

SCHEDULES

SCHEDULE 8

Section 38

APPOINTMENT, SUSPENSION AND REMOVAL OF SENIOR POLICE OFFICERS

PART 1

APPOINTMENT OF CHIEF CONSTABLES

Introduction

- 1 A police and crime commissioner must comply with this Part of this Schedule in appointing a chief constable under section 38.

No appointment until end of confirmation process

- 2 (1) A police and crime commissioner must not appoint a person to be chief constable unless—
- (a) that person is, or has been, a constable in any part of the United Kingdom, and
 - (b) the end of the confirmation process has been reached.
- (2) The end of the confirmation process is reached—
- (a) in a case where paragraph 7 applies, when the first of the events mentioned in sub-paragraphs (3) and (4) occurs; or
 - (b) in a case where paragraph 8 applies, when the first of the events mentioned in sub-paragraphs (3) and (5) occurs.
- (3) The first event mentioned in sub-paragraphs (2)(a) and (2)(b) is the period of three weeks mentioned in paragraph 4(6) ending without the relevant police and crime panel having given the police and crime commissioner any report on the proposed appointment.
- (4) The second event mentioned in sub-paragraph (2)(a) is the police and crime commissioner notifying the panel under paragraph 7(3) of the decision whether or not to accept the panel's recommendation in relation to the appointment.
- (5) The second event mentioned in sub-paragraph (2)(b) is the end of the confirmation process being reached in accordance with regulations under paragraph 10.

Notification of proposed appointment

- 3 (1) A police and crime commissioner must notify the relevant police and crime panel of each proposed appointment of a chief constable by the commissioner.
- (2) In such a case, the police and crime commissioner must also notify the relevant police and crime panel of the following information—

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- (a) the name of the person whom the commissioner is proposing to appoint (“the candidate”);
- (b) the criteria used to assess the suitability of the candidate for the appointment;
- (c) why the candidate satisfies those criteria; and
- (d) the terms and conditions on which the candidate is to be appointed.

Panel to review and report on proposed appointment

- 4 (1) This paragraph applies if a police and crime panel is notified under paragraph 3 of a proposed appointment of a chief constable.
- (2) The panel must review the proposed appointment.
 - (3) The panel must make a report to the commissioner on the proposed appointment.
 - (4) The report must include a recommendation to the police and crime commissioner as to whether or not the candidate should be appointed.
 - (5) Sub-paragraph (4) does not apply if the panel vetoes the proposed appointment under paragraph 5 (but see paragraph 5(2)).
 - (6) The panel must comply with sub-paragraphs (2) to (4) within the period of three weeks beginning with the day on which the panel receives the notification from the commissioner of the proposed appointment.
 - (7) The panel must publish the report to the commissioner made under this paragraph.
 - (8) It is for the panel to determine the manner in which the recommendation is to be published in accordance with sub-paragraph (7).
 - (9) In calculating the period of three weeks for the purpose of sub-paragraph (6), any relevant post-election period is to be ignored.
 - (10) For that purpose, “relevant post-election period” means the period that—
 - (a) begins with the day of the poll at an ordinary election of a police and crime commissioner under section 50, and
 - (b) ends with the day on which the person elected as police and crime commissioner delivers a declaration of acceptance of office under section 70.

Power to veto proposed appointment

- 5 (1) The police and crime panel may, having reviewed the proposed appointment, veto the appointment of the candidate.
- (2) If the panel vetoes the appointment of the candidate, the report made under paragraph 4 must include a statement that the panel has vetoed it.
 - (3) References in this Schedule to a police and crime panel vetoing the appointment of a candidate are references to the panel making a decision, by the required majority, that the candidate should not be appointed as chief constable.
 - (4) For that purpose, the panel makes that decision by the required majority if at least two-thirds of the persons who are members of the panel at the time when the decision is made vote in favour of making that decision.

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- (5) The power conferred by this paragraph is exercisable in relation to a proposed appointment only during the period of three weeks mentioned in paragraph 4(6).

Confirmation hearings

- 6 (1) A police and crime panel must hold a confirmation hearing—
- (a) before making a report under paragraph 4 to the police and crime commissioner in relation to a proposed appointment of a chief constable, and
 - (b) before making a recommendation under paragraph 4 (where applicable) or vetoing an appointment under paragraph 5 (where applicable).
- (2) For the purposes of this Part a “confirmation hearing” is a meeting of the panel, held in public, at which the candidate is requested to appear for the purpose of answering questions relating to the appointment.
- (3) References in this Part to a person appearing at a meeting of the panel are references to the person—
- (a) attending the meeting in person, or
 - (b) not attending the meeting in person, but participating in the proceedings at the meeting by any means that enable the person to hear, and be heard in, those proceedings as they happen.

Next steps if no veto

- 7 (1) This paragraph applies if the police and crime panel does not veto the appointment of a candidate.
- (2) The police and crime commissioner may accept or reject the panel’s recommendation as to whether or not the candidate should be appointed.
- (3) The police and crime commissioner must notify the panel of the decision whether to accept or reject the recommendation.

Next steps if veto

- 8 (1) This paragraph applies if the police and crime panel vetoes the appointment of a candidate.
- (2) The police and crime commissioner must not appoint that candidate as chief constable.
- (3) Sub-paragraph (2) is subject to regulations under paragraph 10.

Regulations

- 9 (1) The Secretary of State may make regulations about—
- (a) the steps that are required to be taken by paragraphs 3 to 8, and
 - (b) procedures that are to be followed in taking such steps.
- (2) The regulations may, in particular, make provision about the time limits applicable in taking steps or following procedures (if, or to the extent that, this Part of this Schedule does not make such provision).

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- 10 (1) The Secretary of State may make regulations about the appointment of chief constables in cases where paragraph 8 applies in relation to the appointment of a candidate (the “rejected candidate”).
- (2) The regulations may make provision about—
- (a) steps to be taken, and
 - (b) procedures to be followed.
- (3) That includes provision about the time limits applicable in taking steps or following procedures.
- (4) The regulations may make provision about limits on who may be considered for appointment.
- (5) That includes provision about limiting consideration for appointment to some or all of the persons already considered as part of the process by which the rejected candidate was selected for appointment.
- (6) The regulations may confer functions on—
- (a) police and crime commissioners,
 - (b) police and crime panels,
 - (c) the Secretary of State, or
 - (d) any other person.
- (7) That includes functions involving the exercise of a discretion.
- (8) Sub-paragraphs (2) to (7) do not limit the power conferred by sub-paragraph (1).

PART 2

SUSPENSION AND REMOVAL OF CHIEF CONSTABLES

Suspension

- 11 If a police and crime commissioner suspends a chief constable from duty under section 38, the commissioner must notify the relevant police and crime panel of the suspension.

Removal: general

- 12 (1) A police and crime commissioner must not call upon a chief constable to retire or resign until the end of the scrutiny process has been reached.
- (2) The end of the scrutiny process is reached when the first of the following events occurs—
- (a) the period of six weeks mentioned in paragraph 15(3) has ended without the panel having given the police and crime commissioner any recommendation as to whether or not the commissioner should call for the retirement or resignation;
 - (b) the police and crime commissioner notifies the panel under paragraph 16(2) of the decision whether or not to accept the panel’s recommendation in relation to the resignation or retirement.

Removal: notification and representations

- 13 (1) A police and crime commissioner must comply with this paragraph before calling upon a chief constable to retire or resign under section 38.
- (2) The police and crime commissioner must give the chief constable a written explanation of the reasons why the commissioner is proposing to call for the retirement or resignation.
- (3) The police and crime commissioner must give the relevant police and crime panel—
- (a) written notification that the commissioner is proposing to call upon the chief constable to retire or resign; and
 - (b) a copy of the reasons given to the chief constable in accordance with sub-paragraph (1).
- (4) The police and crime commissioner must give the chief constable the opportunity to make written representations about the proposal to call for the chief constable's resignation or retirement.
- (5) The police and crime commissioner must—
- (a) consider any written representations made by the chief constable; and
 - (b) give the relevant police and crime panel a copy of any such representations made by the chief constable, as soon as practicable after the commissioner is given them.

Removal: further notification

- 14 (1) A police and crime commissioner must comply with this paragraph if, after complying with paragraph 13, the police and crime commissioner is still proposing to call upon the chief constable to retire or resign under section 38.
- (2) The police and crime commissioner must notify—
- (a) the chief constable, and
 - (b) the relevant police and crime panel,
- that the commissioner is still proposing to call upon the chief constable to retire or resign.

Removal: role of panel

- 15 (1) This paragraph applies if a police and crime panel is given a notification under paragraph 14.
- (2) The panel must make a recommendation to the police and crime commissioner as to whether or not the commissioner should call for the retirement or resignation.
- (3) The recommendation must be given to the police and crime commissioner in writing before the end of the period of six weeks beginning with the day on which the panel receives the notification under paragraph 14.
- (4) Before making the recommendation, the panel—
- (a) may consult the chief inspector of constabulary, and
 - (b) must hold a scrutiny hearing.
- (5) The panel must publish the recommendation made under this paragraph.

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- (6) It is for the panel to determine the manner in which the recommendation is to be published in accordance with sub-paragraph (5).
- (7) In calculating the period of six weeks mentioned in sub-paragraph (3), any relevant post-election period is to be ignored.
- (8) For that purpose, “relevant post-election period” means the period that—
 - (a) begins with the day of the poll at an ordinary election of a police and crime commissioner under section 50, and
 - (b) ends with the day on which the person elected as police and crime commissioner delivers a declaration of acceptance of office under section 70.
- (9) For the purposes of this Part a “scrutiny hearing” is a meeting of the panel, held in private, which the police and crime commissioner and the chief constable are both entitled to attend for the purpose of making representations relating to the proposal to call upon the chief constable to retire or resign.
- (10) References in this Part to a person appearing at a meeting of the panel are references to the person—
 - (a) attending the meeting in person, or
 - (b) not attending the meeting in person, but participating in the proceedings at the meeting by any means that enable the person to hear, and be heard in, those proceedings as they happen.

Removal: consideration of panel’s recommendation

- 16 (1) The police and crime commissioner—
 - (a) must consider the panel’s recommendation given under paragraph 15, and
 - (b) having considered the recommendation, may accept or reject it.
- (2) The police and crime commissioner must notify the panel of the decision whether or not to accept the recommendation.

PART 3

SUSPENSION AND REMOVAL OF OTHER SENIOR POLICE OFFICERS

Senior police officers

- 17 In this Part of this Schedule “senior police officer” means—
 - (a) a deputy chief constable, or
 - (b) an assistant chief constable.

Suspension

- 18 If a chief constable suspends a senior police officer from duty under section 39 or 40, the chief constable must notify the relevant police and crime commissioner of the suspension.

Removal

- 19 (1) A chief constable must comply with this paragraph before calling upon a senior police officer to retire or resign under section 39 or 40.
 - (2) The chief constable must give the senior police officer a written explanation of the reasons why the chief constable is proposing to call for the retirement or resignation.
 - (3) The chief constable must give the senior police officer the opportunity to make written representations about the proposal to call for the senior police officer's retirement or resignation.
 - (4) The chief constable must consider any written representations made by the senior police officer.
- 20 (1) This paragraph applies if, after complying with paragraph 19, the chief constable is still proposing to call upon the senior police officer to retire or resign under section 39 or 40.
 - (2) Before calling for the retirement or resignation, the chief constable must consult the relevant police and crime commissioner.