Authorities appointed under the 2005 Act.

Paragraph 3 of Schedule 2 makes transitional provision to ensure that anything done under the 2012 Act by or in relation to the existing inspectors of constabulary, assistant inspectors or their staff officers is treated on and after 1 April 2013 as having been done by or in relation to their equivalent office holders and staff members under the 2012 Act. Similar provision is made in relation to anything done by or in relation to the Chief Inspector, Inspectors and Assistant Inspectors of Fire and Rescue Authorities under provisions of the 2012 Act inserted by section 119 (in so far as commenced by this Order).

Article 4 specifies 1st April 2013 as the appointed day for the purposes of the staff and property transfer provisions in schedule 6 to the 2012 Act.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Police and Fire Reform (Scotland) Act 2012 have been brought into force by an earlier commencement Order

<i>Provision</i>	<i>Date of commencement</i>	<i>S.S.I. No.</i>
Section 5	1st October 2012	2012/253
Section 11(1) to (4)	1st October 2012	2012/253
Section 15(1) (partially)	1st October 2012	2012/253
Section 15(3) and (4)	1st October 2012	2012/253
Section 17(2)(c) (partially)	1st October 2012	2012/253
Section 17(2)(d)	1st October 2012	2012/253
Section 24(1), (2)(a), (3) to (5)	1st October 2012	2012/253
Sections 26	1st October 2012	2012/253
Section 27	1st October 2012	2012/253
Section 32	1st October 2012	2012/253
Section 33	1st October 2012	2012/253
Section 34(1) to (7)	1st October 2012	2012/253
Section 35	1st October 2012	2012/253
Section 36	1st October 2012	2012/253
Section 41	1st October 2012	2012/253
Section 42(1)(b) and (2) to (7)	1st October 2012	2012/253
Section 43	1st October 2012	2012/253
Section 48	1st October 2012	2012/253
Section 49	1st October 2012	2012/253
Section 50	1st October 2012	2012/253
Section 51	1st October 2012	2012/253
Section 52	1st October 2012	2012/253
Section 53	1st October 2012	2012/253
Section 54	1st October 2012	2012/253
Section 55	1st October 2012	2012/253
Section 56(3)	1st October 2012	2012/253
Section 64	1st October 2012	2012/253
Section 66	1st October 2012	2012/253
Section 87	1st October 2012	2012/253
Section 98(1) to (3)	1st October 2012	2012/253
Section 98(5)	1st October 2012	2012/253
Section 114 (partially)	1st October 2012	2012/253
Section 118	1st October 2012	2012/253
Section 121	1st October 2012	2012/253
Section 122(1) and (2)	1st October 2012	2012/253
Section 128(1) (partially)	1st October 2012	2012/253
Schedule 3	1st October 2012	2012/253
Schedule 5	1st October 2012	2012/253
Schedule 6	1st October 2012	2012/253
Schedule 7 (partially)	1st October 2012	2012/253

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£5.75

S5739 12/2012 325739T 19585

ISBN 978-0-11-101868-2



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