Serious Organised Crime and Police Act 2005

2005 CHAPTER 15

PART 1

THE SERIOUS ORGANISED CRIME AGENCY

CHAPTER 1

SOCA: ESTABLISHMENT AND ACTIVITIES

Establishment of SOCA

1 Establishment of Serious Organised Crime Agency

(1) There shall be a body corporate to be known as the Serious Organised Crime Agency ("SOCA").

(2) Schedule 1 makes provision about the constitution, members and staff of SOCA and other matters relating to it.

(3) Each of the following bodies shall cease to exist on such date as the Secretary of State appoints by order—

(a) the National Criminal Intelligence Service and its Service Authority, and

(b) the National Crime Squad and its Service Authority.

Commencement Information

I1 S. 1(1)(2) in force at 1.3.2006 for specified purposes by S.I. 2006/378, **art. 2(1)** (with art. 2(2)-(4))

I2 S. 1(1)(2) in force at 1.4.2006 in so far as not already in force by S.I. 2006/378, art. 4(1), **Sch. para. 1** (with art. 4(2)-(7))

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I3 S. 1(3) in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(a)**

Functions

2 Functions of SOCA as to serious organised crime

(1) SOCA has the functions of—

(a) preventing and detecting serious organised crime, and

(b) contributing to the reduction of such crime in other ways and to the mitigation of its consequences.

(2) SOCA's functions under subsection (1) are exercisable subject to subsections (3) to (5) (but subsection (3) does not apply to Scotland).

(3) If, in exercising its function under subsection (1)(a), SOCA becomes aware of conduct appearing to SOCA to involve serious or complex fraud, SOCA may thereafter exercise that function in relation to the fraud in question only—

(a) with the agreement of the Director, or an authorised officer, of the Serious Fraud Office, or

(b) if the Serious Fraud Office declines to act in relation to it.

(4) If, in exercising its function under subsection (1)(a), SOCA becomes aware of conduct appearing to SOCA to involve revenue fraud, SOCA may thereafter exercise that function in relation to the fraud in question only with the agreement of the Commissioners.

(5) Before exercising its function under subsection (1)(b) in any way in relation to revenue fraud, SOCA must consult the Commissioners.

(6) The issue of whether SOCA's function under subsection (1)(a) continued to be exercisable in any circumstances within subsection (3) or (4) may not be raised in any criminal proceedings.

(7) In this section "revenue fraud" includes fraud relating to taxes, duties and national insurance contributions.

(8) In this Chapter "the Commissioners" means the Commissioners for Her Majesty's Revenue and Customs.

Commencement Information

I4 S. 2 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 2** (with art. 4(2)-(7))

3 Functions of SOCA as to information relating to crime

(1) SOCA has the function of gathering, storing, analysing and disseminating information relevant to—

(a) the prevention, detection, investigation or prosecution of offences, or

(b) the reduction of crime in other ways or the mitigation of its consequences.

(2) SOCA may disseminate such information to—

(a) police forces within subsection (3),

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(b) special police forces,
(c) law enforcement agencies, or
(d) such other persons as it considers appropriate in connection with any of the matters mentioned in subsection (1)(a) or (b).

(3) The police forces within this subsection are—
(a) police forces in the United Kingdom, and
(b) the States of Jersey Police Force, the salaried police force of the Island of Guernsey and the Isle of Man Constabulary.

(4) In this section "law enforcement agency" means—
(a) the Commissioners or any other government department,
(b) the Scottish Administration,
(c) any other person who is charged with the duty of investigating offences or charging offenders, or
(d) any other person who is engaged outside the United Kingdom in the carrying on of activities similar to any carried on by SOCA or a police force.

(5) In this Chapter "special police force" means—
(a) the Ministry of Defence Police,
(b) the British Transport Police Force,
(c) the Civil Nuclear Constabulary, or
(d) the Scottish Drug Enforcement Agency.

Commencement Information
I5 S. 3 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 2** (with art. 4(2)-(7))

4 Exercise of functions: general considerations

(1) In exercising its functions SOCA must have regard to the matters mentioned in subsection (2).

(2) The matters are—
(a) SOCA's current annual plan under section 6 together with any priorities determined by SOCA under that section that are specified in the plan,
(b) any current strategic priorities determined by the Secretary of State under section 9, and
(c) any current performance targets established by SOCA.

(3) In exercising any function to which a code of practice under section 10 relates, SOCA must have regard to the code.

Commencement Information
I6 S. 4 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 2** (with art. 4(2)-(7))

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General powers

5 SOCA's general powers

(1) SOCA has the general powers conferred by this section.

(2) SOCA may—

(a) institute criminal proceedings in England and Wales or Northern Ireland;

(b) at the request of the chief officer of a police force within section 3(3) or of a special police force, act in support of any activities of that force;

(c) at the request of any law enforcement agency, act in support of any activities of that agency;

(d) enter into other arrangements for co-operating with bodies or persons (in the United Kingdom or elsewhere) which it considers appropriate in connection with the exercise of any of SOCA's functions under section 2 or 3 or any activities within subsection (3).

(3) Despite the references to serious organised crime in section 2(1), SOCA may carry on activities in relation to other crime if they are carried on for the purposes of any of the functions conferred on SOCA by section 2 or 3.

(4) Subsection (3) does not affect the generality of section 3(1).

(5) SOCA may furnish such assistance as it considers appropriate in response to requests made by any government or other body exercising functions of a public nature in any country or territory outside the United Kingdom.

(6) Subsection (5) does not apply to any request for assistance which—

(a) could be made under section 13 of the Crime (International Co-operation) Act 2003 (c. 32) (requests by overseas authorities to obtain evidence), and

(b) is not a request in relation to which SOCA has functions under that section by virtue of an order under section 27(2) of that Act.

(7) In this section "law enforcement agency" has the meaning given by section 3(4).

Commencement Information

I7 S. 5 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 2** (with art. 4(2)-(7))

Annual plans and reports

6 Annual plans

(1) Before the beginning of each financial year SOCA must issue a plan setting out how SOCA intends to exercise its functions during that year ("the annual plan").

(2) The annual plan must (in particular) set out how SOCA intends to exercise its functions in Scotland and in Northern Ireland.

(3) The annual plan must also include a statement of—

(a) any priorities which SOCA has determined for that year,

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(b) any current strategic priorities determined by the Secretary of State under section 9,

(c) any current performance targets established by SOCA, and

(d) the financial resources that are expected to be available to SOCA for that year.

(4) Any priorities within subsection (3)(a) may relate—

(a) to matters to which strategic priorities determined under section 9 also relate, or

(b) to other matters,

but in any event must be so framed as to be consistent with strategic priorities determined under that section.

(5) The annual plan must state, in relation to each priority within subsection (3)(a) or (b), how SOCA intends to give effect to that priority.

(6) SOCA must arrange for the annual plan to be published in such manner as it considers appropriate.

(7) SOCA must send a copy of the annual plan to—

(a) the Secretary of State,

(b) the Scottish Ministers,

(c) the Commissioners,

(d) each police authority for an area in Great Britain, each joint police board and the Northern Ireland Policing Board,

(e) the chief officer of each police force in the United Kingdom, and

(f) such other persons as SOCA considers appropriate.

(8) In subsection (7)(d) the reference to a police authority for an area in Great Britain does not include a constituent authority in an amalgamation scheme approved under section 19(1) of the Police (Scotland) Act 1967 (c. 77).

(9) Before issuing its annual plan for any financial year, SOCA must—

(a) consult the Scottish Ministers and agree with them what provision the plan is to make for Scotland by virtue of subsection (2); and

(b) consult such other persons as it considers appropriate.

Commencement Information

I8 S. 6 in force at 1.3.2006 by S.I. 2006/378, **art. 3(2)(a)** (with art. 3(3)(4))

7 Annual reports

(1) As soon as possible after the end of each financial year SOCA must issue a report on the exercise of its functions during that year (an "annual report").

(2) The annual report must include an assessment of the extent to which the annual plan for that year under section 6 has been carried out.

(3) SOCA must arrange for the annual report to be published in such manner as it considers appropriate.

(4) SOCA must send a copy of the annual report to—

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(a) the Secretary of State,
(b) the Scottish Ministers,
(c) the Commissioners,
(d) each police authority for an area in Great Britain, each joint police board and the Northern Ireland Policing Board,
(e) the chief officer of each police force in the United Kingdom, and
(f) such other persons as SOCA considers appropriate.

(5) In subsection (4)(d) the reference to a police authority for an area in Great Britain does not include a constituent authority in an amalgamation scheme approved under section 19(1) of the Police (Scotland) Act 1967.

(6) The Secretary of State must lay a copy of the annual report before Parliament.

(7) The Scottish Ministers must lay a copy of the annual report before the Scottish Parliament.

Commencement Information
I9 S. 7 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 2** (with art. 4(2)-(7))

Central supervision and direction

8 General duty of Secretary of State and Scottish Ministers

The Secretary of State and the Scottish Ministers must exercise the powers respectively conferred on him and them under this Chapter in such manner and to such extent as appear to him and them to be best calculated to promote the efficiency and effectiveness of SOCA.

Commencement Information
I10 S. 8 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(b)**

9 Strategic priorities

(1) The Secretary of State may determine strategic priorities for SOCA.

(2) Before determining any such priorities the Secretary of State must consult—
(a) SOCA,
(b) the Scottish Ministers, and
(c) such other persons as he considers appropriate.

(3) The Secretary of State must arrange for any priorities determined under this section to be published in such manner as he considers appropriate.

Commencement Information
I11 S. 9 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(b)** (with art. 2(2))

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10 Codes of practice

(1) The Secretary of State may issue codes of practice relating to the exercise by SOCA of any of its functions.

(2) The Secretary of State may from time to time revise the whole or any part of a code of practice issued under this section.

(3) Before issuing or revising a code of practice issued under this section the Secretary of State must consult—

(a) SOCA,

(b) the Scottish Ministers, and

(c) such other persons as he considers appropriate.

(4) The Secretary of State must lay before Parliament—

(a) any code of practice issued under this section, and

(b) any revisions of such a code.

(5) The Secretary of State—

(a) is not required by subsection (4) to lay before Parliament, or

(b) may exclude from what he does lay before Parliament,

anything to which subsection (6) applies.

(6) This subsection applies to anything the publication of which, in the opinion of the Secretary of State—

(a) would be against the interests of national security, or

(b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders, or

(c) could jeopardise the safety of any person.

(7) The Secretary of State must provide the Scottish Ministers with a copy of—

(a) any code of practice issued under this section, or

(b) any revisions of such a code.

Commencement Information

I12 S. 10 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(b)**

11 Reports to Secretary of State

(1) The Secretary of State may require SOCA to submit a report to him on such matters—

(a) connected with the exercise of SOCA's functions, or

(b) otherwise connected with any of SOCA's activities,

as may be specified in the requirement.

(2) A report submitted under subsection (1) must be in such form as may be so specified.

(3) The Secretary of State must consult the Scottish Ministers before imposing any requirement under that subsection relating to any functions or activities of SOCA—

(a) exercised or carried out in Scotland, or

(b) exercised or carried out outside, but in relation to, Scotland.

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(4) The Secretary of State may—

(a) arrange, or

(b) require SOCA to arrange,

for a report under this section to be published in such manner as he considers appropriate.

(5) But the Secretary of State may exclude any part of a report from publication under subsection (4) if, in his opinion, publication of that part—

(a) would be against the interests of national security, or

(b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders, or

(c) could jeopardise the safety of any person.

Commencement Information

I13 S. 11 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 3** (with art. 4(2)-(7))

12 Power to direct submission of action plan

(1) This section applies where an inspection report made to the Secretary of State states—

(a) that, in the opinion of the person making the report, the whole or any part of SOCA is (whether generally or in particular respects) not efficient or not effective; or

(b) that, in that person's opinion, the whole or part of SOCA will cease to be efficient or effective (whether generally or in particular respects) unless remedial measures are taken.

(2) If the Secretary of State considers that remedial measures are required in relation to any matters identified by the report, he may direct SOCA—

(a) to submit an action plan to him, and

(b) to do so within such period as is specified in the direction (which must be a period ending not less than 4, and not more than 12, weeks after the direction is given).

(3) An "action plan" is a plan setting out the remedial measures which SOCA proposes to take in relation to the matters in respect of which the direction is given.

(4) The provision that a direction under this section may require to be included in an action plan includes—

(a) provision setting out the steps that SOCA proposes should be taken in respect of the matters in respect of which the direction is given, and the performance targets that SOCA proposes should be met;

(b) provision setting out SOCA's proposals as to the times within which those steps are to be taken and those targets met, and the means by which the success of the plan's implementation is to be measured;

(c) provision for the making of progress reports to the Secretary of State about the plan's implementation;

(d) provision as to the times at which, and the manner in which, any progress report is to be made; and

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(e) provision for the duration of the plan and for it to cease to apply in circumstances determined by the Secretary of State.

(5) But nothing in this section authorises the Secretary of State to direct the inclusion in an action plan of any requirement to do or not to do anything—

(a) in a particular case identified for the purposes of the requirement, or

(b) in relation to a particular person so identified.

(6) The Secretary of State must consult the Scottish Ministers before giving any direction under this section in connection with any functions or activities of SOCA—

(a) exercised or carried out in Scotland, or

(b) exercised or carried out outside, but in relation to, Scotland.

(7) In this section "an inspection report" means a report under section 16.

(8) If this section applies at a time when there is already an action plan in force—

(a) references in this section to the submission of an action plan to the Secretary of State include references to the submission of revisions of the existing plan, and

(b) the other provisions of this section have effect accordingly.

Commencement Information

I14 S. 12 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 3** (with art. 4(2)-(7))

13 Revision of inadequate action plan

(1) This section applies where the Secretary of State is of the opinion that any remedial measures contained in an action plan submitted to him under section 12 are inadequate.

(2) The Secretary of State may notify SOCA of that opinion and of his reasons for it.

(3) The Secretary of State must consult the Scottish Ministers before forming an opinion for the purposes of subsection (1) as to any remedial measures proposed in connection with any functions or activities of SOCA—

(a) exercised or carried out in Scotland, or

(b) exercised or carried out outside, but in relation to, Scotland.

(4) If SOCA receives a notification under subsection (2)—

(a) it must consider whether to revise the plan in the light of the matters notified to it, and

(b) if it does revise the plan, it must send a copy of the revised plan to the Secretary of State.

(5) References in this section to an action plan submitted to the Secretary of State under section 12 include references to revisions submitted to him by virtue of subsection (8) of that section.

Commencement Information

I15 S. 13 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 3** (with art. 4(2)-(7))

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14 Procedure for giving directions under section 12

(1) The Secretary of State may not give a direction under section 12 unless the conditions in subsection (2) are satisfied.

(2) The conditions are—

(a) SOCA must have been given such information about the Secretary of State's grounds for proposing to give the direction as he considers appropriate for enabling it to make representations or proposals under paragraphs (b) and (c) below;

(b) SOCA must have been given an opportunity of making representations about those grounds;

(c) SOCA must have had an opportunity of making proposals for the taking of remedial measures that would make it unnecessary to give the direction; and

(d) the Secretary of State must have considered any such representations and any such proposals.

Commencement Information

I16 S. 14 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 3** (with art. 4(2)-(7))

15 Reports relating to directions under section 12

(1) This section applies where the Secretary of State exercises his power to give a direction under section 12.

(2) The Secretary of State must prepare a report on his exercise of that power.

(3) A report under subsection (2)—

(a) is to be prepared at such time as the Secretary of State considers appropriate, and

(b) may relate to more than one exercise of the power.

(4) The Secretary of State must—

(a) lay before each House of Parliament a copy of any report prepared under subsection (2), and

(b) send a copy of any such report to the Scottish Ministers.

(5) The Scottish Ministers must lay before the Scottish Parliament any copy of a report sent to them under subsection (4).

Commencement Information

I17 S. 15 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 3** (with art. 4(2)-(7))

16 Inspections

(1) Her Majesty's Inspectors of Constabulary ("HMIC") must inspect SOCA from time to time.

(2) HMIC must also inspect SOCA if requested to do so by the Secretary of State either—

(a) generally, or

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(b) in respect of a particular matter.

(3) Before requesting an inspection that would fall to be carried out wholly or partly in Scotland, the Secretary of State must consult the Scottish Ministers.

(4) Any inspection under this section must be carried out jointly by HMIC and the Scottish inspectors—

(a) if it is carried out wholly in Scotland, or

(b) in a case where it is carried out partly in Scotland, to the extent that it is carried out there.

(5) Following an inspection under this section, HMIC must report to the Secretary of State on the efficiency and effectiveness of SOCA either—

(a) generally, or

(b) in the case of an inspection under subsection (2)(b), in respect of the matter to which the inspection related.

(6) A report under subsection (5) must be in such form as the Secretary of State may direct.

(7) The Secretary of State must arrange for every report which he receives under subsection (5) to be published in such manner as he considers appropriate.

(8) The Secretary of State may exclude from publication under subsection (7) any part of a report if, in his opinion, the publication of that part—

(a) would be against the interests of national security, or

(b) could prejudice the prevention or detection of crime or the apprehension or prosecution of offenders, or

(c) might jeopardise the safety of any person.

(9) The Secretary of State must send a copy of the published report—

(a) to SOCA, and

(b) if subsection (4) applied to the inspection, to the Scottish Ministers.

(10) SOCA must—

(a) prepare comments on the published report, and

(b) arrange for its comments to be published in such manner as it considers appropriate.

(11) SOCA must send a copy of any document published under subsection (10)(b)—

(a) to the Secretary of State, and

(b) if subsection (4) applied to the inspection, to the Scottish Ministers.

(12) The inspectors shall carry out such other duties for the purpose of furthering the efficiency and effectiveness of SOCA as the Secretary of State may from time to time direct.

(13) In this section "the Scottish inspectors" means the inspectors of constabulary appointed under section 33(1) of the Police (Scotland) Act 1967 (c. 77).

Commencement Information

I18 S. 16 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 3** (with art. 4(2)-(7))

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Financial provisions

17 Grants by Secretary of State

(1) The Secretary of State must make a grant to SOCA in respect of each of its financial years.

(2) The grant in respect of a financial year is to be paid—

(a) at such time, or

(b) in instalments of such amounts and at such times,

as the Secretary of State may determine (and any such time may fall within or after that year).

Commencement Information

I19 S. 17 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(c)**

18 Determinations relating to grants under section 17

(1) The Secretary of State must determine the amount of the grant to be made under section 17 in respect of each of SOCA's financial years.

(2) But a determination under subsection (1) may, if the Secretary of State thinks fit, specify a single amount in respect of two or more financial years.

(3) A determination under that subsection may be varied by a subsequent determination.

(4) Where the Secretary of State makes any determination under subsection (1), he must prepare a report—

(a) setting out the determination, and

(b) stating the considerations which he took into account in making it.

(5) The Secretary of State must—

(a) send SOCA a copy of each report under subsection (4), and

(b) lay a copy of each such report before the House of Commons.

(6) In connection with the exercise of his functions under this section, the Secretary of State may require SOCA—

(a) to provide him with such information as he may specify, and

(b) to do so within such period as he may specify.

Commencement Information

I20 S. 18 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(c)**

19 Charges by SOCA and other receipts

(1) SOCA may make charges in respect of—

(a) the provision by SOCA of any goods or services to any person, or

(b) an agreement for the provision by SOCA of any such goods or services.

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(2) Any charges made under subsection (1) may include amounts calculated by reference to expenditure incurred, or expected to be incurred, by SOCA otherwise than directly in connection with the provision of the goods or services concerned.

(3) Apart from—

(a) grants under section 17,

(b) sums received under section 30(6), and

(c) sums borrowed by SOCA under paragraph 21 of Schedule 1,

all sums received by SOCA in the course of, or in connection with, the exercise of its functions must be paid to the Secretary of State.

(4) Subsection (3) does not apply where the Secretary of State so directs.

(5) Any sums received by the Secretary of State under subsection (3) must be paid into the Consolidated Fund.

Commencement Information

I21 S. 19 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 4** (with art. 4(2)-(7))

20 Accounts

(1) SOCA must—

(a) keep proper accounts and proper records in relation to the accounts; and

(b) prepare a statement of accounts in respect of each financial year.

(2) A statement of accounts under subsection (1) must be in such form, and contain such information, as the Secretary of State may direct.

(3) SOCA must send copies of the statement of accounts for a financial year—

(a) to the Secretary of State, and

(b) to the Comptroller and Auditor General,

within such period following the end of the financial year as the Secretary of State may specify.

(4) The Comptroller and Auditor General must—

(a) examine, certify and report on the statement of accounts, and

(b) lay copies of the statement and of his report before each House of Parliament.

Commencement Information

I22 S. 20 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 4** (with art. 4(2)-(7))

Operational matters

21 Operational responsibility of Director General

(1) The Director General of SOCA has the function of exercising general operational control in relation to the activities carried out in the exercise of SOCA's functions.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) This function includes deciding—

(a) which particular operations are to be mounted in the exercise of any of those functions, and

(b) how such operations are to be conducted.

Commencement Information

I23 S. 21 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 4** (with art. 4(2)-(7))

22 Activities in Scotland in relation to crime

(1) SOCA may only carry out activities in Scotland in relation to an offence which it suspects has been committed (or is being committed) if it does so with the agreement of the Lord Advocate.

(2) In carrying out any such activities in Scotland SOCA must comply with such directions (whether general or special) as it may receive from the Lord Advocate or from the procurator fiscal.

(3) If it suspects that an offence has been committed (or is being committed) in Scotland, SOCA must report the matter to the procurator fiscal as soon as is practicable.

Commencement Information

I24 S. 22 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 4** (with art. 4(2)-(7))

23 Mutual assistance between SOCA and law enforcement agencies: voluntary arrangements

(1) Subsection (2) applies if—

(a) the chief officer of a police force in the British Islands or of a special police force, or

(b) a law enforcement agency operating in the British Islands,

notifies the Director General of SOCA that that force or agency has a special need for assistance from SOCA and requests the Director General of SOCA to provide it with such assistance.

(2) In such a case the Director General of SOCA may provide that force or agency with—

(a) such members of the staff of SOCA, or

(b) such other assistance,

as the Director General of SOCA considers appropriate in the circumstances.

(3) Subsection (4) applies if the Director General of SOCA notifies—

(a) the chief officer of a police force in the United Kingdom or of a special police force, or

(b) a law enforcement agency operating in the United Kingdom,

that SOCA has a special need for assistance from that force or agency and requests it to provide SOCA with such assistance.

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(4) In such a case the chief officer of that force or the agency in question may provide SOCA with—

(a) such constables or members of the staff of the agency, or

(b) such other assistance,

as the chief officer or the agency considers appropriate in the circumstances.

(5) But before the Scottish Drug Enforcement Agency provides any constable under subsection (4), its Director must obtain the agreement of the chief constable of the police force from which the constable is seconded to the Agency.

(6) Where a member of the staff of SOCA is provided under this section for the assistance of a police force, a special police force or a law enforcement agency, he shall be under the direction and control of the chief officer of the force or the head of the agency (as the case may be).

(7) Where—

(a) a constable,

(b) a member of the staff of the Scottish Drug Enforcement Agency, or

(c) a member of the staff of a law enforcement agency,

is provided under this section for the assistance of SOCA, he shall be under the direction and control of the Director General of SOCA (despite anything in, or in any agreement made under, any other enactment).

(8) Where SOCA provides assistance under this section for—

(a) a police force in the United Kingdom or a special police force, or

(b) a law enforcement agency operating in the United Kingdom,

the relevant police authority or (as the case may be) that agency must pay to SOCA such contribution, if any, as may be agreed between them or, in the absence of agreement, as may be determined by the Secretary of State.

(9) Where SOCA is provided with assistance under this section by—

(a) a police force in the United Kingdom or a special police force, or

(b) a law enforcement agency operating in the United Kingdom,

SOCA must pay to the relevant police authority or (as the case may be) that agency such contribution, if any, as may be agreed between them or, in the absence of agreement, as may be determined by the Secretary of State.

(10) If the assistance mentioned in subsection (8) or (9) is provided for or (as the case may be) by—

(a) a police force in Scotland,

(b) the Scottish Drug Enforcement Agency, or

(c) the Scottish Administration,

the Secretary of State must, before making a determination under the subsection in question, consult the Scottish Ministers.

(11) In this section—

"law enforcement agency" has the meaning given by section 3(4) (subject to any territorial restrictions contained in this section);

"police force", in relation to the British Islands, includes the States of Jersey Police Force, the salaried police force of the Island of Guernsey and the Isle of Man Constabulary;

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"relevant police authority" means—

(a) in relation to a police force in Great Britain, the police authority maintaining that force (or, in the case of a police force for a combined area, the joint police board for that area),

(b) in relation to the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve, the Northern Ireland Policing Board,

(c) in relation to the Ministry of Defence Police, the Secretary of State,

(d) in relation to the British Transport Police Force, the British Transport Police Authority,

(e) in relation to the Civil Nuclear Constabulary, the Civil Nuclear Police Authority, and

(f) in relation to the Scottish Drug Enforcement Agency, the Agency itself.

Commencement Information

I25 S. 23 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 4** (with art. 4(2)-(7))

24 Mutual assistance between SOCA and law enforcement agencies: directed arrangements

(1) This section applies where it appears to the Secretary of State—

(a) that a body within subsection (2) has a special need for assistance from SOCA or SOCA has a special need for assistance from a body within that subsection,

(b) that it is expedient for such assistance to be provided by SOCA or (as the case may be) the body, and

(c) that satisfactory arrangements cannot be made, or cannot be made in time, under section 23.

(2) The bodies within this subsection are—

(a) any police force in England and Wales or Northern Ireland,

(b) any special police force other than the Scottish Drug Enforcement Agency, and

(c) any law enforcement agency operating in the United Kingdom other than the Scottish Administration.

(3) In a case where this section applies the Secretary of State may (as appropriate)—

(a) direct the chief officer of the police force to provide such constables or other assistance for the purpose of meeting the need in question as may be specified in the direction;

(b) direct the chief officer of the special police force to provide such constables or other persons, or such other assistance, for the purpose of meeting the need in question as may be so specified;

(c) direct the head of the law enforcement agency to provide such members of the staff of that agency or other assistance for the purpose of meeting the need in question as may be so specified;

(d) direct the Director General of SOCA to provide such members of the staff of SOCA or other assistance for the purpose of meeting the need in question as may be so specified.

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(4) A direction under subsection (3) requires the consent of the Treasury if it is to be given to the Commissioners.

(5) Subsections (6) to (9) of section 23 apply in relation to assistance provided under this section—

(a) by SOCA to a police force, a special police force or a law enforcement agency, or

(b) to SOCA by a police force, a special police force or a law enforcement agency,

as they apply in relation to assistance so provided under that section.

(6) In this section "law enforcement agency" has the meaning given by section 3(4) (subject to the territorial restriction contained in subsection (2) above).

Commencement Information

I26 S. 24 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 4** (with art. 4(2)-(7))

25 Directed arrangements: Scotland

(1) This section applies where it appears to the Scottish Ministers—

(a) that a body within subsection (2) has a special need for assistance from SOCA or SOCA has a special need for assistance from a body within that subsection,

(b) that it is expedient for such assistance to be provided by SOCA or (as the case may be) the body, and

(c) that satisfactory arrangements cannot be made, or cannot be made in time, under section 23.

(2) The bodies within this subsection are—

(a) any police force in Scotland, and

(b) the Scottish Drug Enforcement Agency.

(3) In a case where this section applies the Scottish Ministers may (as appropriate)—

(a) direct the chief officer of the police force to provide such constables or other assistance for the purpose of meeting the need in question as may be specified in the direction;

(b) direct the Director of the Scottish Drug Enforcement Agency to provide such constables or other persons, or other assistance, for the purpose of meeting the need in question as may be so specified;

(c) with the agreement of the Secretary of State, direct the Director General of SOCA to provide such members of the staff of SOCA or other assistance for the purpose of meeting the need in question as may be so specified.

(4) Subsections (6) to (10) of section 23 apply in relation to assistance provided under this section—

(a) by SOCA to a police force in Scotland or to the Scottish Drug Enforcement Agency, or

(b) to SOCA by a police force in Scotland or by the Scottish Drug Enforcement Agency,

as they apply in relation to assistance so provided under that section.

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Commencement Information

I27 S. 25 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 4** (with art. 4(2)-(7))

26 Use by SOCA of police premises etc.

(1) Arrangements may be made between—

(a) SOCA, and

(b) the relevant police authority,

under which SOCA may use such premises, equipment or other material, facilities or services made available by a police force in England and Wales or Northern Ireland as are specified or described in the arrangements.

(2) If it appears to the Secretary of State—

(a) that it is expedient for arrangements within subsection (1) to be made between SOCA and the relevant police authority, and

(b) that satisfactory arrangements cannot be made, or cannot be made in time, under that subsection,

he may direct SOCA and that authority to enter into such arrangements within that subsection as are specified in the direction.

(3) Before giving such a direction to SOCA or the relevant police authority the Secretary of State must—

(a) notify that body that he is proposing to give the directions, and

(b) consider any representations made to him by that body.

(4) Any arrangements under this section may be varied or terminated by agreement between the parties.

(5) But arrangements entered into in pursuance of a direction under subsection (2) may not be so terminated without the consent of the Secretary of State.

(6) Where any expenditure is incurred by the relevant police authority by virtue of any arrangements under this section, SOCA must pay to the authority such contribution, if any, in respect of that expenditure—

(a) as may be agreed between them, or

(b) in the absence of agreement, as may be determined by the Secretary of State.

(7) In this section "relevant police authority" means—

(a) in relation to a police force in England and Wales, the police authority maintaining that force, and

(b) in relation to the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve, the Northern Ireland Policing Board.

Commencement Information

I28 S. 26 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 4** (with art. 4(2)-(7))

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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27 Regulations as to equipment

(1) The Secretary of State may make regulations requiring equipment used by SOCA to satisfy such requirements as to design and performance as may be prescribed by the regulations.

(2) The Secretary of State may by regulations make any of the following kinds of provision—

(a) provision requiring SOCA, when using equipment for the purposes specified in the regulations, to use only—

(i) the equipment which is specified in the regulations,

(ii) equipment which is of a description so specified, or

(iii) equipment which is of a type approved by the Secretary of State in accordance with the regulations;

(b) provision prohibiting SOCA from using equipment of a type approved as mentioned in paragraph (a)(iii) except—

(i) where the conditions subject to which the approval was given are satisfied, and

(ii) in accordance with the other terms of that approval;

(c) provision requiring equipment used by SOCA to comply with such conditions as may be specified in the regulations, or as may be approved by the Secretary of State in accordance with the regulations;

(d) provision prohibiting SOCA from using equipment specified in the regulations, or any equipment of a description so specified.

(3) Before making regulations under this section Secretary of State must consult—

(a) SOCA, and

(b) such other persons as he considers appropriate.

(4) In this section "equipment" includes—

(a) vehicles, and

(b) headgear and protective and other clothing.

Commencement Information

I29 S. 27 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(d)**

Liability for unlawful conduct

28 Liability of SOCA for acts of seconded staff etc.

(1) SOCA is liable in respect of unlawful conduct of persons to whom this section applies in the carrying out, or the purported carrying out, of their functions as such persons in the same manner as an employer is liable in respect of any unlawful conduct of his employees in the course of their employment.

(2) In the case of any such unlawful conduct of persons to whom this section applies which is a tort, SOCA is accordingly to be treated as a joint tortfeasor.

This subsection does not apply to Scotland.

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(3) This section applies to—

(a) any constable or other person who has been seconded to SOCA to serve as a member of its staff, and

(b) any constable or other person who has been provided for the assistance of SOCA under section 23, 24 or 25.

Modifications etc. (not altering text)

C1 S. 28 excluded by 1974 c. 37, **s. 51A(2D)(2E)(f)** (as inserted by 2005 c. 15, **ss. 158(f)**, 178(1)(a) (with s. 158(5)-(7))

Commencement Information

I30 S. 28 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 5** (with art. 4(2)-(7))

29 Payment by SOCA of amounts in connection with unlawful conduct of employees etc.

(1) SOCA may, in such cases and to such extent as appear to it to be appropriate, pay—

(a) any damages or costs awarded against a person to whom this section applies in proceedings for any unlawful conduct of that person;

(b) any costs (or, in Scotland, expenses) incurred and not recovered by such a person in such proceedings, and

(c) any sum required in connection with the settlement of a claim that has, or might have, given rise to such proceedings.

(2) This section applies to—

(a) any person who is employed by SOCA,

(b) any constable or other person who has been seconded to SOCA to serve as a member of its staff, and

(c) any constable or other person who has been provided for the assistance of SOCA under section 23, 24 or 25.

Commencement Information

I31 S. 29 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 5** (with art. 4(2)-(7))

30 Application of sections 28 and 29 to members of joint investigation teams

(1) Subsection (2) applies where an international joint investigation team has been formed under the leadership of a member of SOCA's staff.

(2) In such a case—

(a) section 28 has effect in relation to any member of that team who is not a member of SOCA's staff as if any unlawful conduct in the carrying out, or purported carrying out, of his functions as a member of the team were unlawful conduct of a person to whom that section applies; and

(b) section 29(1) has effect as if it applied to every member of the team to whom it would not apply apart from this subsection.

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(3) Subsection (4) applies where a person ("the relevant person") is carrying out surveillance under section 76A of the Regulation of Investigatory Powers Act 2000 (c. 23) (foreign surveillance operations).

(4) In such a case—

(a) section 28 has effect as if any unlawful conduct of the relevant person in the course of carrying out the surveillance were unlawful conduct of a person to whom that section applies; and

(b) section 29(1) has effect as if it applied to the relevant person.

(5) In this section "international joint investigation team" means any investigation team formed in accordance with—

(a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union;

(b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union and the Protocol to that Convention established in accordance with that Article of the Treaty; or

(c) any international agreement to which the United Kingdom is a party and which is specified in an order made by the Secretary of State.

(6) Where—

(a) a sum is paid by SOCA by virtue of this section, and

(b) the Secretary of State receives under any international agreement a sum by way of reimbursement (in whole or in part) of the sum paid by SOCA,

he must pay to SOCA the sum received by him by way of reimbursement.

Commencement Information

I32 S. 30 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 5** (with art. 4(2)-(7))

31 Liability of special police forces and law enforcement agencies for unlawful conduct of SOCA staff

(1) The relevant authority is liable in respect of unlawful conduct of persons to whom this section applies in the carrying out, or the purported carrying out, of their functions as such persons in the same manner as an employer is liable in respect of any unlawful conduct of his employees in the course of their employment.

(2) In the case of any such unlawful conduct of persons to whom this section applies which is a tort, the relevant authority is accordingly to be treated as a joint tortfeasor.

This subsection does not apply to Scotland.

(3) In so far as a relevant authority does not already have power to do so it may, in such cases and to such extent as appear to it to be appropriate, pay—

(a) any damages or costs awarded against a person to whom this section applies in proceedings for any unlawful conduct of that person,

(b) any costs (or, in Scotland, expenses) incurred and not recovered by such a person in such proceedings, and

(c) any sum required in connection with the settlement of a claim that has, or might have, given rise to such proceedings.

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(4) This section applies to a member of the staff of SOCA who under section 23, 24 or 25 is provided for the assistance of—

(a) a special police force, or

(b) a law enforcement agency operating in the United Kingdom.

(5) In this section—

"law enforcement agency" has the meaning given by section 3(4) (subject to the territorial restriction contained in subsection (4)(b) above), and

"relevant authority"—

(a) in relation to a member of the staff of SOCA provided for the assistance of the Ministry of Defence Police, means the Secretary of State,

(b) in relation to a member of the staff of SOCA provided for the assistance of the British Transport Police Force, means the British Transport Police Authority,

(c) in relation to a member of the staff of SOCA provided for the assistance of the Civil Nuclear Constabulary, means the Civil Nuclear Police Authority,

(d) in relation to a member of the staff of SOCA provided for the assistance of the Scottish Drug Enforcement Agency, means that Agency,

(e) in relation to a member of the staff of SOCA provided for the assistance of the Commissioners, means the Commissioners,

(f) in relation to a member of the staff of SOCA provided for the assistance of the Scottish Administration, means the Scottish Ministers, and

(g) in relation to a member of the staff of SOCA provided for the assistance of any other law enforcement agency, means such person as is prescribed in relation to that agency by regulations made by the Secretary of State.

Commencement Information

I33 S. 31 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 5** (with art. 4(2)-(7))

Use and disclosure of information

32 Use of information by SOCA

Information obtained by SOCA in connection with the exercise of any of its functions may be used by SOCA in connection with the exercise of any of its other functions.

Commencement Information

I34 S. 32 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 5** (with art. 4(2)-(7))

33 Disclosure of information by SOCA

(1) Information obtained by SOCA in connection with the exercise of any of its functions may be disclosed by SOCA if the disclosure is for any permitted purposes.

(2) "Permitted purposes" means the purposes of any of the following—

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(a) the prevention, detection, investigation or prosecution of criminal offences, whether in the United Kingdom or elsewhere;

(b) the prevention, detection or investigation of conduct for which penalties other than criminal penalties are provided under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom;

(c) the exercise of any function conferred on SOCA by section 2, 3 or 5 (so far as not falling within paragraph (a) or (b));

(d) the exercise of any functions of any intelligence service within the meaning of the Regulation of Investigatory Powers Act 2000 (c. 23);

(e) the exercise of any functions under Part 2 of the Football Spectators Act 1989 (c. 37);

(f) the exercise of any function which appears to the Secretary of State to be a function of a public nature and which he designates by order.

(3) A disclosure under this section does not breach—

(a) any obligation of confidence owed by the person making the disclosure, or

(b) any other restriction on the disclosure of information (however imposed).

(4) But nothing in this section authorises—

(a) a disclosure, in contravention of any provisions of the Data Protection Act 1998 (c. 29), of personal data which are not exempt from those provisions,

(b) a disclosure which is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000, or

(c) a disclosure in contravention of section 35(2).

Commencement Information

I35 S. 33 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 5** (with art. 4(2)-(7))

34 Disclosure of information to SOCA

(1) Any person may disclose information to SOCA if the disclosure is made for the purposes of the exercise by SOCA of any of its functions.

(2) A disclosure under this section does not breach—

(a) any obligation of confidence owed by the person making the disclosure, or

(b) any other restriction on the disclosure of information (however imposed).

(3) But nothing in this section authorises—

(a) a disclosure, in contravention of any provisions of the Data Protection Act 1998, of personal data which are not exempt from those provisions, or

(b) a disclosure which is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.

(4) Information may not be disclosed under subsection (1) on behalf of the Commissioners unless the disclosure is authorised by the Commissioners or by an authorised officer of theirs.

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Commencement Information
I36 S. 34 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 5** (with art. 4(2)-(7))

35 Restrictions on further disclosure

(1) Information disclosed by SOCA under section 33 to any person or body must not be further disclosed except—

(a) for a purpose connected with any function of that person or body for the purposes of which the information was disclosed by SOCA, or otherwise for any permitted purposes, and

(b) with the consent of SOCA.

(2) Information disclosed to SOCA under any enactment by the Commissioners or a person acting on their behalf must not be further disclosed except—

(a) for any permitted purposes, and

(b) with the consent of the Commissioners or an authorised officer of Revenue and Customs.

(3) Consent under subsection (1) or (2) may be given—

(a) in relation to a particular disclosure, or

(b) in relation to disclosures made in circumstances specified or described in the consent.

(4) In this section "permitted purposes" has the meaning given by section 33(2).

Commencement Information
I37 S. 35 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 5** (with art. 4(2)-(7))

General duties of police etc.

36 General duty of police to pass information to SOCA

(1) The chief officer of a police force in Great Britain must keep SOCA informed of any information relating to crime in his police area that appears to him to be likely to be relevant to the exercise by SOCA of any of its functions.

(2) The Chief Constable of the Police Service of Northern Ireland has a corresponding duty in relation to crime in Northern Ireland.

(3) The chief officer of a special police force must keep SOCA informed of any information relating to crime that he has become aware of in his capacity as chief officer and appears to him to be likely to be relevant to the exercise by SOCA of any of its functions.

Commencement Information
I38 S. 36 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 5** (with art. 4(2)-(7))

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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37 General duty of police etc. to assist SOCA

(1) It is the duty of every person to whom this section applies to assist SOCA in the exercise of its functions in relation to serious organised crime.

(2) This section applies to—

(a) any constable,

(b) any officer of Revenue and Customs, and

(c) any member of Her Majesty's armed forces or Her Majesty's coastguard.

Commencement Information

I39 S. 37 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 5** (with art. 4(2)-(7))

Prosecutions

38 Prosecution of offences investigated by SOCA

(1) The Director of Revenue and Customs Prosecutions—

(a) may institute and conduct criminal proceedings in England and Wales that arise out of a criminal investigation by SOCA relating to a designated offence, and

(b) must take over the conduct of criminal proceedings instituted by SOCA in England and Wales in respect of a designated offence.

(2) The Director of Revenue and Customs Prosecutions must provide such advice as he thinks appropriate, to such persons as he thinks appropriate, in relation to—

(a) a criminal investigation by SOCA relating to a designated offence, or

(b) criminal proceedings instituted in England and Wales that arise out of such an investigation.

(3) The Director of Public Prosecutions—

(a) may institute and conduct criminal proceedings in England and Wales that arise out of a criminal investigation by SOCA relating to a non-designated offence, and

(b) must take over the conduct of criminal proceedings instituted by SOCA in England and Wales in respect of such an offence.

But paragraph (b) does not apply where the Director of the Serious Fraud Office has the conduct of the proceedings.

(4) The Director of Public Prosecutions must provide such advice as he thinks appropriate, to such persons as he thinks appropriate, in relation to—

(a) a criminal investigation by SOCA relating to a non-designated offence, or

(b) criminal proceedings instituted in England and Wales that arise out of such an investigation.

(5) Sections 23 and 23A of the Prosecution of Offences Act 1985 (c. 23) (power to discontinue proceedings) apply (with any necessary modifications) to proceedings conducted by the Director of Revenue and Customs Prosecutions in accordance with this section as they apply to proceedings conducted by the Director of Public Prosecutions.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(6) In the Commissioners for Revenue and Customs Act 2005 (c. 11)—

(a) section 37(1) (prosecutors), and

(b) section 38(1) (conduct of prosecutions by appointed persons),

have effect as if the reference to section 35 of that Act included a reference to this section.

(7) For the purposes of this section and section 39—

(a) "criminal investigation" means any process—

(i) for considering whether an offence has been committed,

(ii) for discovering by whom an offence has been committed, or

(iii) as a result of which an offence is alleged to have been committed;

(b) an offence is a "designated offence" if criminal proceedings instituted by SOCA in respect of the offence fall (or, as the case may be, would fall) to be referred to the Director of Revenue and Customs Prosecutions by virtue of directions under section 39(1);

(c) "non-designated offence" means an offence which is not a designated offence;

(d) a reference to the institution of criminal proceedings is to be construed in accordance with section 15(2) of the Prosecution of Offences Act 1985 (c. 23); and

(e) a reference to the institution of proceedings by SOCA includes a reference to their institution by the Director General of SOCA or a person authorised by him.

Commencement Information

I40 S. 38 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 5** (with art. 4(2)-(7))

39 Directions as to reference of cases and proceedings to appropriate prosecutor

(1) The Directors may give directions to SOCA—

(a) for enabling SOCA to determine whether cases arising out of criminal investigations by SOCA are to be referred to the Director of Revenue and Customs Prosecutions, or to the Director of Public Prosecutions, in order for him to consider whether to institute proceedings in accordance with section 38(1)(a) or (3)(a);

(b) for enabling SOCA to determine whether criminal proceedings instituted by SOCA are to be referred to the Director of Revenue and Customs Prosecutions, or to the Director of Public Prosecutions, in order for him to take over their conduct in accordance with section 38(1)(b) or (3)(b);

(c) specifying, in relation to any cases or proceedings that are to be so referred to the Director of Revenue and Customs Prosecutions or the Director of Public Prosecutions, the steps to be taken by SOCA in connection with referring them to him.

(2) Directions under subsection (1) may provide for cases or proceedings to be referred to one or other of the Directors by reference to—

(a) whether the cases or proceedings relate to an offence falling within a category of offences specified in the directions; or

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(b) whether any criteria so specified are satisfied with respect to the cases or proceedings; or

(c) such other matters as the Directors think fit.

(3) The Directors may from time to time revise any directions given under this section.

(4) The Directors must publish in such manner as they think fit—

(a) any directions given under this section, and

(b) any revisions made to such directions;

and they must give a copy of any such directions or revisions to SOCA.

(5) A report to which this subsection applies must set out —

(a) any directions given under this section, and

(b) any revisions made to such directions,

in the year to which the report relates.

(6) Subsection (5) applies to—

(a) a report under section 9 of the Prosecution of Offences Act 1985 (c. 23) (report to Attorney General by Director of Public Prosecutions), and

(b) a report under paragraph 6 of Schedule 3 to the Commissioners for Revenue and Customs Act 2005 (c. 11) (report to Attorney General by Director of Revenue and Customs Prosecutions).

(7) Directions under this section may make different provision for different cases, circumstances or areas.

(8) If there is a failure to comply with directions under this section in relation to the reference of any matter to one of the Directors, neither—

(a) the reference, nor

(b) anything subsequently done in connection with the matter,

is invalid by reason of anything in the directions or in section 38.

(9) In this section "the Directors" means the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions, acting jointly.

Commencement Information

I41 S. 39 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(e)**

40 Functions of Director of Revenue and Customs Prosecutions as to persons arrested for designated offence

(1) Sections 37 to 37B of the Police and Criminal Evidence Act 1984 (c. 60) (duties of custody officers; guidance etc.) have effect, in relation to a person arrested following a criminal investigation by SOCA relating to a designated offence, as if references to the Director of Public Prosecutions were references to the Director of Revenue and Customs Prosecutions.

(2) In subsection (1) the reference to a designated offence is to be read in accordance with section 38(7)(b) of this Act.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I42 S. 40 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 6** (with art. 4(2)-(7))

Miscellaneous and supplementary

41 Directions

Any person to whom a direction is given by the Secretary of State or the Scottish Ministers under this Chapter must comply with the direction.

Commencement Information

I43 S. 41 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 6** (with art. 4(2)-(7))

42 Interpretation of Chapter 1

(1) In this Chapter—

"chief officer" means—

(a) in relation to a police force in England and Wales, the chief officer of police,

(b) in relation to a police force in Scotland, the chief constable,

(c) in relation to the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve, the Chief Constable of the Police Service of Northern Ireland;

(d) in relation to the States of Jersey Police Force or the salaried police force of the Island of Guernsey, the chief officer of that force;

(e) in relation to the Isle of Man Constabulary, the chief constable;

(f) in relation to a special police force mentioned in section 3(5)(a), (b) or (c), the Chief Constable;

(g) in relation to the Scottish Drug Enforcement Agency, the Director of that Agency;

"the Commissioners" has the meaning given by section 2(8);

"constable", in relation to Northern Ireland, means a member of the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;

"financial year", in relation to SOCA, means—

(a) the period beginning with the date on which SOCA is established and ending with the following 31st March, and

(b) each successive period of 12 months ending with 31st March;

"functions" includes powers and duties;

"government department" includes a Northern Ireland department;

"joint police board" has the same meaning as in the Police (Scotland) Act 1967 (c. 77);

"police force" means (unless the context otherwise requires)—

(a) a police force in England, Wales or Scotland, or

(b) the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;

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"special police force" has the meaning given by section 3(5).

(2) In this Chapter—

(a) "the Scottish Drug Enforcement Agency" means the organisation known by that name and established under section 36(1)(a)(ii) of the Police (Scotland) Act 1967; and

(b) "the Director" of that Agency means the person engaged on central service (as defined by section 38(5) of that Act) and for the time being appointed by the Scottish Ministers to exercise control in relation to the activities carried out in the exercise of the Agency's functions.

(3) Section 81(5) of the Regulation of Investigatory Powers Act 2000 (c. 23) (meaning of "prevention" and "detection") applies for the purposes of this Chapter as it applies for the purposes of the provisions of that Act not contained in Chapter 1 of Part 1.

Commencement Information

I44 S. 42 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(f)**

CHAPTER 2

SOCA: SPECIAL POWERS OF DESIGNATED STAFF

Designations

43 Designation of SOCA staff as persons having powers of constable etc.

(1) The Director General of SOCA may designate a member of the staff of SOCA as one or more of the following—

(a) a person having the powers of a constable;

(b) a person having the customs powers of an officer of Revenue and Customs;

(c) a person having the powers of an immigration officer.

(2) A designation under this section—

(a) may be made subject to any limitations specified in the designation (whether as to the powers exercisable by virtue of it, the purposes for which they are exercisable or otherwise); and

(b) has effect either for a period so specified or without limit of time.

(3) Subsection (2) applies subject to any modification or withdrawal of the designation under section 45.

(4) A member of SOCA's staff may be designated as a person having the powers mentioned in any of paragraphs (a) to (c) of subsection (1) whether or not—

(a) he already has (for any reason) any powers falling within any of those paragraphs, or

(b) he had any such powers before becoming a member of SOCA's staff.

(5) But a person may not be designated as a person having the powers mentioned in any of paragraphs (a) to (c) of subsection (1) unless the Director General is satisfied that that person—

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(a) is capable of effectively exercising the powers that would be exercisable by virtue of the designation,

(b) has received adequate training in respect of the exercise of those powers, and

(c) is otherwise a suitable person to exercise those powers.

(6) Where an employee of SOCA—

(a) before becoming such an employee, held an office by virtue of which he had any powers falling within subsection (1)(a), (b) or (c), and

(b) has not resigned that office,

that office is to be treated as suspended so long as he remains in SOCA's employment, and revives if (and only if) on ceasing to be so employed he returns to service as the holder of that office.

(7) References in this section to the powers of a constable, the customs powers of an officer of Revenue and Customs or the powers of an immigration officer are to be read in accordance with sections 46 to 49.

Commencement Information

I45 S. 43 in force at 1.3.2006 by S.I. 2006/378, **art. 3(2)(b)** (with art. 3(3)(4))

44 Delegation of power to designate

(1) The Director General of SOCA may, to such extent as he may specify, delegate his functions under section 43 to an employee of SOCA at the prescribed level.

(2) "At the prescribed level" means employed in a grade or on a pay scale not lower than that specified in an order made by the Secretary of State.

Commencement Information

I46 S. 44(1) in force at 1.3.2006 by S.I. 2006/378, **art. 3(2)(b)** (with art. 3(3)(4))

I47 S. 44(2) in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(g)**

45 Modification or withdrawal of designations

(1) The Director General of SOCA may at any time modify or withdraw a designation made under section 43 by giving a notice to that effect to the designated person.

(2) An employee of SOCA by whom the power to make designations under section 43 is exercisable by virtue of section 44 may at any time modify or withdraw a relevant designation by giving a notice to that effect to the designated person.

(3) For the purposes of this section "a relevant designation", in relation to such an employee, means a designation of a kind that the employee is authorised to make by virtue of section 44.

Commencement Information

I48 S. 45 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 6** (with art. 4(2)-(7))

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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Powers exercisable

46 Person having powers of a constable

(1) This section applies to a member of SOCA's staff who is for the time being designated under section 43 as a person having the powers of a constable.

(2) The designated person has all the powers and privileges of a constable.

(3) Those powers and privileges are exercisable by the designated person—

(a) throughout England and Wales and the adjacent United Kingdom waters, and

(b) in accordance with section 47, in Scotland or Northern Ireland and the adjacent United Kingdom waters.

(4) If any of those powers and privileges, when exercisable by a constable, are subject to any territorial restrictions on their exercise, they are similarly subject to those restrictions when exercised by the designated person.

(5) If any of those powers and privileges, when exercisable by a constable, are exercisable elsewhere than in the United Kingdom or the adjacent United Kingdom waters, they are similarly exercisable by the designated person.

(6) The designated person also has any powers exercisable by virtue of subsection (7).

(7) Any enactment under which a constable may be authorised by warrant to exercise any power in relation to any matter has effect, for the purpose of enabling the designated person to be authorised to exercise the power in relation to any such matter, as if he were a constable.

(8) Subsections (2) to (7) have effect subject to any limitation specified in the designation under section 43(2).

(9) In this section references to the powers and privileges of a constable are references to the powers and privileges of a constable whether under any enactment or otherwise.

Commencement Information

I49 S. 46 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 6** (with art. 4(2)-(7))

47 Person having powers of constable: Scotland and Northern Ireland

(1) This section provides for persons designated as mentioned in section 46(1) ("relevant persons") to exercise the powers and privileges mentioned in section 46(2) in Scotland or Northern Ireland and the adjacent United Kingdom waters.

(2) If so agreed by—

(a) the Scottish Ministers, and

(b) SOCA,

the powers and privileges are exercisable by relevant persons in Scotland and the adjacent United Kingdom waters to such extent and in such circumstances as may be specified in the agreement.

(3) If so agreed by—

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(a) the Director of the Scottish Drug Enforcement Agency or a person nominated by him for the purposes of this subsection, and

(b) SOCA,

a relevant person may exercise the powers and privileges in Scotland in connection with a particular operation.

(4) A person nominated for the purposes of subsection (3) must be either—

(a) a person for the time being appointed as Deputy Director of that Agency, or

(b) an appropriate officer of a police force for an area in Scotland.

(5) If so agreed by—

(a) the Secretary of State, and

(b) SOCA,

the powers and privileges are exercisable by relevant persons in Northern Ireland and the adjacent United Kingdom waters to such extent and in such circumstances as may be specified in the agreement.

(6) If—

(a) an agreement under subsection (5) ("the general authorisation") is in force, and

(b) an appropriate officer of the Police Service of Northern Ireland and SOCA so agree in conformity with the general authorisation,

a relevant person may exercise the powers and privileges in Northern Ireland in connection with a particular operation in accordance with the agreement mentioned in paragraph (b).

(7) In this section—

"appropriate officer" means an officer of or above the rank of assistant chief constable;

"the Scottish Drug Enforcement Agency" and "the Director" of that Agency have the meanings given by section 42(2).

Commencement Information

I50 S. 47 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 6** (with art. 4(2)-(7))

48 Person having customs powers

(1) This section applies to a member of SOCA's staff who is for the time being designated under section 43 as a person having the customs powers of an officer of Revenue and Customs.

(2) The designated person has, in relation to any customs matter, the same powers as an officer of Revenue and Customs would have.

(3) The designated person also has any powers exercisable by virtue of subsection (4).

(4) Any enactment under which an officer of Revenue and Customs may be authorised by warrant to exercise any power in relation to any customs matter has effect, for the purpose of enabling the designated person to be authorised to exercise the power in relation to any such matter, as if he were an officer of Revenue and Customs.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(5) Where any power is exercisable by an officer of Revenue and Customs both—

(a) in relation to a customs matter, and

(b) in relation to any other matter,

it is exercisable by the designated person only in relation to the customs matter.

(6) Subsections (2) to (5) have effect subject to any limitation specified in the designation under section 43(2).

(7) In this section "customs matter" means any matter other than—

(a) a matter to which section 7 of the Commissioners for Revenue and Customs Act 2005 (c. 11) applies (former Inland Revenue matters), or

(b) any tax or duty not mentioned in Schedule 1 to that Act (which lists such matters).

Commencement Information

I51 S. 48 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 6** (with art. 4(2)-(7))

49 Person having powers of an immigration officer

(1) This section applies to a member of SOCA's staff who is for the time being designated under section 43 as a person having the powers of an immigration officer.

(2) The designated person has, in relation to any matter in relation to which powers are exercisable by an immigration officer, the same powers as such an officer would have.

(3) The designated person also has any powers exercisable by virtue of subsection (4).

(4) Any enactment under which an immigration officer may be authorised by warrant to exercise any power in relation to any matter has effect, for the purpose of enabling the designated person to be authorised to exercise the power in relation to any such matter, as if he were an immigration officer.

(5) Subsections (2) to (4) have effect subject to any limitation specified in the designation under section 43(2).

(6) In this section "immigration officer" means a person who is an immigration officer within the meaning of the Immigration Act 1971 (c. 77).

Commencement Information

I52 S. 49 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 6** (with art. 4(2)-(7))

Exercise of powers

50 Designations: supplementary

(1) If a designated person—

(a) exercises any power in relation to another person in reliance on his designation under section 43, or

(b) purports to do so,

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he must produce evidence of his designation to the other person if requested to do so.

(2) A failure to comply with subsection (1) does not make the exercise of the power invalid.

(3) For the purpose of determining liability for the unlawful conduct of members of SOCA's staff, any conduct by a designated person in reliance, or purported reliance, on his designation is to be taken to be—

(a) if he is employed by SOCA, conduct in the course of his employment, or

(b) if he is a person to whom section 28 applies by virtue of subsection (3)(a) of that section, conduct falling within subsection (1) of that section.

(4) In the case of any unlawful conduct within subsection (3) which is a tort, SOCA is accordingly to be treated as a joint tortfeasor.

This subsection does not apply to Scotland.

Commencement Information

I53 S. 50 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 6** (with art. 4(2)-(7))

51 Assaults, obstruction or deception in connection with designations

(1) A person commits an offence if he assaults—

(a) a designated person acting in the exercise of a relevant power, or

(b) a person who is assisting a designated person in the exercise of such a power.

(2) A person commits an offence if he resists or wilfully obstructs—

(a) a designated person acting in the exercise of a relevant power, or

(b) a person who is assisting a designated person in the exercise of such a power.

(3) A person commits an offence if, with intent to deceive—

(a) he impersonates a designated person,

(b) he makes any statement or does any act calculated falsely to suggest that he is a designated person, or

(c) he makes any statement or does any act calculated falsely to suggest that he has powers as a designated person that exceed the powers he actually has.

(4) A person guilty of an offence under subsection (1) or (3) is liable on summary conviction—

(a) to imprisonment for a term not exceeding 51 weeks, or

(b) to a fine not exceeding level 5 on the standard scale,

or to both.

(5) A person guilty of an offence under subsection (2) is liable on summary conviction—

(a) to imprisonment for a term not exceeding 51 weeks, or

(b) to a fine not exceeding level 3 on the standard scale,

or to both.

(6) In this section "relevant power", in relation to a designated person, means a power or privilege exercisable by that person by virtue of the designation under section 43.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(7) In the application of this section to Scotland the references to 51 weeks in subsections (4)(a) and (5)(a) are to be read as references to 12 months in each case.

(8) In the application of this section to Northern Ireland the references to 51 weeks are to be read as follows—

(a) in subsection (4)(a) the reference is to be read as a reference to 6 months, and

(b) in subsection (5)(a) the reference is to be read as a reference to 1 month.

Commencement Information

I54 S. 51 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 6** (with art. 4(2)-(7))

Supplementary

52 Modification of enactments

(1) The Secretary of State may by order provide for any enactment (or description of enactments) to apply in relation to—

(a) designated persons, or

(b) the exercise of powers by such persons under this Chapter,

with such modifications as he considers necessary or expedient.

(2) An order under this section may include provision for or in connection with—

(a) extending to such persons any exemption or protection afforded by an enactment to any other description of persons;

(b) providing for the disclosure of information to, or the doing of other things in relation to, such persons under any enactment;

(c) conferring on the Director General of SOCA functions exercisable in relation to such persons.

(3) Subsection (2) does not affect the generality of subsection (1).

(4) In this section any reference to designated persons includes a reference to any description of such persons.

(5) Before exercising the power conferred by subsection (1) in relation to an enactment which (expressly or otherwise) confers any function on—

(a) the Commissioners for Her Majesty's Revenue and Customs, or

(b) an officer of Revenue and Customs,

the Secretary of State must consult the Commissioners.

(6) Before exercising the power conferred by subsection (1) in relation to an enactment which extends to Scotland, the Secretary of State must consult the Scottish Ministers.

(7) The power conferred by subsection (1) is exercisable by the Scottish Ministers (rather than by the Secretary of State) where the provision to be made is within the legislative competence of the Scottish Parliament.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I55 S. 52 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(h)**

53 Employment provisions

(1) A member of SOCA's staff who is for the time being designated under section 43 as a person having the powers of a constable is not, by virtue of section 46(2), to be treated as being in police service for the purposes of the enactments mentioned in subsection (2).

(2) The enactments are—

(a) section 280 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) (person in police service excluded from definitions of "worker" and "employee");

(b) section 200 of the Employment Rights Act 1996 (c. 18) (certain provisions of the Act not to apply to persons in police service);

(c) Article 145 of the Trade Union and Labour Relations (Northern Ireland) Order 1995 (S.I. 1995/1980 (N.I. 12)); and

(d) Article 243 of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16)).

Commencement Information
I56 S. 53 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 7** (with art. 4(2)-(7))

54 Interpretation of Chapter 2

(1) In this Chapter—

"designated person" means a person for the time being designated under section 43;

"United Kingdom waters" means the sea and other waters within the seaward limits of the United Kingdom's territorial sea.

(2) Any reference in this Chapter to the exercise of powers by virtue of a designation under section 43 is, in a case where any limitations were imposed under subsection (2) of that section, a reference to their exercise in conformity with those limitations.

Commencement Information
I57 S. 54 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(i)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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CHAPTER 3

SOCA: MISCELLANEOUS AND SUPPLEMENTARY

Complaints and misconduct

55 Complaints and misconduct

(1) Schedule 2 makes provision for, and in connection with, the operation in relation to SOCA of Part 2 of the Police Reform Act 2002 (c. 30) (which relates to complaints and misconduct).

(2) In the Police (Northern Ireland) Act 1998 (c. 32)—

(a) after section 60 insert—

"**60ZA Serious Organised Crime Agency**

(1) An agreement for the establishment in relation to members of the staff of the Serious Organised Crime Agency of procedures corresponding or similar to any of those established by virtue of this Part may, with the approval of the Secretary of State, be made between the Ombudsman and the Agency.

(2) Where no such procedures are in force in relation to the Agency, the Secretary of State may by order establish such procedures.

(3) An agreement under this section may at any time be varied or terminated with the approval of the Secretary of State.

(4) Before making an order under this section the Secretary of State shall consult—

(a) the Ombudsman; and

(b) the Agency.

(5) Nothing in any other statutory provision shall prevent the Agency from carrying into effect procedures established by virtue of this section.

(6) No such procedures shall have effect in relation to anything done by a member of the staff of the Agency outside Northern Ireland."; and

(b) in section 61(5) (reports), at the end of paragraph (b) insert "; and

(c) if the report concerns the Serious Organised Crime Agency, to the Agency."

Commencement Information

I58 S. 55(1) in force at 1.3.2006 for specified purposes by S.I. 2006/378, **art. 3(2)(c)** (with art. 3(3)(4))

I59 S. 55(1) in force at 1.4.2006 in so far as not already in force by S.I. 2006/378, art. 4(1), **Sch. para. 8** (with art. 4(2)-(7))

I60 S. 55(2) in force at 1.3.2006 by S.I. 2006/378, **art. 3(2)(d)** (with art. 3(3)(4))

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Application of discrimination legislation

56 Application of discrimination legislation to SOCA seconded staff

(1) For the purposes of the provisions to which this subsection applies any constable or other person who has been seconded to SOCA to serve as a member of its staff shall be treated as being employed by SOCA as respects any act done by it in relation to that person.

(2) Subsection (1) applies to—

(a) Part 2 of the Sex Discrimination Act 1975 (c. 65);

(b) Part 2 of the Race Relations Act 1976 (c. 74);

(c) Part II of the Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15));

(d) Part 2 of the Disability Discrimination Act 1995 (c. 50);

(e) Part II of the Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I. 6)); and

(f) the Fair Employment and Treatment (Northern Ireland) Order 1998 (S.I. 1998/3162 (N.I. 21)), except Part VII.

(3) For the purposes of the provisions to which this subsection applies—

(a) any constable or other person who has been seconded to SOCA to serve as a member of its staff shall be treated as being employed by SOCA (and as not being employed by any other person); and

(b) anything done by such a person in the performance, or purported performance, of his functions as such a person shall be treated as done in the course of that employment.

(4) Subsection (3) applies to—

(a) section 41 of the Sex Discrimination Act 1975;

(b) section 32 of the Race Relations Act 1976;

(c) Article 42 of the Sex Discrimination (Northern Ireland) Order 1976;

(d) section 58 of the Disability Discrimination Act 1995;

(e) Article 32 of the Race Relations (Northern Ireland) Order 1997; and

(f) Article 36 of the Fair Employment and Treatment (Northern Ireland) Order 1998.

Commencement Information

I61 S. 56 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 9** (with art. 4(2)-(7))

Joint investigation teams

57 Assaults or obstruction in connection with joint investigation teams

(1) This section applies where an international joint investigation team has been formed under the leadership of a member of SOCA's staff.

(2) A person commits an offence if he assaults a member of the team who is carrying out his functions as a member of the team.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) A person commits an offence if he resists or wilfully obstructs a member of the team who is carrying out his functions as a member of that team.

(4) A person guilty of an offence under subsection (2) is liable on summary conviction—

(a) to imprisonment for a term not exceeding 51 weeks, or

(b) to a fine not exceeding level 5 on the standard scale,

or to both.

(5) A person guilty of an offence under subsection (3) is liable on summary conviction—

(a) to imprisonment for a term not exceeding 51 weeks, or

(b) to a fine not exceeding level 3 on the standard scale,

or to both.

(6) In this section "international joint investigation team" means any investigation team formed in accordance with—

(a) any framework decision on joint investigation teams adopted under Article 34 of the Treaty on European Union,

(b) the Convention on Mutual Assistance in Criminal Matters between the Member States of the European Union and the Protocol to that Convention established in accordance with that Article of the Treaty, or

(c) any international agreement to which the United Kingdom is a party and which is specified in an order made by the Secretary of State.

(7) In the application of this section to Scotland the references to 51 weeks in subsections (4)(a) and (5)(a) are to be read as references to 12 months in each case.

(8) In the application of this section to Northern Ireland the references to 51 weeks are to be read as follows—

(a) in subsection (4)(a) the reference is to be read as a reference to 6 months, and

(b) in subsection (5)(a) the reference is to be read as a reference to 1 month.

Commencement Information

I62 S. 57 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 9** (with art. 4(2)-(7))

Transfers

58 Transfers to SOCA

Schedule 3 makes provision about the transfer of staff, property, rights and liabilities to SOCA.

Commencement Information

I63 S. 58 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(j)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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Amendments

59 Minor and consequential amendments relating to SOCA

Schedule 4 contains minor and consequential amendments relating to SOCA.

Commencement Information

I64 S. 59 in force at 1.1.2006 for specified purposes by S.I. 2005/3495, **art. 2(1)(k)**

I65 S. 59 in force at 1.4.2006 for specified purposes by S.I. 2006/378, art. 4(1), **Sch. para. 10** (with art. 4(2)-(7))

PART 2

INVESTIGATIONS, PROSECUTIONS, PROCEEDINGS AND PROCEEDS OF CRIME

CHAPTER 1

INVESTIGATORY POWERS OF DPP, ETC.

Introductory

60 Investigatory powers of DPP etc.

(1) This Chapter confers powers on—

(a) the Director of Public Prosecutions,

(b) the Director of Revenue and Customs Prosecutions, and

(c) the Lord Advocate,

in relation to the giving of disclosure notices in connection with the investigation of offences to which this Chapter applies.

(2) The Director of Public Prosecutions may, to such extent as he may determine, delegate the exercise of his powers under this Chapter to a Crown prosecutor.

(3) The Director of Revenue and Customs Prosecutions may, to such extent as he may determine, delegate the exercise of his powers under this Chapter to a Revenue and Customs Prosecutor.

(4) The Lord Advocate may, to such extent as he may determine, delegate the exercise of his powers under this Chapter to a procurator fiscal.

(5) In this Chapter "the Investigating Authority" means—

(a) the Director of Public Prosecutions,

(b) the Director of Revenue and Customs Prosecutions, or

(c) the Lord Advocate.

(6) But, in circumstances where the powers of any of those persons are exercisable by any other person by virtue of subsection (2), (3) or (4), references to "the Investigating Authority" accordingly include any such other person.

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Commencement Information

I66 S. 60 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(a)**

I67 S. 60 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

61 Offences to which this Chapter applies

(1) This Chapter applies to the following offences—

(a) any offence listed in Schedule 2 to the Proceeds of Crime Act 2002 (c. 29) (lifestyle offences: England and Wales);

(b) any offence listed in Schedule 4 to that Act (lifestyle offences: Scotland);

(c) any offence under sections 15 to 18 of the Terrorism Act 2000 (c. 11) (offences relating to fund-raising, money laundering etc.);

(d) any offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (fraudulent evasion of duty) or section 72 of the Value Added Tax Act 1994 (c. 23) (offences relating to VAT) which is a qualifying offence;

(e) any offence under section 17 of the Theft Act 1968 (c. 60) (false accounting), or any offence at common law of cheating in relation to the public revenue, which is a qualifying offence;

(f) any offence under section 1 of the Criminal Attempts Act 1981 (c. 47), or in Scotland at common law, of attempting to commit any offence in paragraph (c) or any offence in paragraph (d) or (e) which is a qualifying offence;

(g) any offence under section 1 of the Criminal Law Act 1977 (c. 45), or in Scotland at common law, of conspiracy to commit any offence in paragraph (c) or any offence in paragraph (d) or (e) which is a qualifying offence.

(2) For the purposes of subsection (1) an offence in paragraph (d) or (e) of that subsection is a qualifying offence if the Investigating Authority certifies that in his opinion—

(a) in the case of an offence in paragraph (d) or an offence of cheating the public revenue, the offence involved or would have involved a loss, or potential loss, to the public revenue of an amount not less than £5,000;

(b) in the case of an offence under section 17 of the Theft Act 1968 (c. 60), the offence involved or would have involved a loss or gain, or potential loss or gain, of an amount not less than £5,000.

(3) A document purporting to be a certificate under subsection (2) is to be received in evidence and treated as such a certificate unless the contrary is proved.

(4) The Secretary of State may by order—

(a) amend subsection (1), in its application to England and Wales, so as to remove an offence from it or add an offence to it;

(b) amend subsection (2), in its application to England and Wales, so as to—

(i) take account of any amendment made by virtue of paragraph (a) above, or

(ii) vary the sums for the time being specified in subsection (2)(a) and (b).

(5) The Scottish Ministers may by order—

(a) amend subsection (1), in its application to Scotland, so as to remove an offence from it or add an offence to it;

(b) amend subsection (2), in its application to Scotland, so as to—

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(i) take account of any amendment made by virtue of paragraph (a) above, or

(ii) vary the sums for the time being specified in subsection (2)(a) and (b).

Commencement Information

I68 S. 61 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I69 S. 61 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(a)**

Disclosure notices

62 Disclosure notices

(1) If it appears to the Investigating Authority—

(a) that there are reasonable grounds for suspecting that an offence to which this Chapter applies has been committed,

(b) that any person has information (whether or not contained in a document) which relates to a matter relevant to the investigation of that offence, and

(c) that there are reasonable grounds for believing that information which may be provided by that person in compliance with a disclosure notice is likely to be of substantial value (whether or not by itself) to that investigation,

he may give, or authorise an appropriate person to give, a disclosure notice to that person.

(2) In this Chapter "appropriate person" means—

(a) a constable,

(b) a member of the staff of SOCA who is for the time being designated under section 43, or

(c) an officer of Revenue and Customs.

(3) In this Chapter "disclosure notice" means a notice in writing requiring the person to whom it is given to do all or any of the following things in accordance with the specified requirements, namely—

(a) answer questions with respect to any matter relevant to the investigation;

(b) provide information with respect to any such matter as is specified in the notice;

(c) produce such documents, or documents of such descriptions, relevant to the investigation as are specified in the notice.

(4) In subsection (3) "the specified requirements" means such requirements specified in the disclosure notice as relate to—

(a) the time at or by which,

(b) the place at which, or

(c) the manner in which,

the person to whom the notice is given is to do any of the things mentioned in paragraphs (a) to (c) of that subsection; and those requirements may include a requirement to do any of those things at once.

(5) A disclosure notice must be signed or counter-signed by the Investigating Authority.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(6) This section has effect subject to section 64 (restrictions on requiring information etc.).

Commencement Information

I70 S. 62 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(a)**

I71 S. 62 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

63 Production of documents

(1) This section applies where a disclosure notice has been given under section 62.

(2) An authorised person may—

(a) take copies of or extracts from any documents produced in compliance with the notice, and

(b) require the person producing them to provide an explanation of any of them.

(3) Documents so produced may be retained for so long as the Investigating Authority considers that it is necessary to retain them (rather than copies of them) in connection with the investigation for the purposes of which the disclosure notice was given.

(4) If the Investigating Authority has reasonable grounds for believing—

(a) that any such documents may have to be produced for the purposes of any legal proceedings, and

(b) that they might otherwise be unavailable for those purposes,

they may be retained until the proceedings are concluded.

(5) If a person who is required by a disclosure notice to produce any documents does not produce the documents in compliance with the notice, an authorised person may require that person to state, to the best of his knowledge and belief, where they are.

(6) In this section "authorised person" means any appropriate person who either—

(a) is the person by whom the notice was given, or

(b) is authorised by the Investigating Authority for the purposes of this section.

(7) This section has effect subject to section 64 (restrictions on requiring information etc.).

Commencement Information

I72 S. 63 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I73 S. 63 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(a)**

64 Restrictions on requiring information etc.

(1) A person may not be required under section 62 or 63—

(a) to answer any privileged question,

(b) to provide any privileged information, or

(c) to produce any privileged document,

except that a lawyer may be required to provide the name and address of a client of his.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(2) A "privileged question" is a question which the person would be entitled to refuse to answer on grounds of legal professional privilege in proceedings in the High Court.

(3) "Privileged information" is information which the person would be entitled to refuse to provide on grounds of legal professional privilege in such proceedings.

(4) A "privileged document" is a document which the person would be entitled to refuse to produce on grounds of legal professional privilege in such proceedings.

(5) A person may not be required under section 62 to produce any excluded material (as defined by section 11 of the Police and Criminal Evidence Act 1984 (c. 60)).

(6) In the application of this section to Scotland—

(a) subsections (1) to (5) do not have effect, but

(b) a person may not be required under section 62 or 63 to answer any question, provide any information or produce any document which he would be entitled, on grounds of legal privilege, to refuse to answer or (as the case may be) provide or produce.

(7) In subsection (6)(b), "legal privilege" has the meaning given by section 412 of the Proceeds of Crime Act 2002 (c. 29).

(8) A person may not be required under section 62 or 63 to disclose any information or produce any document in respect of which he owes an obligation of confidence by virtue of carrying on any banking business, unless—

(a) the person to whom the obligation of confidence is owed consents to the disclosure or production, or

(b) the requirement is made by, or in accordance with a specific authorisation given by, the Investigating Authority.

(9) Subject to the preceding provisions, any requirement under section 62 or 63 has effect despite any restriction on disclosure (however imposed).

Commencement Information

I74 S. 64 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I75 S. 64 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(a)**

65 Restrictions on use of statements

(1) A statement made by a person in response to a requirement imposed under section 62 or 63 ("the relevant statement") may not be used in evidence against him in any criminal proceedings unless subsection (2) or (3) applies.

(2) This subsection applies where the person is being prosecuted—

(a) for an offence under section 67 of this Act, or

(b) for an offence under section 5 of the Perjury Act 1911 (c. 6) (false statements made on oath otherwise than in judicial proceedings or made otherwise than on oath), or

(c) for an offence under section 2 of the False Oaths (Scotland) Act 1933 (c. 20) (false statutory declarations and other false statements without oath) or at common law for an offence of attempting to pervert the course, or defeat the ends, of justice.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(3) This subsection applies where the person is being prosecuted for some other offence and—

(a) the person, when giving evidence in the proceedings, makes a statement inconsistent with the relevant statement, and

(b) in the proceedings evidence relating to the relevant statement is adduced, or a question about it is asked, by or on behalf of the person.

Commencement Information

I76 S. 65 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I77 S. 65 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(a)**

Enforcement

66 Power to enter and seize documents

(1) A justice of the peace may issue a warrant under this section if, on an information on oath laid by the Investigating Authority, he is satisfied—

(a) that any of the conditions mentioned in subsection (2) is met in relation to any documents of a description specified in the information, and

(b) that the documents are on premises so specified.

(2) The conditions are—

(a) that a person has been required by a disclosure notice to produce the documents but has not done so;

(b) that it is not practicable to give a disclosure notice requiring their production;

(c) that giving such a notice might seriously prejudice the investigation of an offence to which this Chapter applies.

(3) A warrant under this section is a warrant authorising an appropriate person named in it—

(a) to enter and search the premises, using such force as is reasonably necessary;

(b) to take possession of any documents appearing to be documents of a description specified in the information, or to take any other steps which appear to be necessary for preserving, or preventing interference with, any such documents;

(c) in the case of any such documents consisting of information recorded otherwise than in legible form, to take possession of any computer disk or other electronic storage device which appears to contain the information in question, or to take any other steps which appear to be necessary for preserving, or preventing interference with, that information;

(d) to take copies of or extracts from any documents or information falling within paragraph (b) or (c);

(e) to require any person on the premises to provide an explanation of any such documents or information or to state where any such documents or information may be found;

(f) to require any such person to give the appropriate person such assistance as he may reasonably require for the taking of copies or extracts as mentioned in paragraph (d).

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(4) A person executing a warrant under this section may take other persons with him, if it appears to him to be necessary to do so.

(5) A warrant under this section must, if so required, be produced for inspection by the owner or occupier of the premises or anyone acting on his behalf.

(6) If the premises are unoccupied or the occupier is temporarily absent, a person entering the premises under the authority of a warrant under this section must leave the premises as effectively secured against trespassers as he found them.

(7) Where possession of any document or device is taken under this section—

(a) the document may be retained for so long as the Investigating Authority considers that it is necessary to retain it (rather than a copy of it) in connection with the investigation for the purposes of which the warrant was sought, or

(b) the device may be retained for so long as he considers that it is necessary to retain it in connection with that investigation,

as the case may be.

(8) If the Investigating Authority has reasonable grounds for believing—

(a) that any such document or device may have to be produced for the purposes of any legal proceedings, and

(b) that it might otherwise be unavailable for those purposes,

it may be retained until the proceedings are concluded.

(9) Nothing in this section authorises a person to take possession of, or make copies of or take extracts from, any document or information which, by virtue of section 64, could not be required to be produced or disclosed under section 62 or 63.

(10) In the application of this section to Scotland—

(a) subsection (1) has effect as if, for the words from the beginning to "satisfied —", there were substituted " A sheriff may issue a warrant under this section, on the application of a procurator fiscal, if he is satisfied— ";

(b) subsections (1)(a) and (3)(b) have effect as if, for "in the information", there were substituted " in the application "; and

(c) subsections (4) to (6) do not have effect.

Commencement Information

I78 S. 66 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I79 S. 66 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(a)**

67 Offences in connection with disclosure notices or search warrants

(1) A person commits an offence if, without reasonable excuse, he fails to comply with any requirement imposed on him under section 62 or 63.

(2) A person commits an offence if, in purported compliance with any requirement imposed on him under section 62 or 63—

(a) he makes a statement which is false or misleading, and

(b) he either knows that it is false or misleading or is reckless as to whether it is false or misleading.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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"False or misleading" means false or misleading in a material particular.

(3) A person commits an offence if he wilfully obstructs any person in the exercise of any rights conferred by a warrant under section 66.

(4) A person guilty of an offence under subsection (1) or (3) is liable on summary conviction—

(a) to imprisonment for a term not exceeding 51 weeks, or

(b) to a fine not exceeding level 5 on the standard scale,

or to both.

(5) A person guilty of an offence under subsection (2) is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;

(b) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both.

(6) In the application of this section to Scotland, the reference to 51 weeks in subsection (4)(a) is to be read as a reference to 12 months.

Commencement Information

I80 S. 67 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I81 S. 67 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(a)**

Supplementary

68 Procedure applicable to search warrants

In Part 1 of Schedule 1 to the Criminal Justice and Police Act 2001 (c. 16) (powers of seizure to which section 50 applies) after paragraph 73E (inserted by the Human Tissue Act 2004 (c. 30)) insert—

"**Serious Organised Crime and Police Act 2005**

73F The power of seizure conferred by section 66 of the Serious Organised Crime and Police Act 2005 (seizure of documents for purposes of investigation by DPP or other Investigating Authority)."

Commencement Information

I82 S. 68 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(a)**

I83 S. 68 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

69 Manner in which disclosure notice may be given

(1) This section provides for the manner in which a disclosure notice may be given under section 62.

(2) The notice may be given to a person by—

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(a) delivering it to him,
(b) leaving it at his proper address,
(c) sending it by post to him at that address.

(3) The notice may be given—
(a) in the case of a body corporate, to the secretary or clerk of that body;
(b) in the case of a partnership, to a partner or a person having the control or management of the partnership business;
(c) in the case of an unincorporated association (other than a partnership), to an officer of the association.

(4) For the purposes of this section and section 7 of the Interpretation Act 1978 (c. 30) (service of documents by post) in its application to this section, the proper address of a person is his usual or last-known address (whether residential or otherwise), except that—
(a) in the case of a body corporate or its secretary or clerk, it is the address of the registered office of that body or its principal office in the United Kingdom,
(b) in the case of a partnership, a partner or a person having the control or management of the partnership business, it is that of the principal office of the partnership in the United Kingdom, and
(c) in the case of an unincorporated association (other than a partnership) or an officer of the association, it is that of the principal office of the association in the United Kingdom.

(5) This section does not apply to Scotland.

Commencement Information
I84 S. 69 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

70 Interpretation of Chapter 1

(1) In this Chapter—
"appropriate person" has the meaning given by section 62(2);
"the Investigating Authority" is to be construed in accordance with section 60(5) and (6);
"disclosure notice" has the meaning given by section 62(3);
"document" includes information recorded otherwise than in legible form.

(2) In relation to information recorded otherwise than in legible form, any reference in this Chapter to the production of documents is a reference to the production of a copy of the information in legible form.

Commencement Information
I85 S. 70 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(a)**
I86 S. 70 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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CHAPTER 2

OFFENDERS ASSISTING INVESTIGATIONS AND PROSECUTIONS

71 Assistance by offender: immunity from prosecution

(1) If a specified prosecutor thinks that for the purposes of the investigation or prosecution of any offence it is appropriate to offer any person immunity from prosecution he may give the person a written notice under this subsection (an "immunity notice").

(2) If a person is given an immunity notice, no proceedings for an offence of a description specified in the notice may be brought against that person in England and Wales or Northern Ireland except in circumstances specified in the notice.

(3) An immunity notice ceases to have effect in relation to the person to whom it is given if the person fails to comply with any conditions specified in the notice.

(4) Each of the following is a specified prosecutor—

(a) the Director of Public Prosecutions;

(b) the Director of Revenue and Customs Prosecutions;

(c) the Director of the Serious Fraud Office;

(d) the Director of Public Prosecutions for Northern Ireland;

(e) a prosecutor designated for the purposes of this section by a prosecutor mentioned in paragraphs (a) to (d).

(5) The Director of Public Prosecutions or a person designated by him under subsection (4)(e) may not give an immunity notice in relation to proceedings in Northern Ireland.

(6) The Director of Public Prosecutions for Northern Ireland or a person designated by him under subsection (4)(e) may not give an immunity notice in relation to proceedings in England and Wales.

(7) An immunity notice must not be given in relation to an offence under section 188 of the Enterprise Act 2002 (c. 40) (cartel offences).

Commencement Information
I87 S. 71 in force at 1.4.2006 by S.I. 2006/378, **art. 5(1)**

72 Assistance by offender: undertakings as to use of evidence

(1) If a specified prosecutor thinks that for the purposes of the investigation or prosecution of any offence it is appropriate to offer any person an undertaking that information of any description will not be used against the person in any proceedings to which this section applies he may give the person a written notice under this subsection (a "restricted use undertaking").

(2) This section applies to—

(a) criminal proceedings;

(b) proceedings under Part 5 of the Proceeds of Crime Act 2002 (c. 29).

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Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) If a person is given a restricted use undertaking the information described in the undertaking must not be used against that person in any proceedings to which this section applies brought in England and Wales or Northern Ireland except in the circumstances specified in the undertaking.

(4) A restricted use undertaking ceases to have effect in relation to the person to whom it is given if the person fails to comply with any conditions specified in the undertaking.

(5) The Director of Public Prosecutions for Northern Ireland or a person designated by him under section 71(4)(e) may not give a restricted use undertaking in relation to proceedings in England and Wales.

(6) The Director of Public Prosecutions or a person designated by him under section 71(4)(e) may not give a restricted use undertaking in relation to proceedings in Northern Ireland.

(7) Specified prosecutor must be construed in accordance with section 71(4).

Commencement Information
I88 S. 72 in force at 1.4.2006 by S.I. 2006/378, **art. 5(1)**

73 Assistance by defendant: reduction in sentence

(1) This section applies if a defendant—

(a) following a plea of guilty is either convicted of an offence in proceedings in the Crown Court or is committed to the Crown Court for sentence, and

(b) has, pursuant to a written agreement made with a specified prosecutor, assisted or offered to assist the investigator or prosecutor in relation to that or any other offence.

(2) In determining what sentence to pass on the defendant the court may take into account the extent and nature of the assistance given or offered.

(3) If the court passes a sentence which is less than it would have passed but for the assistance given or offered, it must state in open court—

(a) that it has passed a lesser sentence than it would otherwise have passed, and

(b) what the greater sentence would have been.

(4) Subsection (3) does not apply if the court thinks that it would not be in the public interest to disclose that the sentence has been discounted; but in such a case the court must give written notice of the matters specified in paragraphs (a) and (b) of subsection (3) to both the prosecutor and the defendant.

(5) Nothing in any enactment which—

(a) requires that a minimum sentence is passed in respect of any offence or an offence of any description or by reference to the circumstances of any offender (whether or not the enactment also permits the court to pass a lesser sentence in particular circumstances), or

(b) in the case of a sentence which is fixed by law, requires the court to take into account certain matters for the purposes of making an order which determines or has the effect of determining the minimum period of imprisonment which

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the offender must serve (whether or not the enactment also permits the court to fix a lesser period in particular circumstances),

affects the power of a court to act under subsection (2).

(6) If, in determining what sentence to pass on the defendant, the court takes into account the extent and nature of the assistance given or offered as mentioned in subsection (2), that does not prevent the court from also taking account of any other matter which it is entitled by virtue of any other enactment to take account of for the purposes of determining—

(a) the sentence, or

(b) in the case of a sentence which is fixed by law, any minimum period of imprisonment which an offender must serve.

(7) If subsection (3) above does not apply by virtue of subsection (4) above, sections 174(1)(a) and 270 of the Criminal Justice Act 2003 (c. 44) (requirement to explain reasons for sentence or other order) do not apply to the extent that the explanation will disclose that a sentence has been discounted in pursuance of this section.

(8) In this section—

(a) a reference to a sentence includes, in the case of a sentence which is fixed by law, a reference to the minimum period an offender is required to serve, and a reference to a lesser sentence must be construed accordingly;

(b) a reference to imprisonment includes a reference to any other custodial sentence within the meaning of section 76 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) or Article 2 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/ 3160).

(9) An agreement with a specified prosecutor may provide for assistance to be given to that prosecutor or to any other prosecutor.

(10) References to a specified prosecutor must be construed in accordance with section 71.

Commencement Information

I89 S. 73 in force at 1.4.2006 by S.I. 2006/378, **art. 5(1)**

74 Assistance by defendant: review of sentence

(1) This section applies if—

(a) the Crown Court has passed a sentence on a person in respect of an offence, and

(b) the person falls within subsection (2).

(2) A person falls within this subsection if—

(a) he receives a discounted sentence in consequence of his having offered in pursuance of a written agreement to give assistance to the prosecutor or investigator of an offence but he knowingly fails to any extent to give assistance in accordance with the agreement;

(b) he receives a discounted sentence in consequence of his having offered in pursuance of a written agreement to give assistance to the prosecutor or investigator of an offence and, having given the assistance in accordance with

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the agreement, in pursuance of another written agreement gives or offers to give further assistance;

(c) he receives a sentence which is not discounted but in pursuance of a written agreement he subsequently gives or offers to give assistance to the prosecutor or investigator of an offence.

(3) A specified prosecutor may at any time refer the case back to the court by which the sentence was passed if—

(a) the person is still serving his sentence, and

(b) the specified prosecutor thinks it is in the interests of justice to do so.

(4) A case so referred must, if possible, be heard by the judge who passed the sentence to which the referral relates.

(5) If the court is satisfied that a person who falls within subsection (2)(a) knowingly failed to give the assistance it may substitute for the sentence to which the referral relates such greater sentence (not exceeding that which it would have passed but for the agreement to give assistance) as it thinks appropriate.

(6) In a case of a person who falls within subsection (2)(b) or (c) the court may—

(a) take into account the extent and nature of the assistance given or offered;

(b) substitute for the sentence to which the referral relates such lesser sentence as it thinks appropriate.

(7) Any part of the sentence to which the referral relates which the person has already served must be taken into account in determining when a greater or lesser sentence imposed by subsection (5) or (6) has been served.

(8) A person in respect of whom a reference is made under this section and the specified prosecutor may with the leave of the Court of Appeal appeal to the Court of Appeal against the decision of the Crown Court.

(9) Section 33(3) of the Criminal Appeal Act 1968 (c. 19) (limitation on appeal from the criminal division of the Court of Appeal) does not prevent an appeal to the Supreme Court under this section.

(10) A discounted sentence is a sentence passed in pursuance of section 73 or subsection (6) above.

(11) References—

(a) to a written agreement are to an agreement made in writing with a specified prosecutor;

(b) to a specified prosecutor must be construed in accordance with section 71.

(12) In relation to any proceedings under this section, the Secretary of State may make an order containing provision corresponding to any provision in—

(a) the Criminal Appeal Act 1968 (subject to any specified modifications), or

(b) the Criminal Appeal (Northern Ireland) Act 1980 (c. 47) (subject to any specified modifications).

(13) A person does not fall within subsection (2) if—

(a) he was convicted of an offence for which the sentence is fixed by law, and

(b) he did not plead guilty to the offence for which he was sentenced.

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(14) Section 174(1)(a) or 270 of the Criminal Justice Act 2003 (c. 44) (as the case may be) applies to a sentence substituted under subsection (5) above unless the court thinks that it is not in the public interest to disclose that the person falls within subsection (2)(a) above.

(15) Subsections (3) to (9) of section 73 apply for the purposes of this section as they apply for the purposes of that section and any reference in those subsections to subsection (2) of that section must be construed as a reference to subsection (6) of this section.

Commencement Information
I90 S. 74 in force at 1.4.2006 by S.I. 2006/378, **art. 5(1)** (with art. 5(2))

75 Proceedings under section 74: exclusion of public

(1) This section applies to—
- (a) any proceedings relating to a reference made under section 74(3), and
- (b) any other proceedings arising in consequence of such proceedings.

(2) The court in which the proceedings will be or are being heard may make such order as it thinks appropriate—
- (a) to exclude from the proceedings any person who does not fall within subsection (4);
- (b) to give such directions as it thinks appropriate prohibiting the publication of any matter relating to the proceedings (including the fact that the reference has been made).

(3) An order under subsection (2) may be made only to the extent that the court thinks—
- (a) that it is necessary to do so to protect the safety of any person, and
- (b) that it is in the interests of justice.

(4) The following persons fall within this subsection—
- (a) a member or officer of the court;
- (b) a party to the proceedings;
- (c) counsel or a solicitor for a party to the proceedings;
- (d) a person otherwise directly concerned with the proceedings.

(5) This section does not affect any other power which the court has by virtue of any rule of law or other enactment—
- (a) to exclude any person from proceedings, or
- (b) to restrict the publication of any matter relating to proceedings.

Commencement Information
I91 S. 75 in force at 1.4.2006 by S.I. 2006/378, **art. 5(1)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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CHAPTER 3

FINANCIAL REPORTING ORDERS

76 Financial reporting orders: making

(1) A court sentencing or otherwise dealing with a person convicted of an offence mentioned in subsection (3) may also make a financial reporting order in respect of him.

(2) But it may do so only if it is satisfied that the risk of the person's committing another offence mentioned in subsection (3) is sufficiently high to justify the making of a financial reporting order.

(3) The offences are—

(a) an offence under any of the following provisions of the Theft Act 1968 (c. 60) —

section 15 (obtaining property by deception),
section 15A (obtaining a money transfer by deception),
section 16 (obtaining a pecuniary advantage by deception),
section 20(2) (procuring execution of valuable security, etc.),

(b) an offence under either of the following provisions of the Theft Act 1978 (c. 31)—

section 1 (obtaining services by deception),
section 2 (evasion of liability by deception),

(c) any offence specified in Schedule 2 to the Proceeds of Crime Act 2002 (c. 29) ("lifestyle offences").

(4) The Secretary of State may by order amend subsection (3) so as to remove an offence from it or add an offence to it.

(5) A financial reporting order—

(a) comes into force when it is made, and

(b) has effect for the period specified in the order, beginning with the date on which it is made.

(6) If the order is made by a magistrates' court, the period referred to in subsection (5) (b) must not exceed 5 years.

(7) Otherwise, that period must not exceed—

(a) if the person is sentenced to imprisonment for life, 20 years,

(b) otherwise, 15 years.

Commencement Information

I92 S. 76 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 11** (with art. 4(2)-(7))

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 01/05/2006

77 Financial reporting orders: making in Scotland

(1) A court sentencing or otherwise dealing with a person convicted of an offence mentioned in subsection (3) may also make a financial reporting order in respect of him.

(2) But he or it may do so only if satisfied that the risk of the person's committing another offence mentioned in subsection (3) is sufficiently high to justify the making of a financial reporting order.

(3) The offences are—

(a) at common law, the offence of fraud,

(b) any offence specified in Schedule 4 to the Proceeds of Crime Act 2002 (c. 29) ("lifestyle offences": Scotland).

(4) The Scottish Ministers may by order amend subsection (3) so as to remove an offence from it or add an offence to it.

(5) A financial reporting order—

(a) comes into force when it is made, and

(b) has effect for the period specified in the order, beginning with the date on which it is made.

(6) If the order is made by the sheriff, the period referred to in subsection (5)(b) must not exceed 5 years.

(7) If the order is made by the High Court of Justiciary, that period must not exceed—

(a) if the person is sentenced to imprisonment for life, 20 years,

(b) otherwise, 15 years.

78 Financial reporting orders: making in Northern Ireland

(1) A court sentencing or otherwise dealing with a person convicted of an offence mentioned in subsection (3) may also make a financial reporting order in respect of him.

(2) But the court may do so only if it is satisfied that the risk of the person's committing another offence mentioned in subsection (3) is sufficiently high to justify the making of a financial reporting order.

(3) The offences are—

(a) an offence under any of the following provisions of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.))—

section 15 (obtaining property by deception),

section 15A (obtaining a money transfer by deception),

section 16 (obtaining a pecuniary advantage by deception),

section 19(2) (procuring execution of valuable security, etc.),

(b) an offence under either of the following provisions of the Theft (Northern Ireland) Order 1978 (S.I. 1978/1407 (N.I. 23))—

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Article 3 (obtaining services by deception),
Article 4 (evasion of liability by deception),

(c) any offence specified in Schedule 5 to the Proceeds of Crime Act 2002 ("lifestyle offences": Northern Ireland).

(4) A financial reporting order—

(a) comes into force when it is made, and

(b) has effect for the period specified in the order, beginning with the date on which it is made.

(5) If the order is made by a magistrates' court, or by the county court on appeal, the period referred to in subsection (4)(b) must not exceed 5 years.

(6) Otherwise, that period must not exceed—

(a) if the person is sentenced to imprisonment for life, 20 years,

(b) otherwise, 15 years.

Commencement Information

I93 S. 78 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 11** (with art. 4(2)-(7))

79 Financial reporting orders: effect

(1) A person in relation to whom a financial reporting order has effect must do the following.

(2) He must make a report, in respect of—

(a) the period of a specified length beginning with the date on which the order comes into force, and

(b) subsequent periods of specified lengths, each period beginning immediately after the end of the previous one.

(3) He must set out in each report, in the specified manner, such particulars of his financial affairs relating to the period in question as may be specified.

(4) He must include any specified documents with each report.

(5) He must make each report within the specified number of days after the end of the period in question.

(6) He must make each report to the specified person.

(7) Rules of court may provide for the maximum length of the periods which may be specified under subsection (2).

(8) In this section, "specified" means specified by the court in the order.

(9) In Scotland the specified person must be selected by the court from a list set out in an order made for the purposes of this section by the Scottish Ministers.

(10) A person who without reasonable excuse includes false or misleading information in a report, or otherwise fails to comply with any requirement of this section, is guilty of an offence and is liable on summary conviction to—

(a) imprisonment for a term not exceeding—

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(i) in England and Wales, 51 weeks,
(ii) in Scotland, 12 months,
(iii) in Northern Ireland, 6 months, or

(b) a fine not exceeding level 5 on the standard scale,

or to both.

Commencement Information
I94 S. 79 in force at 1.4.2006 for E.W.N.I. by S.I. 2006/378, **art. 6**

80 Financial reporting orders: variation and revocation

(1) An application for variation or revocation of a financial reporting order may be made by—

(a) the person in respect of whom it has been made,

(b) the person to whom reports are to be made under it (see section 79(6)).

(2) The application must be made to the court which made the order.

(3) But if the order was made on appeal, the application must be made to the court which originally sentenced the person in respect of whom the order was made.

(4) If (in either case) that court was a magistrates' court, the application may be made to any magistrates' court acting in the same local justice area (or in Northern Ireland for the same county court division) as that court.

(5) Subsections (3) and (4) do not apply to Scotland.

Commencement Information
I95 S. 80 in force at 1.4.2006 for E.W.N.I. by S.I. 2006/378, **art. 6**

81 Financial reporting orders: verification and disclosure

(1) In this section, "the specified person" means the person to whom reports under a financial reporting order are to be made.

(2) The specified person may, for the purpose of doing either of the things mentioned in subsection (4), disclose a report to any person who he reasonably believes may be able to contribute to doing either of those things.

(3) Any other person may disclose information to—

(a) the specified person, or

(b) a person to whom the specified person has disclosed a report,

for the purpose of contributing to doing either of the things mentioned in subsection (4).

(4) The things mentioned in subsections (2) and (3) are—

(a) checking the accuracy of the report or of any other report made pursuant to the same order,

(b) discovering the true position.

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(5) The specified person may also disclose a report for the purposes of—

(a) the prevention, detection, investigation or prosecution of criminal offences, whether in the United Kingdom or elsewhere,

(b) the prevention, detection or investigation of conduct for which penalties other than criminal penalties are provided under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.

(6) A disclosure under this section does not breach—

(a) any obligation of confidence owed by the person making the disclosure, or

(b) any other restriction on the disclosure of information (however imposed).

(7) But nothing in this section authorises a disclosure, in contravention of any provisions of the Data Protection Act 1998 (c. 29), of personal data which are not exempt from those provisions.

(8) In this section, references to a report include any of its contents, any document included with the report, or any of the contents of such a document.

Commencement Information

I96 S. 81 in force at 1.4.2006 for E.W.N.I. by S.I. 2006/378, **art. 6**

CHAPTER 4

PROTECTION OF WITNESSES AND OTHER PERSONS

82 Protection of persons involved in investigations or proceedings

(1) A protection provider may make such arrangements as he considers appropriate for the purpose of protecting a person of a description specified in Schedule 5 if—

(a) the protection provider considers that the person's safety is at risk by virtue of his being a person of a description so specified, and

(b) the person is ordinarily resident in the United Kingdom.

(2) A protection provider may vary or cancel any arrangements made by him under subsection (1) if he considers it appropriate to do so.

(3) If a protection provider makes arrangements under subsection (1) or cancels arrangements made under that subsection, he must record that he has done so.

(4) In determining whether to make arrangements under subsection (1), or to vary or cancel arrangements made under that subsection, a protection provider must, in particular, have regard to—

(a) the nature and extent of the risk to the person's safety,

(b) the cost of the arrangements,

(c) the likelihood that the person, and any person associated with him, will be able to adjust to any change in their circumstances which may arise from the making of the arrangements or from their variation or cancellation (as the case may be), and

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(d) if the person is or might be a witness in legal proceedings (whether or not in the United Kingdom), the nature of the proceedings and the importance of his being a witness in those proceedings.

(5) A protection provider is—

(a) a chief officer of a police force in England and Wales;
(b) a chief constable of a police force in Scotland;
(c) the Chief Constable of the Police Service of Northern Ireland;
(d) the Director General of SOCA;
(e) any of the Commissioners for Her Majesty's Revenue and Customs;
(f) the Director of the Scottish Drug Enforcement Agency;
(g) a person designated by a person mentioned in any of the preceding paragraphs to exercise his functions under this section.

(6) The Secretary of State may, after consulting the Scottish Ministers, by order amend Schedule 5 so as to add, modify or omit any entry.

(7) Nothing in this section affects any power which a person has (otherwise than by virtue of this section) to make arrangements for the protection of another person.

Commencement Information

I97 S. 82 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I98 S. 82 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(b)**

83 Joint arrangements

(1) Arrangements may be made under section 82(1) by two or more protection providers acting jointly.

(2) If arrangements are made jointly by virtue of subsection (1), any powers conferred on a protection provider by this Chapter are exercisable in relation to the arrangements by—

(a) all of the protection providers acting together, or
(b) one of the protection providers, or some of the protection providers acting together, with the agreement of the others.

(3) Nothing in this section or in section 84 affects any power which a protection provider has to request or obtain assistance from another protection provider.

Commencement Information

I99 S. 83 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(b)**

I100 S. 83 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

84 Transfer of responsibility to other protection provider

(1) A protection provider who makes arrangements under section 82(1) may agree with another protection provider that, as from a date specified in the agreement—

(a) the protection provider will cease to discharge any responsibilities which he has in relation to the arrangements, and

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(b) the other protection provider will discharge those responsibilities instead.

(2) Any such agreement may include provision for the making of payments in respect of any costs incurred or likely to be incurred in consequence of the agreement.

(3) If an agreement is made under subsection (1), any powers conferred on a protection provider by this Chapter (including the power conferred by subsection (1)) are, as from the date specified in the agreement, exercisable by the other protection provider as if he had made the arrangements under section 82(1).

(4) Each protection provider who makes an agreement under subsection (1) must record that he has done so.

Commencement Information

I101 S. 84 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I102 S. 84 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(b)**

85 Duty to assist protection providers

(1) This section applies if a protection provider requests assistance from a public authority in connection with the making of arrangements under section 82(1) or the implementation, variation or cancellation of such arrangements.

(2) The public authority must take reasonable steps to provide the assistance requested.

(3) "Public authority" includes any person certain of whose functions are of a public nature but does not include—

(a) a court or tribunal,

(b) either House of Parliament or a person exercising functions in connection with proceedings in Parliament, or

(c) the Scottish Parliament or a person exercising functions in connection with proceedings in the Scottish Parliament.

Commencement Information

I103 S. 85 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I104 S. 85 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(b)**

86 Offence of disclosing information about protection arrangements

(1) A person commits an offence if—

(a) he discloses information which relates to the making of arrangements under section 82(1) or to the implementation, variation or cancellation of such arrangements, and

(b) he knows or suspects that the information relates to the making of such arrangements or to their implementation, variation or cancellation.

(2) A person who commits an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both;

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(b) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both.

(3) In the application of this section to Scotland or Northern Ireland, the reference in subsection (2)(b) to 12 months is to be read as a reference to 6 months.

Commencement Information

I105 S. 86 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(b)**

I106 S. 86 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

87 Defences to liability under section 86

(1) A person (P) is not guilty of an offence under section 86 if—

(a) at the time when P disclosed the information, he was or had been a protected person,

(b) the information related only to arrangements made for the protection of P or for the protection of P and a person associated with him, and

(c) at the time when P disclosed the information, it was not likely that its disclosure would endanger the safety of any person.

(2) A person (D) is not guilty of an offence under section 86 if—

(a) D disclosed the information with the agreement of a person (P) who, at the time the information was disclosed, was or had been a protected person,

(b) the information related only to arrangements made for the protection of P or for the protection of P and a person associated with him, and

(c) at the time when D disclosed the information, it was not likely that its disclosure would endanger the safety of any person.

(3) A person is not guilty of an offence under section 86 if he disclosed the information for the purposes of safeguarding national security or for the purposes of the prevention, detection or investigation of crime.

(4) A person is not guilty of an offence under section 86 if—

(a) at the time when he disclosed the information, he was a protection provider or involved in the making of arrangements under section 82(1) or in the implementation, variation or cancellation of such arrangements, and

(b) he disclosed the information for the purposes of the making, implementation, variation or cancellation of such arrangements.

(5) The Secretary of State may by order make provision prescribing circumstances in which a person who discloses information as mentioned in section 86(1) is not guilty in England and Wales or in Northern Ireland of an offence under that section.

(6) The Scottish Ministers may by order make provision prescribing circumstances in which a person who discloses information as mentioned in section 86(1) is not guilty in Scotland of an offence under that section.

(7) If sufficient evidence is adduced to raise an issue with respect to a defence under or by virtue of this section, the court or jury must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I107 S. 87 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(b)**

I108 S. 87 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

88 Offences of disclosing information relating to persons assuming new identity

(1) A person (P) commits an offence if—

(a) P is or has been a protected person,

(b) P assumed a new identity in pursuance of arrangements made under section 82(1),

(c) P discloses information which indicates that he assumed, or might have assumed, a new identity, and

(d) P knows or suspects that the information disclosed by him indicates that he assumed, or might have assumed, a new identity.

(2) A person (D) commits an offence if—

(a) D discloses information which relates to a person (P) who is or has been a protected person,

(b) P assumed a new identity in pursuance of arrangements made under section 82(1),

(c) the information disclosed by D indicates that P assumed, or might have assumed, a new identity, and

(d) D knows or suspects—

(i) that P is or has been a protected person, and

(ii) that the information disclosed by D indicates that P assumed, or might have assumed, a new identity.

(3) A person who commits an offence under this section is liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both;

(b) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both.

(4) In the application of this section to Scotland or Northern Ireland, the reference in subsection (3)(b) to 12 months is to be read as a reference to 6 months.

Commencement Information

I109 S. 88 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I110 S. 88 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(b)**

89 Defences to liability under section 88

(1) P is not guilty of an offence under section 88(1) if, at the time when he disclosed the information, it was not likely that its disclosure would endanger the safety of any person.

(2) D is not guilty of an offence under section 88(2) if—

(a) D disclosed the information with the agreement of P, and

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(b) at the time when D disclosed the information, it was not likely that its disclosure would endanger the safety of any person.

(3) D is not guilty of an offence under section 88(2) if he disclosed the information for the purposes of safeguarding national security or for the purposes of the prevention, detection or investigation of crime.

(4) D is not guilty of an offence under section 88(2) if—

(a) at the time when he disclosed the information, he was a protection provider or involved in the making of arrangements under section 82(1) or in the implementation, variation or cancellation of such arrangements, and

(b) he disclosed the information for the purposes of the making, implementation, variation or cancellation of such arrangements.

(5) The Secretary of State may by order make provision prescribing circumstances in which a person who discloses information as mentioned in subsection (1) or (2) of section 88 is not guilty in England and Wales or in Northern Ireland of an offence under that subsection.

(6) The Scottish Ministers may by order make provision prescribing circumstances in which a person who discloses information as mentioned in subsection (1) or (2) of section 88 is not guilty in Scotland of an offence under that subsection.

(7) If sufficient evidence is adduced to raise an issue with respect to a defence under or by virtue of this section, the court or jury must assume that the defence is satisfied unless the prosecution proves beyond reasonable doubt that it is not.

Commencement Information

I111 S. 89 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I112 S. 89 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(b)**

90 Protection from liability

(1) This section applies if—

(a) arrangements are made for the protection of a person under section 82(1), and

(b) the protected person assumes a new identity in pursuance of the arrangements.

(2) No proceedings (whether civil or criminal) may be brought against a person to whom this section applies in respect of the making by him of a false or misleading representation if the representation—

(a) relates to the protected person, and

(b) is made solely for the purpose of ensuring that the arrangements made for him to assume a new identity are, or continue to be, effective.

(3) The persons to whom this section applies are—

(a) the protected person;

(b) a person who is associated with the protected person;

(c) a protection provider;

(d) a person involved in the making of arrangements under section 82(1) or in the implementation, variation or cancellation of such arrangements.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information

I113 S. 90 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I114 S. 90 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(b)**

91 Transitional provision

(1) This section applies to arrangements which were, at any time before the commencement of section 82, made by a protection provider, or any person acting with his authority, for the purpose of protecting a person of a description specified in Schedule 5.

(2) If the following three conditions are satisfied, the arrangements are to be treated as having been made by the protection provider under section 82(1).

(3) The first condition is that the protection provider could have made the arrangements under section 82(1) had it been in force at the time when the arrangements were made.

(4) The second condition is that the arrangements were in operation immediately before the commencement of section 82.

(5) The third condition is that the protection provider determines that it is appropriate to treat the arrangements as having been made under section 82(1).

(6) A determination under subsection (5) may be made at any time before the end of the period of six months beginning with the day on which section 82 comes into force.

(7) A protection provider must make a record of a determination under subsection (5).

(8) Subsection (9) applies if—

(a) at any time before the commencement of section 82, arrangements were made by a person specified in subsection (11), or any person acting with the authority of such a person, for the purpose of protecting a person of a description specified in Schedule 5, and

(b) functions in relation to the arrangements are, at any time before the end of the period of six months mentioned in subsection (6), exercisable by a protection provider.

(9) The provision made by subsections (1) to (7) applies in relation to the arrangements as if they had been made by the protection provider.

(10) Accordingly, if the three conditions mentioned in subsections (3) to (5) are satisfied in relation to the arrangements, they are to be treated, by virtue of subsection (2), as having been made by the protection provider under section 82(1).

(11) The persons specified in this subsection are—

(a) the Director General of the National Criminal Intelligence Service;

(b) the Director General of the National Crime Squad;

(c) any of the Commissioners of Her Majesty's Customs and Excise.

Commencement Information

I115 S. 91 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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I116 S. 91 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(b)**

92 Transitional provision: supplemental

(1) In this section—

(a) "the arrangements" are arrangements which are treated as having been made by a protection provider by virtue of section 91(2), and

(b) "the relevant date" is the date of the record made by the protection provider, in relation to the arrangements, in pursuance of section 91(7).

(2) A person does not commit an offence under section 86(1) by disclosing information relating to the arrangements unless the information is disclosed on or after the relevant date.

(3) But it is immaterial whether the information relates to something done in connection with the arrangements before or on or after the relevant date.

(4) A person does not commit an offence under section 88(1) or (2) by disclosing information relating to a person who assumed a new identity in pursuance of the arrangements unless the information is disclosed on or after the relevant date.

(5) But it is immaterial whether the person assumed a new identity before or on or after the relevant date.

(6) Section 90 applies in relation to a false or misleading representation relating to a person who assumed a new identity in pursuance of the arrangements only if the false or misleading representation is made on or after the relevant date.

(7) But it is immaterial whether the person assumed a new identity before or on or after the relevant date.

Commencement Information

I117 S. 92 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(b)**

I118 S. 92 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

93 Provision of information

(1) This section applies if—

(a) a protection provider makes arrangements under section 82(1), or

(b) a protection provider determines under section 91(5) that it is appropriate to treat arrangements to which that section applies as having been made under section 82(1).

(2) The protection provider must inform the person to whom the arrangements relate of the provisions of this Chapter as they apply in relation to the arrangements.

(3) If the protection provider considers that the person would be unable to understand the information, by reason of his age or of any incapacity, the information must instead be given to a person who appears to the protection provider—

(a) to be interested in the welfare of the person to whom the arrangements relate, and

(b) to be the appropriate person to whom to give the information.

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(4) If arrangements are made jointly under section 82(1) (by virtue of section 83), the protection providers involved in the arrangements must nominate one of those protection providers to perform the duties imposed by this section.

Commencement Information

I119 S. 93 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I120 S. 93 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(b)**

94 Interpretation of Chapter 4

(1) This section applies for the purposes of this Chapter.

(2) "Protection provider" is to be construed in accordance with section 82.

(3) A person is a protected person if—

(a) arrangements have been made for his protection under subsection (1) of section 82, and

(b) the arrangements have not been cancelled under subsection (2) of that section.

(4) A person is associated with another person if any of the following apply—

(a) they are members of the same family;

(b) they live in the same household;

(c) they have lived in the same household.

(5) A person assumes a new identity if either or both of the following apply—

(a) he becomes known by a different name;

(b) he makes representations about his personal history or circumstances which are false or misleading.

(6) A reference to a person who is a witness in legal proceedings includes a reference to a person who provides any information or any document or other thing which might be used in evidence in those proceedings or which (whether or not admissible as evidence in those proceedings)—

(a) might tend to confirm evidence which will or might be admitted in those proceedings,

(b) might be referred to in evidence given in those proceedings by another witness, or

(c) might be used as the basis for any cross examination in the course of those proceedings,

and a reference to a person who might be, or to a person who has been, a witness in legal proceedings is to be construed accordingly.

(7) A reference to a person who is a witness in legal proceedings does not include a reference to a person who is an accused person in criminal proceedings unless he is a witness for the prosecution and a reference to a person who might be, or to a person who has been, a witness in legal proceedings is to be construed accordingly.

(8) A reference to a person who is or has been a member of staff of an organisation includes a reference to a person who is or has been seconded to the organisation to serve as a member of its staff.

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(9) "The Scottish Drug Enforcement Agency" and "the Director" of that Agency have the meanings given by section 42(2).

Commencement Information

I121 S. 94 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**

I122 S. 94 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(b)**

CHAPTER 5

INTERNATIONAL OBLIGATIONS

95 Enforcement of overseas forfeiture orders

In section 9 of the Criminal Justice (International Co-operation) Act 1990 (c. 5) (enforcement of overseas forfeiture orders), for subsection (6) (offences to which section applies) substitute—

"(6) This section applies to any offence that corresponds to or is similar to—

(a) an offence under the law of England and Wales;

(b) an offence under the law of Scotland; or

(c) an offence under the law of Northern Ireland."

Commencement Information

I123 S. 95 in force at 1.7.2005 by S.I. 2005/1521, **art. 2(1)(a)**

96 Mutual assistance in freezing property or evidence

(1) The Secretary of State or the Scottish Ministers may by order make provision—

(a) for the purpose of implementing any obligation of the United Kingdom created or arising by or under the Decision or enabling any such obligation to be implemented,

(b) for the purpose of enabling any rights enjoyed or to be enjoyed by the United Kingdom under or by virtue of the Decision to be exercised, or

(c) for the purpose of dealing with matters arising out of or related to any such obligation or rights.

(2) In subsection (1) "the Decision" means Council Framework Decision 2003/577/JHA of 22 July 2003 on the execution in the European Union of orders freezing property or evidence.

(3) The provision that may be made under subsection (1) by the Secretary of State includes, subject to subsections (5) and (7), any provision (of any extent) that might be made by Act of Parliament.

(4) The provision that may be made under subsection (1) by the Scottish Ministers includes, subject to subsections (6) and (7), any provision that might be made by Act of the Scottish Parliament.

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(5) The power conferred by subsection (1) on the Secretary of State does not include power to make provision that would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament.

(6) The power conferred by subsection (1) on the Scottish Ministers is limited to the making of provision that would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament.

(7) The powers conferred by subsection (1) do not include power—

(a) to make any provision imposing or increasing taxation,

(b) to make any provision taking effect from a date earlier than that of the making of the instrument containing the provision,

(c) to confer any power to legislate by means of orders, rules, regulations or other subordinate instrument, other than rules of procedure for a court or tribunal, or

(d) to create criminal offences.

(8) Subsection (7)(c) does not preclude—

(a) the modification of a power to legislate conferred otherwise than under subsection (1), or

(b) the extension of any such power to purposes of the like nature as those for which it was conferred,

and a power to give directions as to matters of administration is not to be regarded as a power to legislate within the meaning of subsection (7)(c).

Commencement Information

I124 S. 96 in force at 1.7.2005 for specified purposes by S.I. 2005/1521, **art. 3(2)**

I125 S. 96 in force at 1.7.2005 in so far as not already in force by S.S.I. 2005/358, **art. 2(a)**

CHAPTER 6

PROCEEDS OF CRIME

97 Confiscation orders by magistrates' courts

(1) The Secretary of State may by order make such provision as he considers appropriate for or in connection with enabling confiscation orders under—

(a) Part 2 of the Proceeds of Crime Act 2002 (c. 29) (confiscation: England and Wales), or

(b) Part 4 of that Act (confiscation: Northern Ireland),

to be made by magistrates' courts in England and Wales or Northern Ireland (as the case may be).

(2) But an order under subsection (1) may not enable such a confiscation order to be made by any magistrates' court in respect of an amount exceeding £10,000.

(3) An order under subsection (1) may amend, repeal, revoke or otherwise modify any provision of Part 2 or 4 of the 2002 Act or any other enactment relating to, or to things done under or for the purposes of, either (or any provision) of those Parts.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I126 S. 97 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(a)**

98 Civil recovery: freezing orders

(1) In the Proceeds of Crime Act 2002 (c. 29), after section 245 insert—

"Property freezing orders (England and Wales and Northern Ireland)

245A Application for property freezing order

(1) Where the enforcement authority may take proceedings for a recovery order in the High Court, the authority may apply to the court for a property freezing order (whether before or after starting the proceedings).

(2) A property freezing order is an order that—
(a) specifies or describes the property to which it applies, and
(b) subject to any exclusions (see section 245C(1)(b) and (2)), prohibits any person to whose property the order applies from in any way dealing with the property.

(3) An application for a property freezing order may be made without notice if the circumstances are such that notice of the application would prejudice any right of the enforcement authority to obtain a recovery order in respect of any property.

(4) The court may make a property freezing order on an application if it is satisfied that the condition in subsection (5) is met and, where applicable, that the condition in subsection (6) is met.

(5) The first condition is that there is a good arguable case—
(a) that the property to which the application for the order relates is or includes recoverable property, and
(b) that, if any of it is not recoverable property, it is associated property.

(6) The second condition is that, if—
(a) the property to which the application for the order relates includes property alleged to be associated property, and
(b) the enforcement authority has not established the identity of the person who holds it,

the authority has taken all reasonable steps to do so.

245B Variation and setting aside of order

(1) The court may at any time vary or set aside a property freezing order.

(2) If the court makes an interim receiving order that applies to all of the property to which a property freezing order applies, it must set aside the property freezing order.

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(3) If the court makes an interim receiving order that applies to some but not all of the property to which a property freezing order applies, it must vary the property freezing order so as to exclude any property to which the interim receiving order applies.

(4) If the court decides that any property to which a property freezing order applies is neither recoverable property nor associated property, it must vary the order so as to exclude the property.

(5) Before exercising power under this Chapter to vary or set aside a property freezing order, the court must (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to any person who may be affected by its decision.

(6) Subsection (5) does not apply where the court is acting as required by subsection (2) or (3).

245C Exclusions

(1) The power to vary a property freezing order includes (in particular) power to make exclusions as follows—

(a) power to exclude property from the order, and

(b) power, otherwise than by excluding property from the order, to make exclusions from the prohibition on dealing with the property to which the order applies.

(2) Exclusions from the prohibition on dealing with the property to which the order applies (other than exclusions of property from the order) may also be made when the order is made.

(3) An exclusion may, in particular, make provision for the purpose of enabling any person—

(a) to meet his reasonable living expenses, or

(b) to carry on any trade, business, profession or occupation.

(4) An exclusion may be made subject to conditions.

(5) Where the court exercises the power to make an exclusion for the purpose of enabling a person to meet legal expenses that he has incurred, or may incur, in respect of proceedings under this Part, it must ensure that the exclusion—

(a) is limited to reasonable legal expenses that the person has reasonably incurred or that he reasonably incurs,

(b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion, and

(c) is made subject to the required conditions (see section 286A) in addition to any conditions imposed under subsection (4).

(6) The court, in deciding whether to make an exclusion for the purpose of enabling a person to meet legal expenses of his in respect of proceedings under this Part—

(a) must have regard (in particular) to the desirability of the person being represented in any proceedings under this Part in which he is a participant, and

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(b) must, where the person is the respondent, disregard the possibility that legal representation of the person in any such proceedings might, were an exclusion not made, be funded by the Legal Services Commission or the Northern Ireland Legal Services Commission.

(7) If excluded property is not specified in the order it must be described in the order in general terms.

(8) The power to make exclusions must, subject to subsection (6), be exercised with a view to ensuring, so far as practicable, that the satisfaction of any right of the enforcement authority to recover the property obtained through unlawful conduct is not unduly prejudiced.

(9) Subsection (8) does not apply where the court is acting as required by section 245B(3) or (4).

245D Restriction on proceedings and remedies

(1) While a property freezing order has effect—

(a) the court may stay any action, execution or other legal process in respect of the property to which the order applies, and

(b) no distress may be levied against the property to which the order applies except with the leave of the court and subject to any terms the court may impose.

(2) If a court (whether the High Court or any other court) in which proceedings are pending in respect of any property is satisfied that a property freezing order has been applied for or made in respect of the property, it may either stay the proceedings or allow them to continue on any terms it thinks fit.

(3) If a property freezing order applies to a tenancy of any premises, no landlord or other person to whom rent is payable may exercise the right of forfeiture by peaceable re-entry in relation to the premises in respect of any failure by the tenant to comply with any term or condition of the tenancy, except with the leave of the court and subject to any terms the court may impose.

(4) Before exercising any power conferred by this section, the court must (as well as giving the parties to any of the proceedings concerned an opportunity to be heard) give such an opportunity to any person who may be affected by the court's decision."

(2) In the Proceeds of Crime Act 2002 (c. 29), after section 255 insert—

"Prohibitory property orders (Scotland)

255A Application for prohibitory property order

(1) Where the enforcement authority may take proceedings for a recovery order in the Court of Session, the authority may apply to the court for a prohibitory property order (whether before or after starting the proceedings).

(2) A prohibitory property order is an order that—

(a) specifies or describes the property to which it applies, and

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(b) subject to any exclusions (see section 255C(1)(b) and (2)), prohibits any person to whose property the order applies from in any way dealing with the property.

(3) An application for a prohibitory property order may be made without notice if the circumstances are such that notice of the application would prejudice any right of the enforcement authority to obtain a recovery order in respect of any property.

(4) The court may make a prohibitory property order on an application if it is satisfied that the condition in subsection (5) is met and, where applicable, that the condition in subsection (6) is met.

(5) The first condition is that there is a good arguable case—

(a) that the property to which the application for the order relates is or includes recoverable property, and

(b) that, if any of it is not recoverable property, it is associated property.

(6) The second condition is that, if—

(a) the property to which the application for the order relates includes property alleged to be associated property, and

(b) the enforcement authority has not established the identity of the person who holds it,

the authority has taken all reasonable steps to do so.

255B Variation and recall of prohibitory property order

(1) The court may at any time vary or recall a prohibitory property order.

(2) If the court makes an interim administration order that applies to all of the property to which a prohibitory property order applies, it must recall the prohibitory property order.

(3) If the court makes an interim administration order that applies to some but not all of the property to which a prohibitory property order applies, it must vary the prohibitory property order so as to exclude any property to which the interim administration order applies.

(4) If the court decides that any property to which a prohibitory property order applies is neither recoverable property nor associated property, it must vary the order so as to exclude the property.

(5) Before exercising power under this Chapter to vary or recall a prohibitory property order, the court must (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to any person who may be affected by its decision.

(6) Subsection (5) does not apply where the court is acting as required by subsection (2) or (3).

255C Exclusions

(1) The power to vary a prohibitory property order includes (in particular) power to make exclusions as follows—

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(a) power to exclude property from the order, and

(b) power, otherwise than by excluding property from the order, to make exclusions from the prohibition on dealing with the property to which the order applies.

(2) Exclusions from the prohibition on dealing with the property to which the order applies (other than exclusions of property from the order) may also be made when the order is made.

(3) An exclusion may, in particular, make provision for the purpose of enabling any person—

(a) to meet his reasonable living expenses, or

(b) to carry on any trade, business, profession or occupation.

(4) An exclusion may be made subject to conditions.

(5) An exclusion may not be made for the purpose of enabling any person to meet any legal expenses in respect of proceedings under this Part.

(6) If excluded property is not specified in the order it must be described in the order in general terms.

(7) The power to make exclusions must be exercised with a view to ensuring, so far as practicable, that the satisfaction of any right of the enforcement authority to recover the property obtained through unlawful conduct is not unduly prejudiced.

(8) Subsection (7) does not apply where the court is acting as required by section 255B(3) or (4).

255D Restriction on proceedings and remedies

(1) While a prohibitory property order has effect the court may sist any action, execution or other legal process in respect of the property to which the order applies.

(2) If a court (whether the Court of Session or any other court) in which proceedings are pending in respect of any property is satisfied that a prohibitory property order has been applied for or made in respect of the property, it may either sist the proceedings or allow them to continue on any terms it thinks fit.

(3) Before exercising any power conferred by this section, the court must (as well as giving the parties to any of the proceedings concerned an opportunity to be heard) give such an opportunity to any person who may be affected by the court's decision.

255E Arrestment of property affected by prohibitory property order

(1) On the application of the enforcement authority the Court of Session may, in relation to moveable recoverable property to which a prohibitory property order applies (whether generally or to such of it as is specified in the application), grant warrant for arrestment.

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(2) An application under subsection (1) may be made at the same time as the application for the prohibitory property order or at any time thereafter.

(3) Such a warrant for arrestment may be granted only if the property would be arrestable if the person entitled to it were a debtor.

(4) A warrant under subsection (1) has effect as if granted on the dependence of an action for debt at the instance of the enforcement authority against the person and may be executed, recalled, loosed or restricted accordingly.

(5) An arrestment executed under this section ceases to have effect when, or in so far as, the prohibitory property order ceases to apply in respect of the property in relation to which the warrant for arrestment was granted.

(6) If an arrestment ceases to have effect to any extent by virtue of subsection (5) the enforcement authority must apply to the Court of Session for an order recalling or, as the case may be, restricting the arrestment.

255F Inhibition of property affected by prohibitory property order

(1) On the application of the enforcement authority, the Court of Session may, in relation to the property mentioned in subsection (2), grant warrant for inhibition against any person specified in a prohibitory property order.

(2) That property is heritable property situated in Scotland to which the prohibitory property order applies (whether generally or to such of it as is specified in the application).

(3) The warrant for inhibition—

(a) has effect as if granted on the dependence of an action for debt by the enforcement authority against the person and may be executed, recalled, loosed or restricted accordingly, and

(b) has the effect of letters of inhibition and must forthwith be registered by the enforcement authority in the register of inhibitions and adjudications.

(4) Section 155 of the Titles to Land Consolidation (Scotland) Act 1868 (c. 101) (effective date of inhibition) applies in relation to an inhibition for which warrant is granted under subsection (1) as it applies to an inhibition by separate letters or contained in a summons.

(5) An inhibition executed under this section ceases to have effect when, or in so far as, the prohibitory property order ceases to apply in respect of the property in relation to which the warrant for inhibition was granted.

(6) If an inhibition ceases to have effect to any extent by virtue of subsection (5) the enforcement authority must—

(a) apply for the recall or, as the case may be, the restriction of the inhibition, and

(b) ensure that the recall or restriction is reflected in the register of inhibitions and adjudications.”

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Commencement Information

I127 S. 98(1) in force at 1.1.2006 by S.I. 2005/3136, **art. 3(a)**

I128 S. 98(2) in force at 1.1.2006 by S.I. 2005/3136, **art. 2(a)**

99 Civil recovery: interim receivers' expenses etc.

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) In section 280 (civil recovery orders: applying realised proceeds), after subsection (2) insert—

"(3) The Director may apply a sum received by him under subsection (2) in making payment of the remuneration and expenses of—

(a) the trustee, or

(b) any interim receiver appointed in, or in anticipation of, the proceedings for the recovery order.

(4) Subsection (3)(a) does not apply in relation to the remuneration of the trustee if the trustee is a member of the staff of the Agency."

(3) In section 284 (payment of interim administrator or trustee (Scotland))—

(a) the existing words become subsection (1), and

(b) after that subsection insert—

"(2) The Scottish Ministers may apply a sum received by them under section 280(2) in making payment of such fees or expenses.

(3) Subsection (2) does not apply in relation to the fees of a trustee for civil recovery if the trustee is a member of their staff."

(4) In paragraph 5 of Schedule 1 (finances of the Assets Recovery Agency), after sub-paragraph (1) (paragraph (b) of which provides for the expenses of the Director and staff of the Agency to be paid out of money provided by Parliament) insert—

"(1A) Sub-paragraph (1)(b) has effect subject to anything in this Act."

Commencement Information

I129 S. 99(1)(4) in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(b)**

I130 S. 99(2)(3) in force at 1.7.2005 by S.I. 2005/1521, **art. 2(1)(b)**

100 Detention of seized cash: meaning of "48 hours"

(1) In the Proceeds of Crime Act 2002 (c. 29), Chapter 3 of Part 5 (civil recovery of cash in summary proceedings) is amended as follows.

(2) In section 295 (detention of seized cash, initially for 48 hours), after subsection (1) insert—

"(1A) The period of 48 hours mentioned in subsection (1) is to be calculated in accordance with subsection (1B).

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(1B) In calculating a period of 48 hours in accordance with this subsection, no account shall be taken of—

(a) any Saturday or Sunday,

(b) Christmas Day,

(c) Good Friday,

(d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom within which the cash is seized, or

(e) any day prescribed under section 8(2) of the Criminal Procedure (Scotland) Act 1995 as a court holiday in a sheriff court in the sheriff court district within which the cash is seized."

(3) In sections 290(6), 296(1) and 302(2), after "48 hours" insert " (calculated in accordance with section 295(1B)) ".

Commencement Information

I131 S. 100 in force at 1.7.2005 by S.I. 2005/1521, **art. 2(1)(c)**

101 Appeal in proceedings for forfeiture of cash

(1) For section 299 of the Proceeds of Crime Act 2002 (appeal against forfeiture of cash) substitute—

"**299 Appeal against decision under section 298**

(1) Any party to proceedings for an order for the forfeiture of cash under section 298 who is aggrieved by an order under that section or by the decision of the court not to make such an order may appeal—

(a) in relation to England and Wales, to the Crown Court;

(b) in relation to Scotland, to the Sheriff Principal;

(c) in relation to Northern Ireland, to a county court.

(2) An appeal under subsection (1) must be made before the end of the period of 30 days starting with the day on which the court makes the order or decision.

(3) The court hearing the appeal may make any order it thinks appropriate.

(4) If the court upholds an appeal against an order forfeiting the cash, it may order the release of the cash."

(2) This section does not apply to a decision of a court not to order the forfeiture of cash under section 298 of that Act taken before this section comes into force.

Commencement Information

I132 S. 101 in force at 1.7.2005 by S.I. 2005/1521, **art. 2(1)(d)** (with art. 2(2))

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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VALID FROM 15/05/2006

102 Money laundering: defence where overseas conduct is legal under local law

(1) In the Proceeds of Crime Act 2002 (c. 29), Part 7 (money laundering) is amended as follows.

(2) In section 327 (concealing etc.), after subsection (2) insert—

"(2A) Nor does a person commit an offence under subsection (1) if—

(a) he knows, or believes on reasonable grounds, that the relevant criminal conduct occurred in a particular country or territory outside the United Kingdom, and

(b) the relevant criminal conduct—

(i) was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory, and

(ii) is not of a description prescribed by an order made by the Secretary of State.

(2B) In subsection (2A) "the relevant criminal conduct" is the criminal conduct by reference to which the property concerned is criminal property."

(3) In section 328 (arrangements), after subsection (2) insert—

"(3) Nor does a person commit an offence under subsection (1) if—

(a) he knows, or believes on reasonable grounds, that the relevant criminal conduct occurred in a particular country or territory outside the United Kingdom, and

(b) the relevant criminal conduct—

(i) was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory, and

(ii) is not of a description prescribed by an order made by the Secretary of State.

(4) In subsection (3) "the relevant criminal conduct" is the criminal conduct by reference to which the property concerned is criminal property."

(4) In section 329 (acquisition, use and possession), after subsection (2) insert—

"(2A) Nor does a person commit an offence under subsection (1) if—

(a) he knows, or believes on reasonable grounds, that the relevant criminal conduct occurred in a particular country or territory outside the United Kingdom, and

(b) the relevant criminal conduct—

(i) was not, at the time it occurred, unlawful under the criminal law then applying in that country or territory, and

(ii) is not of a description prescribed by an order made by the Secretary of State.

(2B) In subsection (2A) "the relevant criminal conduct" is the criminal conduct by reference to which the property concerned is criminal property."

(5) In section 330 (failure to disclose: regulated sector), after subsection (7) insert—

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"(7A) Nor does a person commit an offence under this section if—

(a) he knows, or believes on reasonable grounds, that the money laundering is occurring in a particular country or territory outside the United Kingdom, and

(b) the money laundering—

(i) is not unlawful under the criminal law applying in that country or territory, and

(ii) is not of a description prescribed in an order made by the Secretary of State."

(6) In section 331 (failure to disclose: nominated officers in the regulated sector), after subsection (6) insert—

"(6A) Nor does a person commit an offence under this section if—

(a) he knows, or believes on reasonable grounds, that the money laundering is occurring in a particular country or territory outside the United Kingdom, and

(b) the money laundering—

(i) is not unlawful under the criminal law applying in that country or territory, and

(ii) is not of a description prescribed in an order made by the Secretary of State."

(7) In section 332 (failure to disclose: other nominated officers), after subsection (6) insert—

"(7) Nor does a person commit an offence under this section if—

(a) he knows, or believes on reasonable grounds, that the money laundering is occurring in a particular country or territory outside the United Kingdom, and

(b) the money laundering—

(i) is not unlawful under the criminal law applying in that country or territory, and

(ii) is not of a description prescribed in an order made by the Secretary of State."

103 Money laundering: threshold amounts

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) In section 327 (concealing etc.), after subsection (2B) (which is inserted by section 102 of this Act) insert—

"(2C) A deposit-taking body that does an act mentioned in paragraph (c) or (d) of subsection (1) does not commit an offence under that subsection if—

(a) it does the act in operating an account maintained with it, and

(b) the value of the criminal property concerned is less than the threshold amount determined under section 339A for the act."

(3) In section 328 (arrangements), after subsection (4) (which is inserted by section 102 of this Act) insert—

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"(5) A deposit-taking body that does an act mentioned in subsection (1) does not commit an offence under that subsection if—

(a) it does the act in operating an account maintained with it, and

(b) the arrangement facilitates the acquisition, retention, use or control of criminal property of a value that is less than the threshold amount determined under section 339A for the act."

(4) In section 329 (acquisition, use and possession), after subsection (2B) (which is inserted by section 102 of this Act) insert—

"(2C) A deposit-taking body that does an act mentioned in subsection (1) does not commit an offence under that subsection if—

(a) it does the act in operating an account maintained with it, and

(b) the value of the criminal property concerned is less than the threshold amount determined under section 339A for the act."

(5) In Part 7 (money laundering), after section 339 insert—

"Threshold amounts

339A Threshold amounts

(1) This section applies for the purposes of sections 327(2C), 328(5) and 329(2C).

(2) The threshold amount for acts done by a deposit-taking body in operating an account is £250 unless a higher amount is specified under the following provisions of this section (in which event it is that higher amount).

(3) An officer of Revenue and Customs, or a constable, may specify the threshold amount for acts done by a deposit-taking body in operating an account—

(a) when he gives consent, or gives notice refusing consent, to the deposit-taking body's doing of an act mentioned in section 327(1), 328(1) or 329(1) in opening, or operating, the account or a related account, or

(b) on a request from the deposit-taking body.

(4) Where the threshold amount for acts done in operating an account is specified under subsection (3) or this subsection, an officer of Revenue and Customs, or a constable, may vary the amount (whether on a request from the deposit-taking body or otherwise) by specifying a different amount.

(5) Different threshold amounts may be specified under subsections (3) and (4) for different acts done in operating the same account.

(6) The amount specified under subsection (3) or (4) as the threshold amount for acts done in operating an account must, when specified, not be less than the amount specified in subsection (2).

(7) The Secretary of State may by order vary the amount for the time being specified in subsection (2).

(8) For the purposes of this section, an account is related to another if each is maintained with the same deposit-taking body and there is a person who, in

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relation to each account, is the person or one of the persons entitled to instruct the body as respects the operation of the account."

(6) In section 340 (interpretation of Part 7), after subsection (13) insert—

"(14) "Deposit-taking body" means—

(a) a business which engages in the activity of accepting deposits, or

(b) the National Savings Bank."

(7) In section 459(4)(a) and (6)(a) (provision for certain orders to be subject to affirmative procedure), after "309," insert " 339A(7), ".

Commencement Information

I133 S. 103 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(c)**

104 Money laundering: disclosures to identify persons and property

(1) In the Proceeds of Crime Act 2002 (c. 29), Part 7 (money laundering) is amended as follows.

(2) In section 330(1) (regulated sector: failure to disclose: offence committed if three conditions satisfied), for "each of the following three conditions is satisfied" substitute " the conditions in subsections (2) to (4) are satisfied ".

(3) For section 330(4) to (6) (the required disclosure) substitute—

"(3A) The third condition is—

(a) that he can identify the other person mentioned in subsection (2) or the whereabouts of any of the laundered property, or

(b) that he believes, or it is reasonable to expect him to believe, that the information or other matter mentioned in subsection (3) will or may assist in identifying that other person or the whereabouts of any of the laundered property.

(4) The fourth condition is that he does not make the required disclosure to—

(a) a nominated officer, or

(b) a person authorised for the purposes of this Part by the Director General of the Serious Organised Crime Agency,

as soon as is practicable after the information or other matter mentioned in subsection (3) comes to him.

(5) The required disclosure is a disclosure of—

(a) the identity of the other person mentioned in subsection (2), if he knows it,

(b) the whereabouts of the laundered property, so far as he knows it, and

(c) the information or other matter mentioned in subsection (3).

(5A) The laundered property is the property forming the subject-matter of the money laundering that he knows or suspects, or has reasonable grounds for knowing or suspecting, that other person to be engaged in.

(6) But he does not commit an offence under this section if—

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(a) he has a reasonable excuse for not making the required disclosure,

(b) he is a professional legal adviser and—

(i) if he knows either of the things mentioned in subsection (5)(a) and (b), he knows the thing because of information or other matter that came to him in privileged circumstances, or

(ii) the information or other matter mentioned in subsection (3) came to him in privileged circumstances, or

(c) subsection (7) applies to him."

(4) For section 331(4) to (6) (failure to disclose: nominated officers in the regulated sector: the required disclosure) substitute—

"(3A) The third condition is—

(a) that he knows the identity of the other person mentioned in subsection (2), or the whereabouts of any of the laundered property, in consequence of a disclosure made under section 330,

(b) that that other person, or the whereabouts of any of the laundered property, can be identified from the information or other matter mentioned in subsection (3), or

(c) that he believes, or it is reasonable to expect him to believe, that the information or other matter will or may assist in identifying that other person or the whereabouts of any of the laundered property.

(4) The fourth condition is that he does not make the required disclosure to a person authorised for the purposes of this Part by the Director General of the Serious Organised Crime Agency as soon as is practicable after the information or other matter mentioned in subsection (3) comes to him.

(5) The required disclosure is a disclosure of—

(a) the identity of the other person mentioned in subsection (2), if disclosed to him under section 330,

(b) the whereabouts of the laundered property, so far as disclosed to him under section 330, and

(c) the information or other matter mentioned in subsection (3).

(5A) The laundered property is the property forming the subject-matter of the money laundering that he knows or suspects, or has reasonable grounds for knowing or suspecting, that other person to be engaged in.

(6) But he does not commit an offence under this section if he has a reasonable excuse for not making the required disclosure."

(5) In section 332(3) (failure to disclose: other nominated officers: the second condition), for "section 337 or 338" substitute " the applicable section ".

(6) For section 332(4) to (6) (the required disclosure) substitute—

"(3A) The third condition is—

(a) that he knows the identity of the other person mentioned in subsection (2), or the whereabouts of any of the laundered property, in consequence of a disclosure made under the applicable section,

(b) that that other person, or the whereabouts of any of the laundered property, can be identified from the information or other matter mentioned in subsection (3), or

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(c) that he believes, or it is reasonable to expect him to believe, that the information or other matter will or may assist in identifying that other person or the whereabouts of any of the laundered property.

(4) The fourth condition is that he does not make the required disclosure to a person authorised for the purposes of this Part by the Director General of the Serious Organised Crime Agency as soon as is practicable after the information or other matter mentioned in subsection (3) comes to him.

(5) The required disclosure is a disclosure of—

(a) the identity of the other person mentioned in subsection (2), if disclosed to him under the applicable section,

(b) the whereabouts of the laundered property, so far as disclosed to him under the applicable section, and

(c) the information or other matter mentioned in subsection (3).

(5A) The laundered property is the property forming the subject-matter of the money laundering that he knows or suspects that other person to be engaged in.

(5B) The applicable section is section 337 or, as the case may be, section 338.

(6) But he does not commit an offence under this section if he has a reasonable excuse for not making the required disclosure."

(7) In section 337 (protected disclosures), after subsection (4) insert—

"(4A) Where a disclosure consists of a disclosure protected under subsection (1) and a disclosure of either or both of—

(a) the identity of the other person mentioned in subsection (3), and

(b) the whereabouts of property forming the subject-matter of the money laundering that the discloser knows or suspects, or has reasonable grounds for knowing or suspecting, that other person to be engaged in,

the disclosure of the thing mentioned in paragraph (a) or (b) (as well as the disclosure protected under subsection (1)) is not to be taken to breach any restriction on the disclosure of information (however imposed)."

Commencement Information
I134 S. 104 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(c)** (with art. 3(4))

105 Money laundering: form and manner of disclosures

(1) In the Proceeds of Crime Act 2002 (c. 29), Part 7 (money laundering) is amended as follows.

(2) In each of sections 330(9)(b), 337(5)(b) and 338(5)(b) (disclosure to nominated officer is ineffective if employer's procedures not followed), omit "and in accordance with the procedure established by the employer for the purpose".

(3) In section 334 (penalties), after subsection (2) insert—

"(3) A person guilty of an offence under section 339(1A) is liable on summary conviction to a fine not exceeding level 5 on the standard scale."

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(4) In section 338(1) (authorised disclosures), omit paragraph (b) (disclosure must be made in prescribed form and manner) but not the "and" at the end.

(5) In section 339 (form and manner of disclosures), for subsections (2) and (3) substitute—

"(1A) A person commits an offence if he makes a disclosure under section 330, 331, 332 or 338 otherwise than in the form prescribed under subsection (1) or otherwise than in the manner so prescribed.

(1B) But a person does not commit an offence under subsection (1A) if he has a reasonable excuse for making the disclosure otherwise than in the form prescribed under subsection (1) or (as the case may be) otherwise than in the manner so prescribed.

(2) The power under subsection (1) to prescribe the form in which a disclosure must be made includes power to provide for the form to include a request to a person making a disclosure that the person provide information specified or described in the form if he has not provided it in making the disclosure.

(3) Where under subsection (2) a request is included in a form prescribed under subsection (1), the form must—

(a) state that there is no obligation to comply with the request, and

(b) explain the protection conferred by subsection (4) on a person who complies with the request."

Commencement Information

I135 S. 105 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(c)**

106 Money laundering: miscellaneous amendments

(1) In the Proceeds of Crime Act 2002, Part 7 (money laundering) is amended as follows.

(2) In section 330 (regulated sector: failure to disclose), after subsection (9) insert—

"(9A) But a disclosure which satisfies paragraphs (a) and (b) of subsection (9) is not to be taken as a disclosure to a nominated officer if the person making the disclosure—

(a) is a professional legal adviser,

(b) makes it for the purpose of obtaining advice about making a disclosure under this section, and

(c) does not intend it to be a disclosure under this section."

(3) In section 337(5)(a) (disclosure to person nominated to receive disclosures under section 337), after "disclosures under" insert " section 330 or ".

(4) In section 338(1)(c) (first or second condition must be satisfied for disclosure to be authorised), for "or second" substitute " , second or third ".

(5) In section 338 (authorised disclosures), after subsection (2) insert—

"(2A) The second condition is that—

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(a) the disclosure is made while the alleged offender is doing the prohibited act,

(b) he began to do the act at a time when, because he did not then know or suspect that the property constituted or represented a person's benefit from criminal conduct, the act was not a prohibited act, and

(c) the disclosure is made on his own initiative and as soon as is practicable after he first knows or suspects that the property constitutes or represents a person's benefit from criminal conduct."

(6) In section 338(3) (the second condition), for "second" substitute " third ".

Commencement Information
I136 S. 106 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(c)**

107 Money laundering offences

(1) The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

(2) In section 364 (meaning of customer information) in subsection (5)—

(a) after paragraph (a) insert—

"(aa) constitutes an offence specified in section 415(1A) of this Act,";

(b) in paragraph (b) after "paragraph (a)" insert " or (aa) ".

(3) In section 398 (meaning of customer information: Scotland) in subsection (5)—

(a) after paragraph (a) insert—

"(aa) constitutes an offence specified in section 415(1A) of this Act,";

(b) in paragraph (b) after "paragraph (a)" insert " or (aa) ".

(4) In section 415 (money laundering offences) after subsection (1) insert—

"(1A) Each of the following is a money laundering offence—

(a) an offence under section 93A, 93B or 93C of the Criminal Justice Act 1988;

(b) an offence under section 49, 50 or 51 of the Drug Trafficking Act 1994;

(c) an offence under section 37 or 38 of the Criminal Law (Consolidation) (Scotland) Act 1995;

(d) an offence under article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996."

Commencement Information
I137 S. 107 in force at 1.7.2005 by S.I. 2005/1521, **art. 2(1)(e)**

108 International co-operation

(1) Part 11 of the Proceeds of Crime Act 2002 (c. 29) (co-operation) is amended as follows.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In section 444 (external requests and orders), for subsection (3)(a) (Order under the section may include provision about the functions of the Secretary of State, the Lord Advocate, the Scottish Ministers and the Director of the Assets Recovery Agency) substitute—

"(a) provision about the functions of any of the listed persons in relation to external requests and orders;".

(3) In that section, after subsection (3) insert—

"(4) For the purposes of subsection (3)(a) "the listed persons" are—

(a) the Secretary of State;
(b) the Lord Advocate;
(c) the Scottish Ministers;
(d) the Director;
(e) the Director of Public Prosecutions;
(f) the Director of Public Prosecutions for Northern Ireland;
(g) the Director of the Serious Fraud Office; and
(h) the Director of Revenue and Customs Prosecutions."

(4) In section 447(3) (meaning of "external investigation"), after paragraph (a) insert—

"(aa) the extent or whereabouts of property obtained as a result of or in connection with criminal conduct, or".

Commencement Information
I138 S. 108 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(d)**

109 Minor and consequential amendments relating to Chapter 6

Schedule 6, which contains minor and consequential amendments relating to provisions of this Chapter, has effect.

Commencement Information
I139 S. 109 in force at 1.8.2005 for specified purposes by S.I. 2005/2026, **art. 2(a)**
I140 S. 109 in force at 1.1.2006 for specified purposes by S.I. 2005/3136, **art. 2(c)**
I141 S. 109 in force at 1.1.2006 in so far as not already in force by S.I. 2005/3136, **art. 3(b)**

PART 3

POLICE POWERS ETC.

Powers of arrest

110 Powers of arrest

(1) For section 24 of PACE (arrest without warrant for arrestable offences) substitute—

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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"**24 Arrest without warrant: constables**

(1) A constable may arrest without a warrant—

(a) anyone who is about to commit an offence;

(b) anyone who is in the act of committing an offence;

(c) anyone whom he has reasonable grounds for suspecting to be about to commit an offence;

(d) anyone whom he has reasonable grounds for suspecting to be committing an offence.

(2) If a constable has reasonable grounds for suspecting that an offence has been committed, he may arrest without a warrant anyone whom he has reasonable grounds to suspect of being guilty of it.

(3) If an offence has been committed, a constable may arrest without a warrant—

(a) anyone who is guilty of the offence;

(b) anyone whom he has reasonable grounds for suspecting to be guilty of it.

(4) But the power of summary arrest conferred by subsection (1), (2) or (3) is exercisable only if the constable has reasonable grounds for believing that for any of the reasons mentioned in subsection (5) it is necessary to arrest the person in question.

(5) The reasons are—

(a) to enable the name of the person in question to be ascertained (in the case where the constable does not know, and cannot readily ascertain, the person's name, or has reasonable grounds for doubting whether a name given by the person as his name is his real name);

(b) correspondingly as regards the person's address;

(c) to prevent the person in question—

(i) causing physical injury to himself or any other person;

(ii) suffering physical injury;

(iii) causing loss of or damage to property;

(iv) committing an offence against public decency (subject to subsection (6)); or

(v) causing an unlawful obstruction of the highway;

(d) to protect a child or other vulnerable person from the person in question;

(e) to allow the prompt and effective investigation of the offence or of the conduct of the person in question;

(f) to prevent any prosecution for the offence from being hindered by the disappearance of the person in question.

(6) Subsection (5)(c)(iv) applies only where members of the public going about their normal business cannot reasonably be expected to avoid the person in question.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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24A Arrest without warrant: other persons

(1) A person other than a constable may arrest without a warrant—

(a) anyone who is in the act of committing an indictable offence;

(b) anyone whom he has reasonable grounds for suspecting to be committing an indictable offence.

(2) Where an indictable offence has been committed, a person other than a constable may arrest without a warrant—

(a) anyone who is guilty of the offence;

(b) anyone whom he has reasonable grounds for suspecting to be guilty of it.

(3) But the power of summary arrest conferred by subsection (1) or (2) is exercisable only if—

(a) the person making the arrest has reasonable grounds for believing that for any of the reasons mentioned in subsection (4) it is necessary to arrest the person in question; and

(b) it appears to the person making the arrest that it is not reasonably practicable for a constable to make it instead.

(4) The reasons are to prevent the person in question—

(a) causing physical injury to himself or any other person;

(b) suffering physical injury;

(c) causing loss of or damage to property; or

(d) making off before a constable can assume responsibility for him."

(2) Section 25 of PACE (general arrest conditions) shall cease to have effect.

(3) In section 66 of PACE (codes of practice), in subsection (1)(a)—

(a) omit "or" at the end of sub-paragraph (i),

(b) at the end of sub-paragraph (ii) insert "or

(iii) to arrest a person;"

(4) The sections 24 and 24A of PACE substituted by subsection (1) are to have effect in relation to any offence whenever committed.

Commencement Information

I142 S. 110 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(m)**

111 Powers of arrest: supplementary

Schedule 7, which supplements section 110 by providing for the repeal of certain enactments (including some which are spent) and by making further supplementary provision, has effect.

Commencement Information

I143 S. 111 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(m)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Exclusion zones

112 Power to direct a person to leave a place

(1) A constable may direct a person to leave a place if he believes, on reasonable grounds, that the person is in the place at a time when he would be prohibited from entering it by virtue of—

(a) an order to which subsection (2) applies, or

(b) a condition to which subsection (3) applies.

(2) This subsection applies to an order which—

(a) was made, by virtue of any enactment, following the person's conviction of an offence, and

(b) prohibits the person from entering the place or from doing so during a period specified in the order.

(3) This subsection applies to a condition which—

(a) was imposed, by virtue of any enactment, as a condition of the person's release from a prison in which he was serving a sentence of imprisonment following his conviction of an offence, and

(b) prohibits the person from entering the place or from doing so during a period specified in the condition.

(4) A direction under this section may be given orally.

(5) Any person who knowingly contravenes a direction given to him under this section is guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 4 on the standard scale, or to both.

F1(6) . . . . . .

F2(7) . . . . . .

(8) In subsection (3)(a)—

(a) "sentence of imprisonment" and "prison" are to be construed in accordance with section 62(5) of the Criminal Justice and Court Services Act 2000 (c. 43);

(b) the reference to a release from prison includes a reference to a temporary release.

(9) In this section, "place" includes an area.

(10) This section applies whether or not the order or condition mentioned in subsection (1) was made or imposed before or after the commencement of this section.

Textual Amendments

F1 S. 112(6) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8)(8), **Sch. 17 Pt. 2**; S.I. 2005/3495, art. 2(1)(t)(u)(lxi)

F2 S. 112(7) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8)(8), **Sch. 17 Pt. 2**; S.I. 2005/3495, art. 2(1)(t)(u)(lxi)

Commencement Information

I144 S. 112 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(e)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Search warrants

113 Search warrants: premises

(1) PACE is amended as follows.

(2) Section 8 (power to authorise entry and search of premises) is amended as provided in subsections (3) and (4).

(3) In subsection (1)—

(a) in paragraph (b), for "specified in the application" substitute " mentioned in subsection (1A) below ",

(b) in paragraph (e), at the end add " in relation to each set of premises specified in the application ".

(4) After subsection (1) insert—

"(1A) The premises referred to in subsection (1)(b) above are—

(a) one or more sets of premises specified in the application (in which case the application is for a "specific premises warrant"); or

(b) any premises occupied or controlled by a person specified in the application, including such sets of premises as are so specified (in which case the application is for an "all premises warrant").

(1B) If the application is for an all premises warrant, the justice of the peace must also be satisfied—

(a) that because of the particulars of the offence referred to in paragraph (a) of subsection (1) above, there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the material referred to in paragraph (b) of that subsection; and

(b) that it is not reasonably practicable to specify in the application all the premises which he occupies or controls and which might need to be searched."

(5) Section 15 (search warrants—safeguards) is amended as provided in subsections (6) to (8).

(6) For subsection (2)(b) substitute—

"(b) to specify the matters set out in subsection (2A) below; and".

(7) After subsection (2) insert—

"(2A) The matters which must be specified pursuant to subsection (2)(b) above are—

(a) if the application is for a specific premises warrant made by virtue of section 8(1A)(a) above or paragraph 12 of Schedule 1 below, each set of premises which it is desired to enter and search;

(b) if the application is for an all premises warrant made by virtue of section 8(1A)(b) above or paragraph 12 of Schedule 1 below—

(i) as many sets of premises which it is desired to enter and search as it is reasonably practicable to specify;

(ii) the person who is in occupation or control of those premises and any others which it is desired to enter and search;

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(iii) why it is necessary to search more premises than those specified under sub-paragraph (i); and

(iv) why it is not reasonably practicable to specify all the premises which it is desired to enter and search."

(8) For subsection (6)(a)(iv) substitute—

"(iv) each set of premises to be searched, or (in the case of an all premises warrant) the person who is in occupation or control of premises to be searched, together with any premises under his occupation or control which can be specified and which are to be searched; and".

(9) In section 16 (execution of warrants)—

(a) after subsection (3) insert—

"(3A) If the warrant is an all premises warrant, no premises which are not specified in it may be entered or searched unless a police officer of at least the rank of inspector has in writing authorised them to be entered.",

(b) in subsection (9), after paragraph (b) add— " and, unless the warrant is a specific premises warrant specifying one set of premises only, he shall do so separately in respect of each set of premises entered and searched, which he shall in each case state in the endorsement. ",

(c) in subsection (12), for "the premises" substitute " premises ".

(10) Schedule 1 (special procedure) is amended as follows.

(11) In each of paragraphs 2(a)(ii) and 3(a), at the end add " , or on premises occupied or controlled by a person specified in the application (including all such premises on which there are reasonable grounds for believing that there is such material as it is reasonably practicable so to specify); ".

(12) In paragraph 3(b), for "the premises" substitute " such premises ".

(13) In paragraph 12—

(a) in sub-paragraph (a)(ii), after "fulfilled" insert " in relation to each set of premises specified in the application ",

(b) at the end add " or (as the case may be) all premises occupied or controlled by the person referred to in paragraph 2(a)(ii) or 3(a), including such sets of premises as are specified in the application (an "all premises warrant") ".

(14) After paragraph 12 insert—

"12A

The judge may not issue an all premises warrant unless he is satisfied—

(a) that there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application, as well as those which are, in order to find the material in question; and

(b) that it is not reasonably practicable to specify all the premises which he occupies or controls which might need to be searched."

(15) In paragraph 14(a), omit "to which the application relates".

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Commencement Information

I145 S. 113 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(n)**

114 Search warrants: other amendments

(1) PACE is amended as follows.

(2) In section 8 (power to authorise entry and search of premises), after the subsection (1B) inserted by section 113(4) of this Act insert—

"(1C) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the justice of the peace is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which he issues the warrant.

(1D) If it authorises multiple entries, the number of entries authorised may be unlimited, or limited to a maximum."

(3) Section 15 (search warrants—safeguards) is amended as provided in subsections (4) to (7).

(4) In subsection (2)(a)—

(a) omit "and" at the end of sub-paragraph (i),

(b) at the end of sub-paragraph (ii) insert " and ",

(c) after that sub-paragraph insert—

"(iii) if the application is for a warrant authorising entry and search on more than one occasion, the ground on which he applies for such a warrant, and whether he seeks a warrant authorising an unlimited number of entries, or (if not) the maximum number of entries desired;".

(5) In subsection (5), at the end add " unless it specifies that it authorises multiple entries ".

(6) After subsection (5) insert—

"(5A) If it specifies that it authorises multiple entries, it must also specify whether the number of entries authorised is unlimited, or limited to a specified maximum."

(7) For subsection (7) substitute—

"(7) Two copies shall be made of a specific premises warrant (see section 8(1A)(a) above) which specifies only one set of premises and does not authorise multiple entries; and as many copies as are reasonably required may be made of any other kind of warrant."

(8) In section 16 (execution of warrants)—

(a) in subsection (3), for "one month" substitute " three months ",

(b) after the subsection (3A) inserted by section 113(9)(a) of this Act, insert—

"(3B) No premises may be entered or searched for the second or any subsequent time under a warrant which authorises multiple entries

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unless a police officer of at least the rank of inspector has in writing authorised that entry to those premises.",

(c) for subsection (10) substitute—

"(10) A warrant shall be returned to the appropriate person mentioned in subsection (10A) below—

(a) when it has been executed; or

(b) in the case of a specific premises warrant which has not been executed, or an all premises warrant, or any warrant authorising multiple entries, upon the expiry of the period of three months referred to in subsection (3) above or sooner.

(10A) The appropriate person is—

(a) if the warrant was issued by a justice of the peace, the designated officer for the local justice area in which the justice was acting when he issued the warrant;

(b) if it was issued by a judge, the appropriate officer of the court from which he issued it."

(9) In Schedule 1 (special procedure), in paragraph 17, for "a Circuit judge" substitute " a judge of the High Court, a Circuit judge, a Recorder ".

Commencement Information

I146 S. 114(1)-(8) in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(n)**

Fireworks

115 Power to stop and search for prohibited fireworks

(1) Section 1 of PACE (powers of constables to stop and search) is amended as follows.

(2) In subsection (2), for "or any article to which subsection (8A) below applies" substitute " , any article to which subsection (8A) below applies or any firework to which subsection (8B) below applies ".

(3) In subsection (3), for "or any article to which subsection (8A) below applies" substitute " , any article to which subsection (8A) below applies or any firework to which subsection (8B) below applies ".

(4) In subsection (6), for "or an article to which subsection (8A) below applies" substitute " , an article to which subsection (8A) below applies or a firework to which subsection (8B) below applies ".

(5) After subsection (8A) insert—

"(8B) This subsection applies to any firework which a person possesses in contravention of a prohibition imposed by fireworks regulations.

(8C) In this section—

(a) "firework" shall be construed in accordance with the definition of "fireworks" in section 1(1) of the Fireworks Act 2003; and

(b) "fireworks regulations" has the same meaning as in that Act."

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I147 S. 115 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(f)**

Photographing of suspects etc.

116 Photographing of suspects etc.

(1) Section 64A of PACE (photographing of suspects etc.) is amended as follows.

(2) After subsection (1) insert—

"(1A) A person falling within subsection (1B) below may, on the occasion of the relevant event referred to in subsection (1B), be photographed elsewhere than at a police station—

(a) with the appropriate consent; or

(b) if the appropriate consent is withheld or it is not practicable to obtain it, without it.

(1B) A person falls within this subsection if he has been—

(a) arrested by a constable for an offence;

(b) taken into custody by a constable after being arrested for an offence by a person other than a constable;

(c) made subject to a requirement to wait with a community support officer under paragraph 2(3) or (3B) of Schedule 4 to the Police Reform Act 2002 ("the 2002 Act");

(d) given a penalty notice by a constable in uniform under Chapter 1 of Part 1 of the Criminal Justice and Police Act 2001, a penalty notice by a constable under section 444A of the Education Act 1996, or a fixed penalty notice by a constable in uniform under section 54 of the Road Traffic Offenders Act 1988;

(e) given a notice in relation to a relevant fixed penalty offence (within the meaning of paragraph 1 of Schedule 4 to the 2002 Act) by a community support officer by virtue of a designation applying that paragraph to him; or

(f) given a notice in relation to a relevant fixed penalty offence (within the meaning of paragraph 1 of Schedule 5 to the 2002 Act) by an accredited person by virtue of accreditation specifying that that paragraph applies to him."

(3) In subsection (4)(a), after "prosecution" insert " or to the enforcement of a sentence ".

(4) In subsection (5), after paragraph (b) insert "; and

(c) "sentence" includes any order made by a court in England and Wales when dealing with an offender in respect of his offence."

(5) After subsection (6) insert—

"(6A) In this section, a "photograph" includes a moving image, and corresponding expressions shall be construed accordingly."

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Commencement Information

I148 S. 116(1)(3)-(5) in force at 1.8.2005 by S.I. 2005/2026, **art. 2(c)**

I149 S. 116(2) in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(o)**

Fingerprints and footwear impressions

117 Fingerprints

(1) Section 61 of PACE (fingerprinting) is amended as provided in subsections (2) to (4).

(2) After subsection (6) insert—

"(6A) A constable may take a person's fingerprints without the appropriate consent if—

(a) the constable reasonably suspects that the person is committing or attempting to commit an offence, or has committed or attempted to commit an offence; and

(b) either of the two conditions mentioned in subsection (6B) is met.

(6B) The conditions are that—

(a) the name of the person is unknown to, and cannot be readily ascertained by, the constable;

(b) the constable has reasonable grounds for doubting whether a name furnished by the person as his name is his real name.

(6C) The taking of fingerprints by virtue of subsection (6A) does not count for any of the purposes of this Act as taking them in the course of the investigation of an offence by the police."

(3) In subsection (7), for "or (6)" substitute " , (6) or (6A) ".

(4) In subsection (7A)—

(a) after "police station," insert " or by virtue of subsection (6A) at a place other than a police station, ",

(b) in paragraph (a), after "an officer" insert " (or, in a subsection (6A) case, the constable) ".

(5) In section 63A of PACE (fingerprints and samples: supplementary provisions)—

(a) after subsection (1) insert—

"(1ZA) Fingerprints taken by virtue of section 61(6A) above may be checked against other fingerprints to which the person seeking to check has access and which are held by or on behalf of any one or more relevant law-enforcement authorities or which are held in connection with or as a result of an investigation of an offence.",

(b) in subsection (1A), after "subsection (1)" insert " and (1ZA) ".

(6) Section 64 of PACE (destruction of fingerprints and samples) is amended as follows.

(7) In subsection (1A), for "or the conduct of a prosecution" substitute " , the conduct of a prosecution or the identification of a deceased person or of the person from whom a body part came ".

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(8) After subsection (1B) insert—

"(1BA) Fingerprints taken from a person by virtue of section 61(6A) above must be destroyed as soon as they have fulfilled the purpose for which they were taken."

(9) In subsection (3AB), for "subsection (3)" substitute " subsection (1BA) or (3) ".

(10) in subsection (3AC)—

(a) in paragraph (a), after "that" insert " fingerprint or ",

(b) at the end add the following new sentence— " This subsection does not apply to fingerprints taken from a person by virtue of section 61(6A) above. "

Commencement Information

I150 S. 117 partly in force; s. 117(6) in force for certain purposes at Royal Assent and s. 117(7) in force at Royal Assent, see s. 178(1)

118 Impressions of footwear

(1) PACE is amended as provided in subsections (2) to (4).

(2) After section 61 insert—

"**61A Impressions of footwear**

(1) Except as provided by this section, no impression of a person's footwear may be taken without the appropriate consent.

(2) Consent to the taking of an impression of a person's footwear must be in writing if it is given at a time when he is at a police station.

(3) Where a person is detained at a police station, an impression of his footwear may be taken without the appropriate consent if—

(a) he is detained in consequence of his arrest for a recordable offence, or has been charged with a recordable offence, or informed that he will be reported for a recordable offence; and

(b) he has not had an impression taken of his footwear in the course of the investigation of the offence by the police.

(4) Where a person mentioned in paragraph (a) of subsection (3) above has already had an impression taken of his footwear in the course of the investigation of the offence by the police, that fact shall be disregarded for the purposes of that subsection if the impression of his footwear taken previously is—

(a) incomplete; or

(b) is not of sufficient quality to allow satisfactory analysis, comparison or matching (whether in the case in question or generally).

(5) If an impression of a person's footwear is taken at a police station, whether with or without the appropriate consent—

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(a) before it is taken, an officer shall inform him that it may be the subject of a speculative search; and

(b) the fact that the person has been informed of this possibility shall be recorded as soon as is practicable after the impression has been taken, and if he is detained at a police station, the record shall be made on his custody record.

(6) In a case where, by virtue of subsection (3) above, an impression of a person's footwear is taken without the appropriate consent—

(a) he shall be told the reason before it is taken; and

(b) the reason shall be recorded on his custody record as soon as is practicable after the impression is taken.

(7) The power to take an impression of the footwear of a person detained at a police station without the appropriate consent shall be exercisable by any constable.

(8) Nothing in this section applies to any person—

(a) arrested or detained under the terrorism provisions;

(b) arrested under an extradition arrest power."

(3) Section 63A (fingerprints and samples: supplementary provisions) is amended as follows—

(a) in subsection (1), after "fingerprints", in both places, insert " , impressions of footwear ",

(b) in subsection (1C)—

(i) in paragraph (a), after "fingerprints" insert " , impressions of footwear ",

(ii) in paragraph (b), after "fingerprints" insert " , of the impressions of footwear ",

(iii) after the third "fingerprints" insert " or impressions of footwear ",

(iv) after the fourth "fingerprints" insert " , impressions of footwear ".

(4) Section 64 (destruction of fingerprints and samples) is amended as follows—

(a) in subsection (1A), after "fingerprints" in both places where it occurs insert " , impressions of footwear ",

(b) in subsection (1B)(a), after "fingerprint" insert " or an impression of footwear ",

(c) in subsection (3), after "fingerprints" insert " , impressions of footwear ",

(d) in subsection (3AA)—

(i) for "and fingerprints" substitute " , fingerprints and impressions of footwear ",

(ii) in paragraph (b), for "or, as the case may be, fingerprint" substitute " , fingerprint, (or as the case may be) an impression of footwear ",

(e) in subsection (3AB)—

(i) after each of the first and third places "fingerprint" occurs insert " , impression of footwear ",

(ii) after the second place "fingerprint" occurs, insert " , nor the impression of footwear, ",

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(f) in subsection (3AC), after "fingerprint" in each place where it occurs (including the "fingerprint" in paragraph (a) inserted by section 117(10)(a) of this Act), insert " , impression of footwear ",

(g) in subsection (3AD), after "fingerprint" insert " , impression of footwear ",

(h) in subsection (5), after "fingerprints" in each place where it occurs insert " or impressions of footwear ",

(i) in subsection (6), after "fingerprints" insert " or impressions of footwear ",

(j) in subsection (6A), after "fingerprints" insert " or impressions of footwear ".

Commencement Information
I151 S. 118 in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(p)**

Intimate samples

119 Intimate samples

(1) Section 65 of PACE (which defines certain terms for the purposes of Part 5 of that Act) is amended as follows.

(2) In the definition of "intimate sample", for paragraph (c) substitute—

"(c) a swab taken from any part of a person's genitals (including pubic hair) or from a person's body orifice other than the mouth;".

(3) In the definition of "non-intimate sample", for paragraph (c) substitute—

"(c) a swab taken from any part of a person's body other than a part from which a swab taken would be an intimate sample;".

Commencement Information
I152 S. 119 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(g)**

VALID FROM 07/03/2011

Custody officers

PROSPECTIVE

F3 120 Staff custody officers: designation

. . . . . .

Textual Amendments
F3 S. 120 repealed (12.1.2009) by Policing and Crime Act 2009 (c. 26), s. 116(6)(b), **Sch. 8 Pt. 13**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

121 Custody officers: amendments to PACE

(1) Section 36 of PACE (custody officers at police stations) is amended as provided in subsections (2) to (6).

F4(2) . . . . . .

F4(3) . . . . . .

F4(4) . . . . . .

(5) In subsection (8)—

(a) after "in" insert " section 34 above or in ",

F5(b) . . . . . .

F6(6) . . . . . .

F7(7) . . . . . .

Textual Amendments

F4 S. 121(2)-(4) repealed (12.1.2009) by Policing and Crime Act 2009 (c. 26), s. 116(6)(b), **Sch. 8 Pt. 13**

F5 S. 121(5)(b) repealed (12.1.2009) by Policing and Crime Act 2009 (c. 26), s. 116(6)(b), **Sch. 8 Pt. 13**

F6 S. 121(6) repealed (12.1.2009) by Policing and Crime Act 2009 (c. 26), s. 116(6)(b), **Sch. 8 Pt. 13**

F7 S. 121(7) repealed (12.1.2009) by Policing and Crime Act 2009 (c. 26), s. 116(6)(b), **Sch. 8 Pt. 13**

Commencement Information

I153 S. 121(5)(a) in force at 7.3.2011 by S.I. 2011/410, **art. 2(f)**

Designated and accredited persons

122 Powers of designated and accredited persons

(1) The Police Reform Act 2002 (c. 30) is amended as follows.

(2) In section 42 (supplementary provisions relating to designations)—

(a) in subsection (2), after "section 41 shall" insert " , subject to subsection (2A), ",

(b) after subsection (2) insert—

"(2A) A police officer of or above the rank of inspector may direct a particular investigating officer not to wear a uniform for the purposes of a particular operation; and if he so directs, subsection (2) shall not apply in relation to that investigating officer for the purposes of that operation.

(2B) In subsection (2A), "investigating officer" means a person designated as an investigating officer under section 38 by the chief officer of police of the same force as the officer giving the direction."

(3) Schedule 4 (powers exercisable by police civilians) is amended as follows—

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(a) in paragraph 1, after sub-paragraph (2) insert—

"(2A) The reference to the powers mentioned in sub-paragraph (2)(a) does not include those powers so far as they relate to an offence under the provisions in the following list—

section 1 of the Theft Act 1968,

section 87 of the Environmental Protection Act 1990.",

(b) in paragraph 15A (power to modify paragraph 1(2)(a)), for sub-paragraph (1) substitute—

"(1) The Secretary of State may by order amend paragraph 1(2A) so as to remove a provision from the list or add a provision to the list; but the list must contain only provisions mentioned in the first column of the Table in section 1(1) of the Criminal Justice and Police Act 2001.",

and in the heading to paragraph 15A, for "1(2)(a)" substitute " 1(2A) ".

(4) Schedule 5 (powers exercisable by accredited persons) is amended as provided in subsections (5) and (6).

(5) In paragraph 1 (power to issue fixed penalty notices)—

(a) in sub-paragraph (2)(aa), omit "except in respect of an offence under section 12 of the Licensing Act 1872 or section 91 of the Criminal Justice Act 1967",

(b) after sub-paragraph (2) insert—

"(2A) The reference to the powers mentioned in sub-paragraph (2)(aa) does not include those powers so far as they relate to an offence under the provisions in the following list—

section 12 of the Licensing Act 1872,

section 91 of the Criminal Justice Act 1967,

section 1 of the Theft Act 1968,

section 1(1) of the Criminal Damage Act 1971,

section 87 of the Environmental Protection Act 1990."

(6) In paragraph 9A (power to modify paragraph 1(2)(aa)), for sub-paragraph (1) substitute—

"(1) The Secretary of State may by order amend paragraph 1(2A) so as to remove a provision from the list or add a provision to the list; but the list must contain only provisions mentioned in the first column of the Table in section 1(1) of the Criminal Justice and Police Act 2001.",

and in the heading to paragraph 9A, for "1(2)(aa)" substitute " 1(2A) ".

(7) Schedules 8 and 9 to this Act, which provide for additional powers and duties for designated and accredited persons under the Police Reform Act 2002 (c. 30), have effect.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I154 S. 122 in force at 1.7.2005 for specified purposes by S.I. 2005/1521, **art. 3(1)(h)**

I155 S. 122(1)-(6) in force at 1.8.2005 in so far as not already in force by S.I. 2005/2026, **art. 2(d)**

I156 S. 122(7) in force at 1.1.2006 for specified purposes by S.I. 2005/3495, **art. 2(1)(q)**

Provision of information for use by police staff

123 Provision of information for use by police staff

(1) In section 71 of the Criminal Justice and Court Services Act 2000 (c. 43) (access to driver licensing records), in subsection (4), after "In this section" insert "—

"constables" includes—

(a) persons employed by a police authority under section 15(1) of the Police Act 1996 who are under the direction and control of the chief officer of police of the police force maintained by that authority,

(b) persons employed by a police authority under section 9(1) of the Police (Scotland) Act 1967 who are under the direction and control of the chief constable of the police force maintained for the authority's area,

(c) police support staff (within the meaning of the Police (Northern Ireland) Act 2000), and

(d) persons employed by the British Transport Police Authority under section 27(1) of the Railways and Transport Safety Act 2003 who are under the direction and control of the Chief Constable of the British Transport Police Force".

(2) In section 18 of the Vehicles (Crime) Act 2001 (c. 3) (register of registration plate suppliers), after subsection (8) insert—

"(9) In this section, "constables" includes—

(a) persons employed by a police authority under section 15(1) of the Police Act 1996 who are under the direction and control of the chief officer of police of the police force maintained by that authority,

(b) persons employed by a police authority under section 9(1) of the Police (Scotland) Act 1967 who are under the direction and control of the chief constable of the police force maintained for the authority's area, and

(c) persons employed by the British Transport Police Authority under section 27(1) of the Railways and Transport Safety Act 2003 who are under the direction and control of the Chief Constable of the British Transport Police Force.".

(3) In section 36 of the Vehicles (Crime) Act 2001 (c. 3) (access to certain motor insurance information), in subsection (3), after "In this section—" insert—

""constables" includes—

(a) persons employed by a police authority under section 15(1) of the Police Act 1996 who are under the direction and control of the chief officer of police of the police force maintained by that authority,

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) persons employed by a police authority under section 9(1) of the Police (Scotland) Act 1967 who are under the direction and control of the chief constable of the police force maintained for the authority's area, and

(c) persons employed by the British Transport Police Authority under section 27(1) of the Railways and Transport Safety Act 2003 who are under the direction and control of the Chief Constable of the British Transport Police Force;".

Commencement Information
I157 S. 123 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(k)**

Interpretation of Part 3

124 Interpretation of Part 3

In this Part, "PACE" means the Police and Criminal Evidence Act 1984 (c. 60).

Commencement Information
I158 S. 124 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(l)**

PART 4

PUBLIC ORDER AND CONDUCT IN PUBLIC PLACES ETC.

Harassment

125 Harassment intended to deter lawful activities

(1) The Protection from Harassment Act 1997 (c. 40) is amended as follows.

(2) In section 1 (prohibition of harassment)—

(a) after subsection (1) insert—

"(1A) A person must not pursue a course of conduct —

(a) which involves harassment of two or more persons, and

(b) which he knows or ought to know involves harassment of those persons, and

(c) by which he intends to persuade any person (whether or not one of those mentioned above)—

(i) not to do something that he is entitled or required to do, or

(ii) to do something that he is not under any obligation to do.";

(b) in subsection (2), after "amounts to" insert " or involves " and after "amounted to" insert " or involved ";

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(c) in subsection (3), after "Subsection (1)" insert " or (1A) ".

(3) In section 2(1) (offence of harassment) for "section 1" substitute " section 1(1) or (1A) ".

(4) In section 3(1) (civil remedy) for "section 1" substitute " section 1(1) ".

(5) After section 3 insert—

"**3A Injunctions to protect persons from harassment within section 1(1A)**

(1) This section applies where there is an actual or apprehended breach of section 1(1A) by any person ("the relevant person").

(2) In such a case—

(a) any person who is or may be a victim of the course of conduct in question, or

(b) any person who is or may be a person falling within section 1(1A)(c),

may apply to the High Court or a county court for an injunction restraining the relevant person from pursuing any conduct which amounts to harassment in relation to any person or persons mentioned or described in the injunction.

(3) Section 3(3) to (9) apply in relation to an injunction granted under subsection (2) above as they apply in relation to an injunction granted as mentioned in section 3(3)(a)."

(6) In section 5(2) (restraining orders) after "victim" insert " or victims ".

(7) In section 7 (interpretation of sections 1 to 5)—

(a) for subsection (3) substitute—

"(3) A "course of conduct" must involve—

(a) in the case of conduct in relation to a single person (see section 1(1)), conduct on at least two occasions in relation to that person, or

(b) in the case of conduct in relation to two or more persons (see section 1(1A)), conduct on at least one occasion in relation to each of those persons."; and

(b) after subsection (4) add—

"(5) References to a person, in the context of the harassment of a person, are references to a person who is an individual."

Commencement Information
I159 S. 125 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(m)**

126 Harassment etc. of a person in his home

(1) After section 42 of the Criminal Justice and Police Act 2001 (c. 16) insert—

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

"**42A Offence of harassment etc. of a person in his home**

(1) A person commits an offence if—

(a) that person is present outside or in the vicinity of any premises that are used by any individual ("the resident") as his dwelling;

(b) that person is present there for the purpose (by his presence or otherwise) of representing to the resident or another individual (whether or not one who uses the premises as his dwelling), or of persuading the resident or such another individual—

(i) that he should not do something that he is entitled or required to do; or

(ii) that he should do something that he is not under any obligation to do;

(c) that person—

(i) intends his presence to amount to the harassment of, or to cause alarm or distress to, the resident; or

(ii) knows or ought to know that his presence is likely to result in the harassment of, or to cause alarm or distress to, the resident; and

(d) the presence of that person—

(i) amounts to the harassment of, or causes alarm or distress to, any person falling within subsection (2); or

(ii) is likely to result in the harassment of, or to cause alarm or distress to, any such person.

(2) A person falls within this subsection if he is—

(a) the resident,

(b) a person in the resident's dwelling, or

(c) a person in another dwelling in the vicinity of the resident's dwelling.

(3) The references in subsection (1)(c) and (d) to a person's presence are references to his presence either alone or together with that of any other persons who are also present.

(4) For the purposes of this section a person (A) ought to know that his presence is likely to result in the harassment of, or to cause alarm or distress to, a resident if a reasonable person in possession of the same information would think that A's presence was likely to have that effect.

(5) A person guilty of an offence under this section shall be liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 4 on the standard scale, or to both.

(6) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference in subsection (5) to 51 weeks is to be read as a reference to 6 months.

(7) In this section "dwelling" has the same meaning as in Part 1 of the Public Order Act 1986."

F8(2) . . . . . .

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

F9(3) . . . . . .

Textual Amendments

F8 S. 126(2) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8)(8), **Sch. 17 Pt. 2**; S.I. 2005/3495, art. 2(1)(t)(u)(lxi)

F9 S. 126(3) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8)(8), **Sch. 17 Pt. 2**; S.I. 2005/3495, art. 2(1)(t)(u)(lxi)

Commencement Information

I160 S. 126 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(m)**

127 Harassment etc: police direction to stay away from person's home

(1) Section 42 of the Criminal Justice and Police Act 2001 (c. 16) (police directions stopping harassment of a person in his home) is amended as follows.

(2) For subsection (4) substitute—

"(4) The requirements that may be imposed by a direction under this section include—

(a) a requirement to leave the vicinity of the premises in question, and

(b) a requirement to leave that vicinity and not to return to it within such period as the constable may specify, not being longer than 3 months;

and (in either case) the requirement to leave the vicinity may be to do so immediately or after a specified period of time."

(3) In subsection (7), for "contravenes a direction given to him under this section" substitute " fails to comply with a requirement in a direction given to him under this section (other than a requirement under subsection (4)(b)) ".

(4) After subsection (7) insert—

"(7A) Any person to whom a constable has given a direction including a requirement under subsection (4)(b) commits an offence if he—

(a) returns to the vicinity of the premises in question within the period specified in the direction beginning with the date on which the direction is given; and

(b) does so for the purpose described in subsection (1)(b).

(7B) A person guilty of an offence under subsection (7A) shall be liable, on summary conviction, to imprisonment for a term not exceeding 51 weeks or to a fine not exceeding level 4 on the standard scale, or to both.

(7C) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the reference in subsection (7B) to 51 weeks is to be read as a reference to 6 months."

Commencement Information

I161 S. 127 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(m)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Trespass on designated site

128 Offence of trespassing on designated site

(1) A person commits an offence if he enters, or is on, any designated site in England and Wales or Northern Ireland as a trespasser.

(2) A "designated site" means a site—

(a) specified or described (in any way) in an order made by the Secretary of State, and

(b) designated for the purposes of this section by the order.

(3) The Secretary of State may only designate a site for the purposes of this section if—

(a) it is comprised in Crown land; or

(b) it is comprised in land belonging to Her Majesty in Her private capacity or to the immediate heir to the Throne in his private capacity; or

(c) it appears to the Secretary of State that it is appropriate to designate the site in the interests of national security.

(4) It is a defence for a person charged with an offence under this section to prove that he did not know, and had no reasonable cause to suspect, that the site in relation to which the offence is alleged to have been committed was a designated site.

(5) A person guilty of an offence under this section is liable on summary conviction—

(a) to imprisonment for a term not exceeding 51 weeks, or

(b) to a fine not exceeding level 5 on the standard scale,

or to both.

(6) No proceedings for an offence under this section may be instituted against any person—

(a) in England and Wales, except by or with the consent of the Attorney General, or

(b) in Northern Ireland, except by or with the consent of the Attorney General for Northern Ireland.

(7) For the purposes of this section a person who is on any designated site as a trespasser does not cease to be a trespasser by virtue of being allowed time to leave the site.

(8) In this section—

(a) "site" means the whole or part of any building or buildings, or any land, or both;

(b) "Crown land" means land in which there is a Crown interest or a Duchy interest.

(9) For this purpose—

"Crown interest" means an interest belonging to Her Majesty in right of the Crown, and

"Duchy interest" means an interest belonging to Her Majesty in right of the Duchy of Lancaster or belonging to the Duchy of Cornwall.

(10) In the application of this section to Northern Ireland, the reference to 51 weeks in subsection (5)(a) is to be read as a reference to 6 months.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Modifications etc. (not altering text)

C2 S. 128 extended (N.I.) (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 130(2)**, 178(8); S.I. 2005/1521, art. 3(1)(n)

Commencement Information

I162 S. 128 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(n)**

129 Corresponding Scottish offence

(1) A person commits an offence if he enters, or is on, any designated Scottish site without lawful authority.

(2) A "designated Scottish site" means a site in Scotland—

(a) specified or described (in any way) in an order made by the Secretary of State, and

(b) designated for the purposes of this section by the order.

(3) The Secretary of State may only designate a site for the purposes of this section if it appears to him that it is appropriate to designate the site in the interests of national security.

(4) It is a defence for a person charged with an offence under this section to prove that he did not know, and had no reasonable cause to suspect, that the site in relation to which the offence is alleged to have been committed was a designated Scottish site.

(5) A person guilty of an offence under this section is liable on summary conviction—

(a) to imprisonment for a term not exceeding 12 months, or

(b) to a fine not exceeding level 5 on the standard scale,

or to both.

(6) For the purposes of subsection (1), a person who is on any designated Scottish site without lawful authority does not acquire lawful authority by virtue of being allowed time to leave the site.

(7) In this section "site" means the whole or part of any building or buildings, or any land, or both.

Commencement Information

I163 S. 129 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(n)**

130 Designated sites: powers of arrest

(1) [F10]...

This subsection ceases to have effect on the commencement of section 110.

(2) An offence under section 128 is to be treated as an arrestable offence for the purposes of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(3) A constable in uniform may, in Scotland, arrest without warrant any person he reasonably suspects is committing or has committed an offence under section 129.

Textual Amendments

F10 S. 130(1) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8)(8), **Sch. 17 Pt. 2**; S.I. 2005/3495, art. 2(1)(t)(u)(lxi)

Commencement Information

I164 S. 130 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(n)**

131 Designated sites: access

(1) The following provisions do not apply to land in respect of which a designation order is in force—

(a) section 2(1) of the Countryside and Rights of Way Act 2000 (c. 37) (rights of public in relation to access land),

(b) Part III of the Countryside (Northern Ireland) Order 1983 (S.I. 1983/1895 (N.I. 18)) (access to open country), and

(c) section 1 of the Land Reform (Scotland) Act 2003 (asp 2) (access rights).

(2) The Secretary of State may take such steps as he considers appropriate to inform the public of the effect of any designation order, including, in particular, displaying notices on or near the site to which the order relates.

(3) But the Secretary of State may only—

(a) display any such notice, or

(b) take any other steps under subsection (2),

in or on any building or land, if the appropriate person consents.

(4) The "appropriate person" is—

(a) a person appearing to the Secretary of State to have a sufficient interest in the building or land to consent to the notice being displayed or the steps being taken, or

(b) a person acting on behalf of such a person.

(5) In this section a "designation order" means—

(a) in relation to England and Wales or Northern Ireland, an order under section 128, or

(b) in relation to Scotland, an order under section 129.

Commencement Information

I165 S. 131 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(n)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Demonstrations in vicinity of Parliament

132 Demonstrating without authorisation in designated area

(1) Any person who—

(a) organises a demonstration in a public place in the designated area, or

(b) takes part in a demonstration in a public place in the designated area, or

(c) carries on a demonstration by himself in a public place in the designated area,

is guilty of an offence if, when the demonstration starts, authorisation for the demonstration has not been given under section 134(2).

(2) It is a defence for a person accused of an offence under subsection (1) to show that he reasonably believed that authorisation had been given.

(3) Subsection (1) does not apply if the demonstration is—

(a) a public procession of which notice is required to be given under subsection (1) of section 11 of the Public Order Act 1986 (c. 64), or of which (by virtue of subsection (2) of that section) notice is not required to be given, or

(b) a public procession for the purposes of section 12 or 13 of that Act.

(4) Subsection (1) also does not apply in relation to any conduct which is lawful under section 220 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52).

(5) If subsection (1) does not apply by virtue of subsection (3) or (4), nothing in sections 133 to 136 applies either.

(6) Section 14 of the Public Order Act 1986 (imposition of conditions on public assemblies) does not apply in relation to a public assembly which is also a demonstration in a public place in the designated area.

(7) In this section and in sections 133 to 136—

(a) "the designated area" means the area specified in an order under section 138,

(b) "public place" means any highway or any place to which at the material time the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission,

(c) references to any person organising a demonstration include a person participating in its organisation,

(d) references to any person organising a demonstration do not include a person carrying on a demonstration by himself,

(e) references to any person or persons taking part in a demonstration (except in subsection (1) of this section) include a person carrying on a demonstration by himself.

Commencement Information

I166 S. 132(1)-(6) in force at 1.8.2005 by S.I. 2005/1521, **art. 4(1)** (with art. 4(2))

I167 S. 132(7) in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(o)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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133 Notice of demonstrations in designated area

(1) A person seeking authorisation for a demonstration in the designated area must give written notice to that effect to the Commissioner of Police of the Metropolis (referred to in this section and section 134 as "the Commissioner").

(2) The notice must be given—

(a) if reasonably practicable, not less than 6 clear days before the day on which the demonstration is to start, or

(b) if that is not reasonably practicable, then as soon as it is, and in any event not less than 24 hours before the time the demonstration is to start.

(3) The notice must be given—

(a) if the demonstration is to be carried on by more than one person, by any of the persons organising it,

(b) if it is to be carried on by a person by himself, by that person.

(4) The notice must state—

(a) the date and time when the demonstration is to start,

(b) the place where it is to be carried on,

(c) how long it is to last,

(d) whether it is to be carried on by a person by himself or not,

(e) the name and address of the person giving the notice.

(5) A notice under this section must be given by—

(a) delivering it to a police station in the metropolitan police district, or

(b) sending it by post by recorded delivery to such a police station.

(6) Section 7 of the Interpretation Act 1978 (c. 30) (under which service of a document is deemed to have been effected at the time it would be delivered in the ordinary course of post) does not apply to a notice under this section.

Commencement Information

I168 S. 133 in force at 1.7.2005 for specified purposes by S.I. 2005/1521, **art. 3(1)(p)** (with art. 3(5))

I169 S. 133 in force at 1.8.2005 in so far as not already in force by S.I. 2005/1521, **art. 4(1)**

134 Authorisation of demonstrations in designated area

(1) This section applies if a notice complying with the requirements of section 133 is received at a police station in the metropolitan police district by the time specified in section 133(2).

(2) The Commissioner must give authorisation for the demonstration to which the notice relates.

(3) In giving authorisation, the Commissioner may impose on the persons organising or taking part in the demonstration such conditions specified in the authorisation and relating to the demonstration as in the Commissioner's reasonable opinion are necessary for the purpose of preventing any of the following—

(a) hindrance to any person wishing to enter or leave the Palace of Westminster,

(b) hindrance to the proper operation of Parliament,

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(c) serious public disorder,
(d) serious damage to property,
(e) disruption to the life of the community,
(f) a security risk in any part of the designated area,
(g) risk to the safety of members of the public (including any taking part in the demonstration).

(4) The conditions may, in particular, impose requirements as to—
(a) the place where the demonstration may, or may not, be carried on,
(b) the times at which it may be carried on,
(c) the period during which it may be carried on,
(d) the number of persons who may take part in it,
(e) the number and size of banners or placards used,
(f) maximum permissible noise levels.

(5) The authorisation must specify the particulars of the demonstration given in the notice under section 133 pursuant to subsection (4) of that section, with any modifications made necessary by any condition imposed under subsection (3) of this section.

(6) The Commissioner must give notice in writing of—
(a) the authorisation,
(b) any conditions imposed under subsection (3), and
(c) the particulars mentioned in subsection (5),
to the person who gave the notice under section 133.

(7) Each person who takes part in or organises a demonstration in the designated area is guilty of an offence if —
(a) he knowingly fails to comply with a condition imposed under subsection (3) which is applicable to him (except where it is varied under section 135), or
(b) he knows or should have known that the demonstration is carried on otherwise than in accordance with the particulars set out in the authorisation by virtue of subsection (5).

(8) It is a defence for a person accused of an offence under subsection (7) to show—
(a) (in a paragraph (a) case) that the failure to comply, or
(b) (in a paragraph (b) case) that the divergence from the particulars,
arose from circumstances beyond his control, or from something done with the agreement, or by the direction, of a police officer.

(9) The notice required by subsection (6) may be sent by post to the person who gave the notice under section 133 at the address stated in that notice pursuant to subsection (4)(e) of that section.

(10) If the person to whom the notice required by subsection (6) is to be given has agreed, it may be sent to him by email or by facsimile transmission at the address or number notified by him for the purpose to the Commissioner (and a notice so sent is "in writing" for the purposes of that subsection).

Commencement Information
I170 S. 134(1)-(6)(9)(10) in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(q)**

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I171 S. 134(7)(8) in force at 1.8.2005 by S.I. 2005/1521, **art. 4(1)**

135 Supplementary directions

(1) This section applies if the senior police officer reasonably believes that it is necessary, in order to prevent any of the things mentioned in paragraphs (a) to (g) of subsection (3) of section 134—

(a) to impose additional conditions on those taking part in or organising a demonstration authorised under that section, or

(b) to vary any condition imposed under that subsection or under paragraph (a) (including such a condition as varied under subsection (2)).

(2) The senior police office may give directions to those taking part in or organising the demonstration imposing such additional conditions or varying any such condition already imposed.

(3) A person taking part in or organising the demonstration who knowingly fails to comply with a condition which is applicable to him and which is imposed or varied by a direction under this section is guilty of an offence.

(4) It is a defence for him to show that the failure to comply arose from circumstances beyond his control.

(5) In this section, "the senior police officer" means the most senior in rank of the police officers present at the scene (or any one of them if there are more than one of the same rank).

Commencement Information
I172 S. 135 in force at 1.8.2005 by S.I. 2005/1521, **art. 4(1)**

136 Offences under sections 132 to 135: penalties

(1) A person guilty of an offence under section 132(1)(a) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding level 4 on the standard scale, or to both.

(2) A person guilty of an offence under section 132(1)(b) or (c) is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) A person guilty of an offence under section 134(7) or 135(3) is liable on summary conviction—

(a) if the offence was in relation to his capacity as organiser of the demonstration, to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding level 4 on the standard scale, or to both,

(b) otherwise, to a fine not exceeding level 3 on the standard scale.

(4) A person who is guilty of the offence of inciting another to—

(a) do anything which would constitute an offence mentioned in subsection (1), (2) or (3), or

(b) fail to do anything where the failure would constitute such an offence,

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is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding level 4 on the standard scale, or to both, notwithstanding section 45(3) of the Magistrates' Courts Act 1980 (c. 43).

(5) [F11]...

Textual Amendments

F11 S. 136(5) repealed (1.1.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8)(8), **Sch. 17 Pt. 2**; S.I. 2005/3495, art. 2(1)(t)(u)(lxi)

Commencement Information

I173 S. 136 in force at 1.8.2005 by S.I. 2005/1521, **art. 4(1)**

137 Loudspeakers in designated area

(1) Subject to subsection (2), a loudspeaker shall not be operated, at any time or for any purpose, in a street in the designated area.

(2) Subsection (1) does not apply to the operation of a loudspeaker—

(a) in case of emergency,
(b) for police, fire and rescue authority or ambulance purposes,
(c) by the Environment Agency, a water undertaker or a sewerage undertaker in the exercise of any of its functions,
(d) by a local authority within its area,
(e) for communicating with persons on a vessel for the purpose of directing the movement of that or any other vessel,
(f) if the loudspeaker forms part of a public telephone system,
(g) if the loudspeaker is in or fixed to a vehicle and subsection (3) applies,
(h) otherwise than on a highway, by persons employed in connection with a transport undertaking used by the public, but only if the loudspeaker is operated solely for making announcements to passengers or prospective passengers or to other persons so employed,
(i) in accordance with a consent granted by a local authority under Schedule 2 to the Noise and Statutory Nuisance Act 1993 (c. 40).

(3) This subsection applies if the loudspeaker referred to in subsection (2)(g)—

(a) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle (or, if the loudspeaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic), and
(b) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.

(4) A person who operates or permits the operation of a loudspeaker in contravention of subsection (1) is guilty of an offence and is liable on summary conviction to—

(a) a fine not exceeding level 5 on the standard scale, together with
(b) a further fine not exceeding £50 for each day on which the offence continues after the conviction.

(5) In this section—

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"local authority" means a London borough council (and, in subsection (2)(d), the Greater London Authority),

"street" means a street within the meaning of section 48(1) of the New Roads and Street Works Act 1991 (c. 22) which is for the time being open to the public,

"the designated area" means the area specified in an order under section 138,

"vessel" includes a hovercraft within the meaning of the Hovercraft Act 1968 (c. 59).

(6) In Schedule 2 to the Noise and Statutory Nuisance Act 1993 (consent to the operation of loudspeakers in streets or roads), in paragraph 1(1), at the end add " or of section 137(1) of the Serious Organised Crime and Police Act 2005 ".

Commencement Information
I174 S. 137 in force at 1.8.2005 by S.I. 2005/1521, **art. 4(1)**

138 The designated area

(1) The Secretary of State may by order specify an area as the designated area for the purposes of sections 132 to 137.

(2) The area may be specified by description, by reference to a map or in any other way.

(3) No point in the area so specified may be more than one kilometre in a straight line from the point nearest to it in Parliament Square.

Commencement Information
I175 S. 138 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(r)**

Anti-social behaviour

139 Orders about anti-social behaviour etc.

(1) The Crime and Disorder Act 1998 (c. 37) is amended as provided in subsections (2) to (9).

(2) In section 1 (anti-social behaviour orders), after subsection (10B) insert—

"(10C) In proceedings for an offence under subsection (10), a copy of the original anti-social behaviour order, certified as such by the proper officer of the court which made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those things is admissible in those proceedings."

(3) The existing text of section 1A (power of Secretary of State to add to relevant authorities) is to be subsection (1) of that section, and after that subsection add—

"(2) The Secretary of State may by order—

(a) provide that a person or body of any other description specified in the order is, in such cases and circumstances as may be prescribed by the

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order, to be a relevant authority for the purposes of such of sections 1 above and 1B, 1CA and 1E below as are specified in the order; and

(b) prescribe the description of persons who are to be "relevant persons" in relation to that person or body."

(4) In section 1C (orders about anti-social behaviour on conviction in criminal proceedings)—

(a) after subsection (4) insert—

"(4A) The court may adjourn any proceedings in relation to an order under this section even after sentencing the offender.

(4B) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for his arrest.

(4C) But the court may not issue a warrant for the offender's arrest unless it is satisfied that he has had adequate notice of the time and place of the adjourned proceedings.",

(b) in subsection (9), after "(10)" insert " , (10C) ".

(5) Section 1D (interim orders) is amended as provided in subsections (6) to (9).

(6) For subsections (1) and (2) substitute—

"(1) This section applies where—

(a) an application is made for an anti-social behaviour order;

(b) an application is made for an order under section 1B;

(c) a request is made by the prosecution for an order under section 1C; or

(d) the court is minded to make an order under section 1C of its own motion.

(2) If, before determining the application or request, or before deciding whether to make an order under section 1C of its own motion, the court considers that it is just to make an order under this section pending the determination of that application or request or before making that decision, it may make such an order."

(7) In subsection (4)(c), for "main application" substitute " application or request mentioned in subsection (1), or on the court's making a decision as to whether or not to make an order under section 1C of its own motion. "

(8) In subsection (5), at the beginning insert " In relation to cases to which this section applies by virtue of paragraph (a) or (b) of subsection (1), ".

(9) After subsection (5) add—

"(6) In relation to cases to which this section applies by virtue of paragraph (c) or (d) of subsection (1)—

(a) subsections (6) and (10) to (12) of section 1 apply for the purposes of the making and effect of orders under this section as they apply for the purposes of the making and effect of anti-social behaviour orders; and

(b) section 1CA applies for the purposes of the variation or discharge of an order under this section as it applies for the purposes of the variation or discharge of an order under section 1C."

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(10) In section 14A of the Football Spectators Act 1989 (c. 37) (banning orders on conviction of an offence), after subsection (4) insert—

"(4A) The court may adjourn any proceedings in relation to an order under this section even after sentencing the offender.

(4B) If the offender does not appear for any adjourned proceedings, the court may further adjourn the proceedings or may issue a warrant for his arrest.

(4C) But the court may not issue a warrant for the offender's arrest unless it is satisfied that he has had adequate notice of the time and place of the adjourned proceedings."

Commencement Information
I176 S. 139 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(s)**

140 Variation and discharge of anti-social behaviour orders made on conviction

(1) The Crime and Disorder Act 1998 (c. 37) is amended as follows.

(2) In section 1 (anti-social behaviour orders), in subsection (1A), after "1B" insert " , 1CA ".

(3) In section 1C (orders on conviction), omit subsections (6) to (8).

(4) After section 1C insert—

"**1CA Variation and discharge of orders under section 1C**

(1) An offender subject to an order under section 1C may apply to the court which made it for it to be varied or discharged.

(2) If he does so, he must also send written notice of his application to the Director of Public Prosecutions.

(3) The Director of Public Prosecutions may apply to the court which made an order under section 1C for it to be varied or discharged.

(4) A relevant authority may also apply to the court which made an order under section 1C for it to be varied or discharged if it appears to it that—

(a) in the case of variation, the protection of relevant persons from anti-social acts by the person subject to the order would be more appropriately effected by a variation of the order;

(b) in the case of discharge, that it is no longer necessary to protect relevant persons from anti-social acts by him by means of such an order.

(5) If the Director of Public Prosecutions or a relevant authority applies for the variation or discharge of an order under section 1C, he or it must also send written notice of the application to the person subject to the order.

(6) In the case of an order under section 1C made by a magistrates' court, the references in subsections (1), (3) and (4) to the court by which the order was

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made include a reference to any magistrates' court acting in the same local justice area as that court.

(7) No order under section 1C shall be discharged on an application under this section before the end of the period of two years beginning with the day on which the order takes effect, unless—

(a) in the case of an application under subsection (1), the Director of Public Prosecutions consents, or

(b) in the case of an application under subsection (3) or (4), the offender consents."

(5) In section 3 of the Prosecution of Offences Act 1985 (c. 23) (functions of the Director of Public Prosecutions), in subsection (2), after paragraph (fa) insert—

"(fb) where it appears to him appropriate to do so, to have the conduct of applications under section 1CA(3) of the Crime and Disorder Act 1998 for the variation or discharge of orders made under section 1C of that Act;

(fc) where it appears to him appropriate to do so, to appear on any application under section 1CA of that Act made by a person subject to an order under section 1C of that Act for the variation or discharge of the order."

Commencement Information

I177 S. 140 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(s)**

141 Anti-social behaviour orders etc: reporting restrictions

(1) The Crime and Disorder Act 1998 (c. 37) is amended as follows.

(2) In section 1 (anti-social behaviour orders)—

(a) after subsection (10C) (inserted by section 139(2) of this Act), insert—

"(10D) In relation to proceedings brought against a child or a young person for an offence under subsection (10)—

(a) section 49 of the Children and Young Persons Act 1933 (restrictions on reports of proceedings in which children and young persons are concerned) does not apply in respect of the child or young person against whom the proceedings are brought;

(b) section 45 of the Youth Justice and Criminal Evidence Act 1999 (power to restrict reporting of criminal proceedings involving persons under 18) does so apply.

(10E) If, in relation to any such proceedings, the court does exercise its power to give a direction under section 45 of the Youth Justice and Criminal Evidence Act 1999, it shall give its reasons for doing so.",

(b) in subsection (12), before the definition of "the commencement date" insert—

""child" and "young person" shall have the same meaning as in the Children and Young Persons Act 1933;".

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(3) In section 1C (orders about anti-social behaviour on conviction in criminal proceedings), in subsection (9), after "(10C)" (inserted by section 139(4)(b) of this Act) insert " , (10D), (10E) ".

(4) Subject to paragraph 2(2) of Schedule 2 to the Youth Justice and Criminal Evidence Act 1999 (c. 23), until section 45 of that Act comes into force, the references to it in section 1(10D)(b) and (10E) of the Crime and Disorder Act 1998 (c. 37) (inserted by subsection (2) of this section) shall be read as references to section 39 of the Children and Young Persons Act 1933 (c. 12).

Commencement Information
I178 S. 141 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(s)**

142 Contracting out of local authority functions relating to anti-social behaviour orders

(1) In the Crime and Disorder Act 1998 after section 1E (consultation requirements relating to individual support orders) insert—

"**1F Contracting out of local authority functions**

(1) The Secretary of State may by order provide that a relevant authority which is a local authority may make arrangements with a person specified (or of a description specified) in the order for the exercise of any function it has under sections 1 to 1E above—
  (a) by such a person, or
  (b) by an employee of his.

(2) The order may provide—
  (a) that the power of the relevant authority to make the arrangements is subject to such conditions as are specified in the order;
  (b) that the arrangements must be subject to such conditions as are so specified;
  (c) that the arrangements may be made subject to such other conditions as the relevant authority thinks appropriate.

(3) The order may provide that the arrangements may authorise the exercise of the function—
  (a) either wholly or to such extent as may be specified in the order or arrangements;
  (b) either generally or in such cases or areas as may be so specified.

(4) An order may provide that the person with whom arrangements are made in pursuance of the order is to be treated as if he were a public body for the purposes of section 1 of the Local Authorities (Goods and Services) Act 1970.

(5) The Secretary of State must not make an order under this section unless he first consults—
  (a) the National Assembly for Wales, if the order relates to a relevant authority in Wales;

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(b) such representatives of local government as he thinks appropriate;

(c) such other persons as he thinks appropriate.

(6) Any arrangements made by a relevant authority in pursuance of an order under this section do not prevent the relevant authority from exercising the function to which the arrangements relate.

(7) The following provisions of the Deregulation and Contracting Out Act 1994 apply for the purposes of arrangements made in pursuance of an order under this section as they apply for the purposes of an authorisation to exercise functions by virtue of an order under section 70(2) of that Act—

(a) section 72 (effect of contracting out);

(b) section 73 (termination of contracting out);

(c) section 75 and Schedule 15 (provision relating to disclosure of information);

(d) paragraph 3 of Schedule 16 (authorised persons to be treated as officers of local authority).

(8) For the purposes of subsection (7), any reference in the provisions specified in paragraphs (a) to (d) to a person authorised to exercise a function must be construed as a reference to a person with whom an arrangement is made for the exercise of the function in pursuance of an order under this section.

(9) Relevant authorities and any person with whom arrangements are made in pursuance of an order under this section must have regard to any guidance issued by the Secretary of State for the purposes of this section.

(10) An order under this section may make different provision for different purposes.

(11) An order under this section may contain—

(a) such consequential, supplemental or incidental provisions (including provision modifying any enactment), or

(b) such transitional provisions or savings,

as the person making the order thinks appropriate.

(12) Each of the following is a local authority—

(a) a local authority within the meaning of section 270 of the Local Government Act 1972;

(b) the Common Council of the City of London;

(c) the Council of the Isles of Scilly.”

(2) In **[**F12subsection (1A) of section 1 of that Act (anti-social behaviour orders)**]** for “and 1E” substitute “ , 1E and 1F ”.

(3) In section 114(3) of that Act (orders and regulations) after “section” insert “ 1F, ”.

Textual Amendments

F12 Words in s. 142(2) substituted (1.1.2006) by Serious Organised Crime and Police Act 2005 (Amendment) Order 2005 (S.I. 2005/3496), arts. 1(1), **2**

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Commencement Information
I179 S. 142 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(s)**

143 Special measures for witnesses in proceedings for anti-social behaviour orders etc.

After section 1H of the Crime and Disorder Act 1998 (c. 37) (as amended by the Drugs Act 2005 (c. 17)) insert—

"**1I Special measures for witnesses**

(1) This section applies to the following proceedings—

(a) any proceedings in a magistrates' court on an application for an anti-social behaviour order,

(b) any proceedings in a magistrates' court or the Crown Court so far as relating to the issue whether to make an order under section 1C, and

(c) any proceedings in a magistrates' court so far as relating to the issue whether to make an order under section 1D.

(2) Chapter 1 of Part 2 of the Youth Justice and Criminal Evidence Act 1999 (special measures directions in the case of vulnerable and intimidated witnesses) shall apply in relation to any such proceedings as it applies in relation to criminal proceedings, but with—

(a) the omission of the provisions of that Act mentioned in subsection (3) (which make provision appropriate only in the context of criminal proceedings), and

(b) any other necessary modifications.

(3) The provisions are—

(a) section 17(4),

(b) section 21(1)(b) and (5) to (7),

(c) section 22(1)(b) and (2)(b) and (c),

(d) section 27(10), and

(e) section 32.

(4) Any rules of court made under or for the purposes of Chapter 1 of Part 2 of that Act shall apply in relation to proceedings to which this section applies—

(a) to such extent as may be provided by rules of court, and

(b) subject to such modifications as may be so provided.

(5) Section 47 of that Act (restrictions on reporting special measures directions etc.) applies, with any necessary modifications, in relation to—

(a) a direction under section 19 of the Act as applied by this section, or

(b) a direction discharging or varying such a direction,

and sections 49 and 51 of that Act (offences) apply accordingly."

Commencement Information
I180 S. 143 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(s)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 20/07/2006

Parental compensation orders

144 Parental compensation orders

Schedule 10 is to have effect.

PART 5

MISCELLANEOUS

Protection of activities of certain organisations

145 Interference with contractual relationships so as to harm animal research organisation

(1) A person (A) commits an offence if, with the intention of harming an animal research organisation, he—

(a) does a relevant act, or

(b) threatens that he or somebody else will do a relevant act,

in circumstances in which that act or threat is intended or likely to cause a second person (B) to take any of the steps in subsection (2).

(2) The steps are—

(a) not to perform any contractual obligation owed by B to a third person (C) (whether or not such non-performance amounts to a breach of contract);

(b) to terminate any contract B has with C;

(c) not to enter into a contract with C.

(3) For the purposes of this section, a "relevant act" is—

(a) an act amounting to a criminal offence, or

(b) a tortious act causing B to suffer loss or damage of any description;

but paragraph (b) does not include an act which is actionable on the ground only that it induces another person to break a contract with B.

(4) For the purposes of this section, "contract" includes any other arrangement (and "contractual" is to be read accordingly).

(5) For the purposes of this section, to "harm" an animal research organisation means—

(a) to cause the organisation to suffer loss or damage of any description, or

(b) to prevent or hinder the carrying out by the organisation of any of its activities.

(6) This section does not apply to any act done wholly or mainly in contemplation or furtherance of a trade dispute.

(7) In subsection (6) "trade dispute" has the same meaning as in Part 4 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52), except that section 218 of that Act shall be read as if—

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(a) it made provision corresponding to section 244(4) of that Act, and

(b) in subsection (5), the definition of "worker" included any person falling within paragraph (b) of the definition of "worker" in section 244(5).

Commencement Information

I181 S. 145 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(t)**

146 Intimidation of persons connected with animal research organisation

(1) A person (A) commits an offence if, with the intention of causing a second person (B) to abstain from doing something which B is entitled to do (or to do something which B is entitled to abstain from doing)—

(a) A threatens B that A or somebody else will do a relevant act, and

(b) A does so wholly or mainly because B is a person falling within subsection (2).

(2) A person falls within this subsection if he is—

(a) an employee or officer of an animal research organisation;

(b) a student at an educational establishment that is an animal research organisation;

(c) a lessor or licensor of any premises occupied by an animal research organisation;

(d) a person with a financial interest in, or who provides financial assistance to, an animal research organisation;

(e) a customer or supplier of an animal research organisation;

(f) a person who is contemplating becoming someone within paragraph (c), (d) or (e);

(g) a person who is, or is contemplating becoming, a customer or supplier of someone within paragraph (c), (d), (e) or (f);

(h) an employee or officer of someone within paragraph (c), (d), (e), (f) or (g);

(i) a person with a financial interest in, or who provides financial assistance to, someone within paragraph (c), (d), (e), (f) or (g);

(j) a spouse, civil partner, friend or relative of, or a person who is known personally to, someone within any of paragraphs (a) to (i);

(k) a person who is, or is contemplating becoming, a customer or supplier of someone within paragraph (a), (b), (h), (i) or (j); or

(l) an employer of someone within paragraph (j).

(3) For the purposes of this section, an "officer" of an animal research organisation or a person includes—

(a) where the organisation or person is a body corporate, a director, manager or secretary;

(b) where the organisation or person is a charity, a charity trustee (within the meaning of the Charities Act 1993 (c. 10));

(c) where the organisation or person is a partnership, a partner.

(4) For the purposes of this section—

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(a) a person is a customer or supplier of another person if he purchases goods, services or facilities from, or (as the case may be) supplies goods, services or facilities to, that other; and

(b) "supplier" includes a person who supplies services in pursuance of any enactment that requires or authorises such services to be provided.

(5) For the purposes of this section, a "relevant act" is—

(a) an act amounting to a criminal offence, or

(b) a tortious act causing B or another person to suffer loss or damage of any description.

(6) The Secretary of State may by order amend this section so as to include within subsection (2) any description of persons framed by reference to their connection with—

(a) an animal research organisation, or

(b) any description of persons for the time being mentioned in that subsection.

(7) This section does not apply to any act done wholly or mainly in contemplation or furtherance of a trade dispute.

(8) In subsection (7) "trade dispute" has the meaning given by section 145(7).

Commencement Information
I182 S. 146 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(t)**

147 Penalty for offences under sections 145 and 146

(1) A person guilty of an offence under section 145 or 146 is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum, or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding five years or to a fine, or to both.

(2) No proceedings for an offence under either of those sections may be instituted except by or with the consent of the Director of Public Prosecutions.

Commencement Information
I183 S. 147 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(t)**

148 Animal research organisations

(1) For the purposes of sections 145 and 146 "animal research organisation" means any person or organisation falling within subsection (2) or (3).

(2) A person or organisation falls within this subsection if he or it is the owner, lessee or licensee of premises constituting or including—

(a) a place specified in a licence granted under section 4 or 5 of the 1986 Act,

(b) a scientific procedure establishment designated under section 6 of that Act, or

(c) a breeding or supplying establishment designated under section 7 of that Act.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(3) A person or organisation falls within this subsection if he or it employs, or engages under a contract for services, any of the following in his capacity as such—

(a) the holder of a personal licence granted under section 4 of the 1986 Act,

(b) the holder of a project licence granted under section 5 of that Act,

(c) a person specified under section 6(5) of that Act, or

(d) a person specified under section 7(5) of that Act.

(4) The Secretary of State may by order amend this section so as to include a reference to any description of persons whom he considers to be involved in, or to have a direct connection with persons who are involved in, the application of regulated procedures.

(5) In this section—

"the 1986 Act" means the Animals (Scientific Procedures) Act 1986 (c. 14);

"organisation" includes any institution, trust, undertaking or association of persons;

"premises" includes any place within the meaning of the 1986 Act;

"regulated procedures" has the meaning given by section 2 of the 1986 Act.

Commencement Information

I184 S. 148 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(t)**

149 Extension of sections 145 to 147

(1) The Secretary of State may by order provide for sections 145, 146 and 147 to apply in relation to persons or organisations of a description specified in the order as they apply in relation to animal research organisations.

(2) The Secretary of State may, however, only make an order under this section if satisfied that a series of acts has taken place and—

(a) that those acts were directed at persons or organisations of the description specified in the order or at persons having a connection with them, and

(b) that, if those persons or organisations had been animal research organisations, those acts would have constituted offences under section 145 or 146.

(3) In this section "organisation" and "animal research organisation" have the meanings given by section 148.

Commencement Information

I185 S. 149 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(t)**

Vehicle registration and insurance and road traffic offences

150 Offence in respect of incorrectly registered vehicles

(1) After section 43B of the Vehicle Excise and Registration Act 1994 (c. 22) insert—

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"Offence in respect of incorrectly registered vehicles

43C Offence of using an incorrectly registered vehicle

(1) A person is guilty of an offence if, on a public road or in a public place, he uses a vehicle to which subsection (2) applies and in respect of which—

(a) the name and address of the keeper are not recorded in the register, or

(b) any of the particulars recorded in the register are incorrect.

(2) This subsection applies to a vehicle if—

(a) vehicle excise duty is chargeable in respect of it, or

(b) it is an exempt vehicle in respect of which regulations under this Act require a nil licence to be in force.

(3) It is a defence for a person charged with an offence under subsection (1) to show (as the case may be)—

(a) that there was no reasonable opportunity, before the material time, to furnish the name and address of the keeper of the vehicle, or

(b) that there was no reasonable opportunity, before the material time, to furnish particulars correcting the incorrect particulars.

(4) It is also a defence for a person charged with an offence under subsection (1) to show—

(a) that he had reasonable grounds for believing, or that it was reasonable for him to expect, that the name and address of the keeper or the other particulars of registration (as the case may be) were correctly recorded in the register, or

(b) that any exception prescribed in regulations under this section is met.

(5) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(6) The Secretary of State may make regulations prescribing, varying or revoking exceptions for the purposes of subsection (4)(b).

(7) In this section—

"keeper", in relation to a vehicle, means the person by whom it is kept at the material time;

"the register" means the register kept by the Secretary of State under Part 2."

(2) In Schedule 3 to the Road Traffic Offenders Act 1988 (c. 53) (fixed penalty offences) after the entry relating to section 43 of the Vehicle Excise and Registration Act 1994 insert—

"Section 43C of that Act	Using an incorrectly registered vehicle."

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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Commencement Information
I186 S. 150 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(u)**

151 Power of constables etc. to require production of registration documents in respect of a vehicle

After section 28 of the Vehicle Excise and Registration Act 1994 (c. 22) insert—

"Power of constables etc. to require production of documents

28A Power of constables etc. to require production of registration documents

(1) A person using a vehicle in respect of which a registration document has been issued must produce the document for inspection on being so required by—
- (a) a constable, or
- (b) a person authorised by the Secretary of State for the purposes of this section (an "authorised person").

(2) An authorised person exercising the power conferred by subsection (1) must, if so requested, produce evidence of his authority to exercise the power.

(3) A person is guilty of an offence if he fails to comply with subsection (1).

(4) Subsection (3) does not apply if any of the following conditions is satisfied.

(5) The first condition is that—
- (a) the person produces the registration document, in person, at a police station specified by him at the time of the request, and
- (b) he does so within 7 days after the date on which the request was made or as soon as is reasonably practicable.

(6) The second condition is that—
- (a) the vehicle is subject to a lease or hire agreement,
- (b) the vehicle is not registered in the name of the lessee or hirer under that agreement and is not required to be so registered,
- (c) the person produces appropriate evidence of the agreement to the constable or authorised person at the time of the request or he produces such evidence in person, at a police station specified by him at the time of the request—
  - (i) within 7 days after the date of the request, or
  - (ii) as soon as is reasonably practicable, and
- (d) the person has reasonable grounds for believing, or it is reasonable for him to expect, that the person from whom the vehicle has been leased or hired is able to produce, or require the production of, the registration document.

(7) In subsection (6)(c) "appropriate evidence" means—
- (a) a copy of the agreement, or

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(b) such other documentary evidence of the agreement as is prescribed in regulations under this section.

(8) The third condition is that any exception prescribed in regulations under this section is met.

(9) Where a requirement is imposed under subsection (1) by an authorised person, a testing station provided under section 52(2) of the Road Traffic Act 1988 may be specified under subsection (5)(a) or (6)(c) instead of a police station.

(10) A person accused of an offence under this section is not entitled to the benefit of an exception conferred by or under this section unless evidence is adduced that is sufficient to raise an issue with respect to that exception, but where evidence is so adduced it is for the prosecution to prove beyond reasonable doubt that the exception does not apply.

(11) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(12) The Secretary of State may make regulations—

(a) prescribing descriptions of evidence for the purposes of subsection (7);

(b) prescribing, varying or revoking exceptions for the purposes of subsection (8).

(13) In this section "registration document" means a registration document issued in accordance with regulations under section 22(1)(e)."

Commencement Information

I187 S. 151 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(u)**

152 Power to seize etc. vehicles driven without licence or insurance

After section 165 of the Road Traffic Act 1988 (c. 52) insert—

"**165A Power to seize vehicles driven without licence or insurance**

(1) Subsection (5) applies if any of the following conditions is satisfied.

(2) The first condition is that—

(a) a constable in uniform requires, under section 164, a person to produce his licence and its counterpart for examination,

(b) the person fails to produce them, and

(c) the constable has reasonable grounds for believing that a motor vehicle is or was being driven by the person in contravention of section 87(1).

(3) The second condition is that—

(a) a constable in uniform requires, under section 165, a person to produce evidence that a motor vehicle is not or was not being driven in contravention of section 143,

(b) the person fails to produce such evidence, and

(c) the constable has reasonable grounds for believing that the vehicle is or was being so driven.

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(4) The third condition is that—

(a) a constable in uniform requires, under section 163, a person driving a motor vehicle to stop the vehicle,

(b) the person fails to stop the vehicle, or to stop the vehicle long enough, for the constable to make such lawful enquiries as he considers appropriate, and

(c) the constable has reasonable grounds for believing that the vehicle is or was being driven in contravention of section 87(1) or 143.

(5) Where this subsection applies, the constable may—

(a) seize the vehicle in accordance with subsections (6) and (7) and remove it;

(b) enter, for the purpose of exercising a power falling within paragraph (a), any premises (other than a private dwelling house) on which he has reasonable grounds for believing the vehicle to be;

(c) use reasonable force, if necessary, in the exercise of any power conferred by paragraph (a) or (b).

(6) Before seizing the motor vehicle, the constable must warn the person by whom it appears that the vehicle is or was being driven in contravention of section 87(1) or 143 that he will seize it—

(a) in a section 87(1) case, if the person does not produce his licence and its counterpart immediately;

(b) in a section 143 case, if the person does not provide him immediately with evidence that the vehicle is not or was not being driven in contravention of that section.

But the constable is not required to give such a warning if the circumstances make it impracticable for him to do so.

(7) If the constable is unable to seize the vehicle immediately because the person driving the vehicle has failed to stop as requested or has driven off, he may seize it at any time within the period of 24 hours beginning with the time at which the condition in question is first satisfied.

(8) The powers conferred on a constable by this section are exercisable only at a time when regulations under section 165B are in force.

(9) In this section—

(a) a reference to a motor vehicle does not include an invalid carriage;

(b) a reference to evidence that a motor vehicle is not or was not being driven in contravention of section 143 is a reference to a document or other evidence within section 165(2)(a);

(c) "counterpart" and "licence" have the same meanings as in section 164;

(d) "private dwelling house" does not include any garage or other structure occupied with the dwelling house, or any land appurtenant to the dwelling house.

165B Retention etc. of vehicles seized under section 165A

(1) The Secretary of State may by regulations make provision as to—

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(a) the removal and retention of motor vehicles seized under section 165A; and

(b) the release or disposal of such motor vehicles.

(2) Regulations under subsection (1) may, in particular, make provision—

(a) for the giving of notice of the seizure of a motor vehicle under section 165A to a person who is the registered keeper, the owner or the driver of that vehicle;

(b) for the procedure by which a person who claims to be the registered keeper or the owner of a motor vehicle seized under section 165A may seek to have it released;

(c) for requiring the payment, by the registered keeper, owner or driver of the vehicle, of fees, charges or costs in relation to the removal and retention of such a motor vehicle and to any application for its release;

(d) as to the circumstances in which a motor vehicle seized under section 165A may be disposed of;

(e) as to the destination—

(i) of any fees or charges payable in accordance with the regulations;

(ii) of the proceeds (if any) arising from the disposal of a motor vehicle seized under section 165A;

(f) for the delivery to a local authority, in circumstances prescribed by or determined in accordance with the regulations, of any motor vehicle seized under section 165A.

(3) Regulations under subsection (1) must provide that a person who would otherwise be liable to pay any fee or charge under the regulations is not liable to pay it if—

(a) he was not driving the motor vehicle at the time in question, and

(b) he did not know that the vehicle was being driven at that time, had not consented to its being driven and could not, by the taking of reasonable steps, have prevented it from being driven.

(4) Regulations under subsection (1) may make different provision for different cases.

(5) In this section—

"local authority"—

(a) in relation to England, means—

(i) a county council,

(ii) the council of a district comprised in an area for which there is no county council,

(iii) a London borough council,

(iv) the Common Council of the City of London, or

(v) Transport for London;

(b) in relation to Wales, means the council of a county or county borough; and

(c) in relation to Scotland, means a council constituted under section 2 of the Local Government etc. (Scotland) Act 1994;

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"registered keeper", in relation to a motor vehicle, means the person in whose name the vehicle is registered under the Vehicle Excise and Registration Act 1994."

Commencement Information
I188 S. 152 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(u)**

153 Disclosure of information about insurance status of vehicles

(1) The Secretary of State may by regulations make provision for and in connection with requiring MIIC to make available relevant vehicle insurance information to PITO for it to process with a view to making the processed information available for use by constables.

(2) "Relevant vehicle insurance information" means information relating to vehicles the use of which has been (but no longer is) insured under a policy of insurance, or security in respect of third party risks, complying with the requirements of Part 6 of the Road Traffic Act 1988 (c. 52).

(3) The regulations may in particular—

(a) require all relevant vehicle insurance information or any particular description of such information to be made available to PITO,

(b) determine the purposes for which information processed from such information by PITO may be made available for use by constables, and

(c) determine the circumstances in which any of the processed information which has been made available for use by constables may be further disclosed by them.

(4) In this section—

"information" means information held in any form,

"MIIC" means the Motor Insurers' Information Centre (a company limited by guarantee and incorporated under the Companies Act 1985 (c. 6) on 8th December 1998), and

"PITO" means the Police Information Technology Organisation.

Commencement Information
I189 S. 153 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(u)**

154 Power to require specimens of breath at roadside or at hospital etc.

(1) Section 6D of the Road Traffic Act 1988 (preliminary tests for drink and drugs: arrest) is amended as follows.

(2) After subsection (1) insert—

"(1A) The fact that specimens of breath have been provided under section 7 of this Act by the person concerned does not prevent subsection (1) above having effect if the constable who imposed on him the requirement to provide the specimens has reasonable cause to believe that the device used to analyse the

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specimens has not produced a reliable indication of the proportion of alcohol in the breath of the person."

(3) After subsection (2) insert—

"(2A) A person arrested under this section may, instead of being taken to a police station, be detained at or near the place where the preliminary test was, or would have been, administered, with a view to imposing on him there a requirement under section 7 of this Act."

(4) Section 7 of that Act (provision of specimens for analysis) is amended as follows.

(5) For subsection (2) substitute—

"(2) A requirement under this section to provide specimens of breath can only be made—

(a) at a police station,

(b) at a hospital, or

(c) at or near a place where a relevant breath test has been administered to the person concerned or would have been so administered but for his failure to co-operate with it.

(2A) For the purposes of this section "a relevant breath test" is a procedure involving the provision by the person concerned of a specimen of breath to be used for the purpose of obtaining an indication whether the proportion of alcohol in his breath or blood is likely to exceed the prescribed limit.

(2B) A requirement under this section to provide specimens of breath may not be made at or near a place mentioned in subsection (2)(c) above unless the constable making it—

(a) is in uniform, or

(b) has imposed a requirement on the person concerned to co-operate with a relevant breath test in circumstances in which section 6(5) of this Act applies.

(2C) Where a constable has imposed a requirement on the person concerned to co-operate with a relevant breath test at any place, he is entitled to remain at or near that place in order to impose on him there a requirement under this section.

(2D) If a requirement under subsection (1)(a) above has been made at a place other than at a police station, such a requirement may subsequently be made at a police station if (but only if)—

(a) a device or a reliable device of the type mentioned in subsection (1)(a) above was not available at that place or it was for any other reason not practicable to use such a device there, or

(b) the constable who made the previous requirement has reasonable cause to believe that the device used there has not produced a reliable indication of the proportion of alcohol in the breath of the person concerned."

(6) In subsection (3) (circumstances in which requirement to provide a specimen of blood or urine may be made)—

(a) in paragraph (b) (breath-testing device not available etc.) insert at the beginning " specimens of breath have not been provided elsewhere and ", and

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(b) in paragraph (bb) (police station breath-testing device has not provided a reliable indication of alcohol level) for "at the police station" substitute " (at the police station or elsewhere) ".

(7) In section 8 of that Act (choice of specimens of breath) after subsection (2) insert—

"(2A) If the person who makes a claim under subsection (2) above was required to provide specimens of breath under section 7 of this Act at or near a place mentioned in subsection (2)(c) of that section, a constable may arrest him without warrant."

(8) In section 9(1) of that Act (protection for hospital patients) for "for a laboratory test" substitute " under section 7 of this Act ".

(9) Section 10 of that Act (detention of persons affected by alcohol or a drug) is amended as follows.

(10) In subsection (1) (detention at a police station)—

(a) for "until it appears to the constable" substitute " (or, if the specimen was provided otherwise than at a police station, arrested and taken to and detained at a police station) if a constable has reasonable grounds for believing ", and

(b) for "not be committing" substitute " commit ".

(11) In subsection (2) (grounds for detention) for "A person shall not be detained in pursuance of this section if it appears to a" substitute " Subsection (1) above does not apply to the person if it ought reasonably to appear to the ".

(12) After that subsection insert—

"(2A) A person who is at a hospital as a patient shall not be arrested and taken from there to a police station in pursuance of this section if it would be prejudicial to his proper care and treatment as a patient."

Commencement Information
I190 S. 154 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(u)**

155 Payments by Secretary of State to police authorities in relation to the prevention, detection and enforcement of certain traffic offences

(1) The Secretary of State may make payments in respect of the whole or any part of the expenditure of a police authority in relation to—

(a) the prevention and detection of offences to which subsection (3) applies, or

(b) any enforcement action or proceedings in respect of such offences or any alleged such offences.

(2) Payments under this section shall be made at such times, in such manner and subject to such conditions as the Secretary of State may determine.

(3) This subsection applies to offences committed in England and Wales under the following provisions—

Road Traffic Act 1988 (c. 52)

section 14 (requirements regarding seat belts: adults);

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

section 15(2) and (4) (restriction on carrying children not wearing seat belts in motor vehicles);

section 42 (motor vehicles and trailers: other construction and use requirements) in relation to the construction and use requirements imposed by the following regulations—

(a) regulations 54, 57, 104 and 110 of the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078);

(b) regulations 11(1) and 25 of the Road Vehicles Lighting Regulations 1989 (S.I. 1989/1796);

section 87(1) (drivers of motor vehicles to have driving licences);

section 47 (obligatory test certificates for motor vehicles);

section 143 (users of motor vehicles to be insured or secured against third-party risks);

section 163 (power of police to stop vehicles);

section 172 (duty to give information as to the identity of driver etc. in certain circumstances);

Vehicle Excise and Registration Act 1994 (c. 22)

section 33 (not exhibiting vehicle licence);

section 42 (not fixing registration mark);

section 43 (obscured registration mark);

section 43C (using an incorrectly registered vehicle);

section 59 (regulations: offences) in relation to the requirements imposed by regulation 11 of the Road Vehicles (Display of Registration Marks) Regulations 2001 (S.I. 2001/561).

(4) The Secretary of State may by order amend the list of offences in subsection (3) so as to add, modify or omit any entry.

(5) In subsection (3) "construction and use requirements" has the meaning given by section 41(7) of the Road Traffic Act 1988 (c. 52).

Commencement Information
I191 S. 155 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(u)**

156 Payments by Scottish Ministers to police authorities etc. in relation to the prevention, detection and enforcement of certain traffic offences

(1) The Scottish Ministers may make payments in respect of the whole or any part of the expenditure of a police authority or joint police board (within the meaning of the Police (Scotland) Act 1967 (c. 77)) in relation to—

(a) the prevention and detection of offences to which subsection (3) applies, or

(b) any enforcement action or proceedings in respect of such offences or any alleged such offences.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
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(2) Payments under this section shall be made at such times, in such manner and subject to such conditions as the Scottish Ministers may determine.

(3) This subsection applies to offences committed in Scotland under the following provisions—

Road Traffic Act 1988 (c. 52)

section 14 (requirements regarding seat belts: adults);

section 15(2) and (4) (restriction on carrying children not wearing seat belts in motor vehicles);

section 42 (motor vehicles and trailers: other construction and use requirements) in relation to the construction and use requirements imposed by the following regulations—

(a) regulations 54, 57, 104 and 110 of the Road Vehicles (Construction and Use) Regulations 1986 (S.I. 1986/1078);

(b) regulations 11(1) and 25 of the Road Vehicles Lighting Regulations 1989 (S.I. 1989/1796);

section 47 (obligatory test certificates for motor vehicles);

section 87(1) (drivers of motor vehicles to have driving licences);

section 143 (users of motor vehicles to be insured or secured against third-party risks);

section 163 (power of police to stop vehicles);

section 172 (duty to give information as to the identity of driver etc. in certain circumstances);

Vehicle Excise and Registration Act 1994 (c. 22)

section 33 (not exhibiting vehicle licence);

section 42 (not fixing registration mark);

section 43 (obscured registration mark);

section 43C (using an incorrectly registered vehicle);

section 59 (regulations: offences) in relation to the requirements imposed by regulation 11 of the Road Vehicles (Display of Registration Marks) Regulations 2001 (S.I. 2001/561).

(4) The Scottish Ministers may by order amend the list of offences in subsection (3) so as to add, modify or omit any entry.

(5) In subsection (3) "construction and use requirements" has the meaning given by section 41(7) of the Road Traffic Act 1988 (c. 52).

(6) In section 95 of the Road Traffic Offenders Act 1988 (c. 53) (destination of fines imposed in respect of road traffic offences etc.) insert—

"(3) There shall be paid into the Scottish Consolidated Fund all fixed penalties imposed in respect of offences, committed in Scotland, to which section 156(3) of the Serious Organised Crime and Police Act 2005 applies."

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Commencement Information
I192 S. 156 in force at 1.7.2005 by S.S.I. 2005/358, **art. 2(b)**

Local policing information

157 Publication of local policing information

After section 8 of the Police Act 1996 (c. 16) insert—

"**8A Local policing summaries**

(1) As soon as possible after the end of each financial year, every police authority established under section 3 shall issue a report for members of the public in the authority's area on matters relating to the policing of that area for the year.

(2) Such a report is referred to in this section as a "local policing summary".

(3) The Secretary of State may by order specify matters which are to be included in a local policing summary.

(4) A police authority shall arrange—

(a) for every local policing summary issued by it under this section to be published in such manner as appears to it to be appropriate, and

(b) for a copy of every such summary to be sent, by whatever means appear to the authority to be appropriate, to each person liable to pay any tax, precept or levy to or in respect of the authority.

(5) It shall be the duty of a police authority, in preparing and publishing a local policing summary, to have regard to any guidance given by the Secretary of State about the form and content of local policing summaries and the manner of their publication.

(6) Before making an order under subsection (3), and before giving any such guidance as is referred to in subsection (5), the Secretary of State must consult—

(a) persons whom he considers to represent the interests of police authorities,

(b) persons whom he considers to represent the interests of chief officers of police, and

(c) such other persons as he thinks fit.

(7) This section shall apply in relation to the Metropolitan Police Authority as it applies to a police authority established under section 3.

(8) A statutory instrument containing an order under subsection (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament."

Commencement Information
I193 S. 157 in force at 1.4.2006 by S.I. 2005/1521, **art. 5(2)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Other miscellaneous police matters

158 Responsibilities in relation to the health and safety etc. of police

(1) In section 51A of the Health and Safety at Work etc. Act 1974 (c. 37) (application of Part 1 of that Act to police) after subsection (2) insert—

"(2A) For the purposes of this Part the relevant officer, as defined by subsection (2)(a) or (c) above, shall be treated as a corporation sole.

(2B) Where, in a case in which the relevant officer, as so defined, is guilty of an offence by virtue of this section, it is proved—

(a) that the officer-holder personally consented to the commission of the offence,

(b) that he personally connived in its commission, or

(c) that the commission of the offence was attributable to personal neglect on his part,

the office-holder (as well as the corporation sole) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2C) In subsection (2B) above "the office-holder", in relation to the relevant officer, means an individual who, at the time of the consent, connivance or neglect—

(a) held the office or other position mentioned in subsection (2) above as the office or position of that officer; or

(b) was for the time being responsible for exercising and performing the powers and duties of that office or position.

(2D) The provisions mentioned in subsection (2E) below (which impose the same liability for unlawful conduct of constables on persons having their direction or control as would arise if the constables were employees of those persons) do not apply to any liability by virtue of this Part.

(2E) Those provisions are—

(a) section 39 of the Police (Scotland) Act 1967;

(b) section 88(1) of the Police Act 1996;

(c) section 97(9) of that Act;

(d) paragraph 7(1) of Schedule 8 to the Police Act 1997;

(e) paragraph 14(1) of Schedule 3 to the Criminal Justice and Police Act 2001;

(f) section 28 of the Serious Organised Crime and Police Act 2005.

(2F) In the application of this section to Scotland—

(a) subsection (2A) shall have effect as if for the words "corporation sole" there were substituted " distinct juristic person (that is to say, as a juristic person distinct from the individual who for the time being is the office-holder) ";

(b) subsection (2B) shall have effect as if for the words "corporation sole" there were substituted " juristic person "; and

(c) subsection (2C) shall have effect as if for the words "subsection (2B)" there were substituted " subsections (2A) and (2B) "."

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(2) For subsection (2) of each of the following sections of the Employment Rights Act 1996 (c. 18)—

(a) section 49A (right of police officers not to suffer detriment in relation to health and safety issues), and

(b) section 134A (right of police officers not to be unfairly dismissed in relation to health and safety issues),

substitute the subsection set out in subsection (3) of this section.

(3) The subsection to be substituted is—

"(2) In this section "the relevant officer", in relation to—

(a) a person holding the office of constable, or

(b) a person holding an appointment as a police cadet,

means the person who under section 51A of the Health and Safety at Work etc. Act 1974 is to be treated as his employer for the purposes of Part 1 of that Act."

(4) The following provisions of the Police Reform Act 2002 (c. 30) (which relate to duties and rights in relation to the health and safety of police) cease to have effect—

(a) section 95, and

(b) in Schedule 8, the reference to section 5 of the Police (Health and Safety) Act 1997 (c. 42).

(5) The amendments made by subsections (1) to (3) have effect for the purposes of any proceedings in or before a court or tribunal that are commenced on or after the day on which this Act is passed as if the amendments had come into force on 1st July 1998.

(6) For the purposes of proceedings commenced against a person in his capacity by virtue of this section as a corporation sole (or, in Scotland, as a distinct juristic person) anything done by or in relation to that person before the passing of this Act shall be deemed to have been done by or in relation to that person in that capacity.

(7) No person shall be liable by virtue of section 51A(2B) of the Health and Safety at Work etc. Act 1974 (c. 37) in respect of anything occurring before the passing of this Act.

159 Investigations: accelerated procedure in special cases

Schedule 11 (which makes provision for an accelerated procedure for certain investigations into the conduct of police officers) has effect.

Commencement Information

I194 S. 159 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(v)**

160 Investigations: deaths and serious injuries during or after contact with the police

Schedule 12 (which makes provision for the investigation of deaths and serious injuries which occur during or after contact with persons serving with the police) has effect.

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Commencement Information
I195 S. 160 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(w)**

Royal Parks etc.

161 Abolition of Royal Parks Constabulary

(1) The Royal Parks Constabulary is abolished.

(2) Every relevant person shall cease to be a park constable on the appointed day.

(3) Subsection (2) is not to be taken as terminating the Crown employment of any relevant person.

(4) In this section, section 162 and Schedule 13—

"appointed day" means such day as the Secretary of State may by order appoint for the purposes of this section,

"Crown employment" has the same meaning as in the Employment Rights Act 1996 (c. 18), and

"relevant person" means a person who immediately before the appointed day is serving as a park constable with the Royal Parks Constabulary.

(5) Schedule 13 (which provides for transfers to the Metropolitan Police Authority and makes amendments) has effect.

Commencement Information
I196 S. 161(2)-(5) in force at 1.7.2005 for specified purposes by S.I. 2005/1521, **art. 3(1)(x)**
I197 S. 161(2)-(4) in force at 1.8.2005 in so far as not already in force by S.I. 2005/2026, **art. 2(e)**

162 Regulation of specified parks

(1) From the appointed day the Parks Regulation Act 1872 (c. 15) does not apply to the specified parks.

(2) But from the appointed day section 2 of the Parks Regulation (Amendment) Act 1926 (c. 36) applies in relation to the specified parks in the same way as it applies in relation to parks to which the Parks Regulation Act 1872 applies.

(3) The Secretary of State must ensure that copies of any regulations made under section 2 of the Parks Regulation (Amendment) Act 1926 (c. 36) which are in force in relation to a specified park are displayed in a suitable position in that park.

(4) In this section "specified park" means a park, garden, recreation ground, open space or other land in the metropolitan police district—

(a) which is specified in an order made by the Secretary of State before the appointed day, and

(b) to which the Parks Regulation Act 1872 (c. 15) then applied by virtue of section 1 of the Parks Regulation (Amendment) Act 1926.

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Commencement Information

I198 S. 162(1)(2)(4) in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(z)**

Criminal record checks

163 Criminal record certificates

(1) Sections 113 and 115 of the Police Act 1997 (c. 50) (criminal record certificates) are omitted.

(2) Before section 114 of that Act insert—

"113A **Criminal record certificates**

(1) The Secretary of State must issue a criminal record certificate to any individual who—

(a) makes an application in the prescribed manner and form, and

(b) pays in the prescribed manner any prescribed fee.

(2) The application must—

(a) be countersigned by a registered person, and

(b) be accompanied by a statement by the registered person that the certificate is required for the purposes of an exempted question.

(3) A criminal record certificate is a certificate which—

(a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records, or

(b) states that there is no such matter.

(4) The Secretary of State must send a copy of a criminal record certificate to the registered person who countersigned the application.

(5) The Secretary of State may treat an application under this section as an application under section 113B if—

(a) in his opinion the certificate is required for a purpose prescribed under subsection (2) of that section,

(b) the registered person provides him with the statement required by that subsection, and

(c) the applicant consents and pays to the Secretary of State the amount (if any) by which the fee payable in relation to an application under that section exceeds the fee paid in relation to the application under this section.

(6) In this section—

"central records" means such records of convictions and cautions held for the use of police forces generally as may be prescribed;

"exempted question" means a question in relation to which section 4(2)(a) or (b) of the Rehabilitation of Offenders Act 1974 (effect of rehabilitation) has been excluded by an order of the Secretary of State under section 4(4) of that Act;

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"relevant matter" means—

(a) a conviction within the meaning of the Rehabilitation of Offenders Act 1974, including a spent conviction, and

(b) a caution.

113B **Enhanced criminal record certificates**

(1) The Secretary of State must issue an enhanced criminal record certificate to any individual who—

(a) makes an application in the prescribed manner and form, and

(b) pays in the prescribed manner any prescribed fee.

(2) The application must—

(a) be countersigned by a registered person, and

(b) be accompanied by a statement by the registered person that the certificate is required for a prescribed purpose.

(3) An enhanced criminal record certificate is a certificate which—

(a) gives the prescribed details of every relevant matter relating to the applicant which is recorded in central records and any information provided in accordance with subsection (4), or

(b) states that there is no such matter or information.

(4) Before issuing an enhanced criminal record certificate the Secretary of State must request the chief officer of every relevant police force to provide any information which, in the chief officer's opinion—

(a) might be relevant for the purpose described in the statement under subsection (2), and

(b) ought to be included in the certificate.

(5) The Secretary of State must also request the chief officer of every relevant police force to provide any information which, in the chief officer's opinion—

(a) might be relevant for the purpose described in the statement under subsection (2),

(b) ought not to be included in the certificate, in the interests of the prevention or detection of crime, and

(c) can, without harming those interests, be disclosed to the registered person.

(6) The Secretary of State must send to the registered person who countersigned the application—

(a) a copy of the enhanced criminal record certificate, and

(b) any information provided in accordance with subsection (5).

(7) The Secretary of State may treat an application under this section as an application under section 113A if in his opinion the certificate is not required for a purpose prescribed under subsection (2).

(8) If by virtue of subsection (7) the Secretary of State treats an application under this section as an application under section 113A, he must refund to the applicant the amount (if any) by which the fee paid in relation to

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the application under this section exceeds the fee payable in relation to an application under section 113A.

(9) In this section—

"central records", "exempted question", and "relevant matter" have the same meaning as in section 113A;

"relevant police force", in relation to an application under this section, means a police force which is a relevant police force in relation to that application under regulations made by the Secretary of State.

(10) For the purposes of this section references to a police force include any of the following—

(a) the Royal Navy Regulating Branch;
(b) the Royal Marines Police;
(c) the Royal Military Police;
(d) the Royal Air Force Police;
(e) the Ministry of Defence Police;
(f) the National Criminal Intelligence Service;
(g) the National Crime Squad;
(h) the British Transport Police;
(i) the Civil Nuclear Constabulary;
(j) the States of Jersey Police Force;
(k) the salaried police force of the Island of Guernsey;
(l) the Isle of Man Constabulary;
(m) a body with functions in any country or territory outside the British Islands which correspond to those of a police force in any part of the United Kingdom,

and any reference to the chief officer of a police force includes the person responsible for the direction of a body mentioned in this subsection.

(11) For the purposes of this section each of the following must be treated as if it were a police force—

(a) the Commissioners for Her Majesty's Revenue and Customs (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to any one of the Commissioners);
(b) the Serious Organised Crime Agency (and for this purpose a reference to the chief officer of a police force must be taken to be a reference to the Director General of the Agency);
(c) such other department or body as is prescribed (and regulations may prescribe in relation to the department or body the person to whom a reference to the chief officer is to be taken to be).

113C **Criminal record certificates: suitability relating to children**

(1) If an application under section 113A or 113B is accompanied by a children's suitability statement the criminal record certificate or enhanced criminal record certificate (as the case may be) must also state—

(a) whether the applicant is included in a specified children's list;
(b) if he is included in such a list, such details of his inclusion as may be prescribed;

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(c) whether he is subject to a specified children's direction;

(d) if he is subject to such a direction, the grounds on which it was given and such details as may be prescribed of the circumstances in which it was given.

(2) A children's suitability statement is a statement by the registered person that the certificate is required for the purpose of considering—

(a) the applicant's suitability to be employed, supplied to work, found work or given work in a position (whether paid or unpaid) within subsection (5),

(b) the applicant's suitability to be a foster parent or to adopt a child,

(c) the applicant's suitability to be a child's special guardian for the purposes of sections 14A and 14C of the Children Act 1989,

(d) the applicant's suitability to have a child placed with him by virtue of section 70 of the Children (Scotland) Act 1995 or by virtue of section 5(2), (3) and (4) of the Social Work (Scotland) Act 1968, or

(e) the suitability of a person living in the same household as the applicant to be a person mentioned in paragraph (b) or (c) or to have a child placed with him as mentioned in paragraph (d).

(3) Each of the following is a specified children's list—

(a) the list kept under section 1 of the Protection of Children Act 1999;

(b) the list kept under section 1(1) of the Protection of Children (Scotland) Act 2003;

(c) the list kept under Article 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;

(d) any list kept for the purposes of regulations under Article 70(2)(e) or 88A(2)(b) of the Education and Libraries (Northern Ireland) Order 1986;

(e) any such other list as the Secretary of State specifies by order if he thinks that the list corresponds to a list specified in paragraphs (a) to (c) and is kept in pursuance of a country or territory outside the United Kingdom.

(4) Each of the following is a specified children's direction—

(a) a direction under section 142 of the Education Act 2002;

(b) anything which the Secretary of State specifies by order which he thinks corresponds to such a direction and which is done for the purposes of the law of Scotland or of Northern Ireland or of a country or territory outside the United Kingdom.

(5) A position falls within this subsection if it is any of the following—

(a) a child care position within the meaning of the Protection of Children Act 1999;

(b) a child care position within the meaning of the Protection of Children (Scotland) Act 2003;

(c) a child care position within the meaning of Chapter 1 of Part 2 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;

(d) a position, employment or further employment in which may be prohibited or restricted by regulations under Article 70(2)(e) or

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88A(2)(b) of the Education and Libraries (Northern Ireland) Order 1986;

(e) a position which involves work to which section 142 of the Education Act 2002 applies;

(f) a position of such other description as may be prescribed.

(6) An order under subsection (4)(b) may make such modifications of subsection (1)(d) as the Secretary of State thinks necessary or expedient in consequence of the order.

113D **Criminal record certificates: suitability relating to adults**

(1) If an application under section 113A or 113B is accompanied by an adults' suitability statement the criminal record certificate or enhanced criminal record certificate (as the case may be) must also state—

(a) whether the applicant is included in a specified adults' list;

(b) if he is included in such a list, such details of his inclusion as may be prescribed.

(2) An adults' suitability statement is a statement by the registered person that the certificate is required for the purpose of considering the applicant's suitability to be employed, supplied to work, found work or given work in a position (whether paid or unpaid) falling within subsection (4).

(3) Each of the following is a specified adults' list—

(a) the list kept under section 81 of the Care Standards Act 2000;

(b) the list kept under Article 35 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;

(c) any such other list as the Secretary of State specifies by order if he thinks that the list corresponds to a list specified in paragraph (a) or (b) and is kept in pursuance of the law of Scotland or of a country or territory outside the United Kingdom.

(4) A position falls within this subsection if it is any of the following—

(a) a care position within the meaning of Part 7 of the Care Standards Act 2000;

(b) a care position within the meaning of Part 3 of the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003;

(c) a position concerned with providing a care service (as defined by section 2(1) of the Regulation of Care (Scotland) Act 2001);

(d) a position of such other description as may be prescribed.

113E **Criminal record certificates: specified children's and adults' lists: urgent cases**

(1) Subsection (2) applies to an application under section 113A or 113B if—

(a) it is accompanied by a children's suitability statement,

(b) the registered person requests an urgent preliminary response, and

(c) the applicant pays in the prescribed manner such additional fee as is prescribed in respect of the application.

(2) The Secretary of State must notify the registered person—

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(a) if the applicant is not included in a specified children's list, of that fact;

(b) if the applicant is included in such a list, of the details prescribed for the purposes of section 113C(1)(b) above;

(c) if the applicant is not subject to a specified children's direction, of that fact;

(d) if the applicant is subject to such a direction, of the grounds on which the direction was given and the details prescribed for the purposes of section 113C(1)(d) above.

(3) Subsection (4) applies to an application under section 113A or 113B if—

(a) it is accompanied by an adults' suitability statement,

(b) the registered person requests an urgent preliminary response, and

(c) the applicant pays in the prescribed manner such additional fee as is prescribed in respect of the application.

(4) The Secretary of State must notify the registered person either—

(a) that the applicant is not included in a specified adults' list, or

(b) that a criminal record certificate or enhanced criminal record certificate will be issued in due course.

(5) In this section—

"criminal record certificate" has the same meaning as in section 113A;

"enhanced criminal record certificate" has the same meaning as in section 113B;

"children's suitability statement" ", specified children's direction" and "specified children's list" have the same meaning as in section 113C;

"adults' suitability statement" and "specified adults' list" have the same meaning as in section 113D.

113F **Criminal record certificates: supplementary**

(1) References in sections 113C(2) and 113D(2) to considering the applicant's suitability to be employed, supplied to work, found work or given work in a position falling within section 113C(5) or 113D(4) include references to considering—

(a) for the purposes of Part 10A of the Children Act 1989 (child minding and day care in England and Wales), the applicant's suitability to look after or be in regular contact with children under the age of eight;

(b) for the purposes of that Part of that Act, in the case of an applicant for or holder of a certificate under section 79W of that Act, or a person prescribed under subsection (4) of that section, his suitability to look after children within the meaning of that section;

(c) the applicant's suitability to be registered for child minding or providing day care under section 71 of the Children Act 1989 or Article 118 of the Children (Northern Ireland) Order 1995 (child minding and day care);

(d) for the purposes of section 3 of the Teaching and Higher Education Act 1998 (registration of teachers with the General Teaching Council for England or the General Teaching Council for Wales) or of

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section 6 of the Teaching Council (Scotland) Act 1965 (registration of teachers with the General Teaching Council for Scotland), the applicant's suitability to be a teacher;

(e) the applicant's suitability to be registered under Part 2 of the Care Standards Act 2000 (establishments and agencies);

(f) the applicant's suitability to be registered under Part 4 of that Act (social care workers);

(g) the applicant's suitability to be registered under Part 1 of the Regulation of Care (Scotland) Act 2001 (applications by persons seeking to provide a care service);

(h) the applicant's suitability to be registered under Part 3 of that Act (social workers and other social service workers);

(i) the applicant's application to have a care service, consisting of the provision of child minding or the day care of children, registered under Part 1 of that Act (care services);

(j) the applicant's suitability to be registered under Part 1 of the Health and Personal Social Services Act (Northern Ireland) 2001 (social care workers);

(k) the applicant's suitability to be registered under Part 3 of the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (regulation of establishments and agencies).

(2) The power to make an order under section 113C or 113D is exercisable by statutory instrument, but no such order may be made unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.

(3) If the power mentioned in subsection (2) is exercised by the Scottish Ministers, the reference in that subsection to each House of Parliament must be construed as a reference to the Scottish Parliament."

(3) Schedule 14 (which makes consequential amendments to Part 5 of the Police Act 1997 (c. 50)) has effect.

(4) If section 115(1) of the Adoption and Children Act 2002 (c. 38) comes into force before the preceding provisions of this section, the Secretary of State may by order apply Part 5 of the Police Act 1997 subject to such modifications as he thinks necessary or expedient for the purpose of enabling a certificate or statement to be issued under section 113 or 115 of that Act of 1997 in connection with consideration by a court of whether to make a special guardianship order under section 14A of the Children Act 1989 (c. 41).

Commencement Information

I199 S. 163(1)(3) in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(c)**

I200 S. 163(2) in force at 1.4.2006 for specified purposes for S. by S.S.I. 2006/166, **art. 2(1)(c)**

I201 S. 163(4) in force at 7.7.2005, see s. 178(2)

164 Criminal records checks: verification of identity

(1) Section 118 of the Police Act 1997 (evidence of identity) is amended as follows.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(2) In subsection (1) after "117" insert " or 120 ".

(3) After subsection (2) insert—

"(2A) For the purpose of verifying evidence of identity supplied in pursuance of subsection (1) the Secretary of State may obtain such information as he thinks is appropriate from data held—

(a) by the United Kingdom Passport Agency;

(b) by the Driver and Vehicle Licensing Agency;

(c) by Driver and Vehicle Licensing Northern Ireland;

(d) by the Secretary of State in connection with keeping records of national insurance numbers;

(e) by such other persons or for such purposes as is prescribed."

Commencement Information

I202 S. 164 in force at 1.7.2005 except to the extent that it applies to S. by S.I. 2005/1521, **art. 3(3)(a)**

I203 S. 164 in force at 1.7.2005 for S. by S.S.I. 2005/358, **art. 2(c)**

165 Certain references to police forces

(1) In section 119 of the Police Act 1997 (c. 50) (sources of information),

(a) in subsection (3) for "the prescribed fee" substitute " such fee as he thinks appropriate ";

(b) after subsection (5) insert—

"(6) For the purposes of this section references to a police force include any body mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a chief officer must be construed accordingly.

(7) In the case of such a body the reference in subsection (3) to the appropriate police authority must be construed as a reference to such body as is prescribed."

(2) In each version of section 120A of that Act (as inserted respectively by section 134(1) of the Criminal Justice and Police Act 2001 (c. 16) and section 70 of the Criminal Justice (Scotland) Act 2003 (asp 7)), after subsection (5) insert—

"(6) For the purposes of this section references to a police force include any body mentioned in subsections (10)(a) to (i) and (11) of section 113B and references to a chief officer must be construed accordingly."

(3) In section 124A of that Act (offences relating to disclosure of information) (inserted by section 328 of and paragraphs 1 and 11 of Schedule 35 to the Criminal Justice Act 2003 (c. 44)), after subsection (5) insert—

"(6) For the purposes of this section the reference to a police force includes any body mentioned in subsections (10)(a) to (i) and (11) of section 113B and the reference to a chief officer must be construed accordingly."

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Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Commencement Information

I204 S. 165 in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(c)**

I205 S. 165(1)(a) in force at 1.7.2005 except to the extent that it applies to S. by S.I. 2005/1521, **art. 3(3)(b)**

166 Further amendments to Police Act 1997 as it applies to Scotland

(1) In section 120A of the Police Act 1997 (as inserted by section 70 of the Criminal Justice (Scotland) Act 2003 (asp 7)), in subsection (5) for the words from "the prescribed fee" to the end substitute " such fee as they consider appropriate ".

(2) In section 126 of that Act of 1997 after subsection (2) insert—

"(3) In the application of this Part to Scotland references to the Secretary of State must be construed as references to the Scottish Ministers.

(4) Subsection (3) does not apply to section 118(2A)(d) or 124A(1) and (2)."

Commencement Information

I206 S. 166(1) in force at 1.4.2006 by S.S.I. 2006/166, **art. 2(1)(c)**

I207 S. 166(2) in force at 1.7.2005 for S. by S.S.I. 2005/358, **art. 2(d)**

I208 S. 166(2) in force at 1.7.2005 except to the extent that it applies to S. by S.I. 2005/1521, **art. 3(3)(c)**

167 Part 5 of the Police Act 1997: Northern Ireland

The amendments made by Schedule 35 to the Criminal Justice Act 2003 (c. 44) to Part 5 of the Police Act 1997 (c. 50) extend to Northern Ireland as well as to England and Wales, and accordingly in section 337(5) of that Act of 2003 (extent)—

(a) after "section 315" insert— " section 328; ";

(b) after "Schedule 5" insert— " Schedule 35. "

168 Part 5 of the Police Act 1997: Channel Islands and Isle of Man

(1) Her Majesty may by Order in Council extend any provision of Part 5 of the Police Act 1997 (certificates of criminal records etc.), with such modifications as appear to Her Majesty in Council to be appropriate, to any of the Channel Islands or the Isle of Man.

(2) An order under this section may make such consequential, incidental, supplementary, transitory or transitional provision or savings as Her Majesty in Council thinks appropriate.

Commencement Information

I209 S. 168 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(aa)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

Witness summonses

169 Powers of Crown Court and Magistrates' Court to issue witness summons

(1) In section 2(1) of the Criminal Procedure (Attendance of Witnesses) Act 1965 (c. 69) (issue of witness summons on application to Crown Court) for paragraph (b) substitute—

"(b) it is in the interests of justice to issue a summons under this section to secure the attendance of that person to give evidence or to produce the document or thing."

(2) In section 97 of the Magistrates' Courts Act 1980 (c. 43) (summons to witness) for subsection (1) substitute—

"(1) Where a justice of the peace is satisfied that—

(a) any person in England or Wales is likely to be able to give material evidence, or produce any document or thing likely to be material evidence, at the summary trial of an information or hearing of a complaint by a magistrates' court, and

(b) it is in the interests of justice to issue a summons under this subsection to secure the attendance of that person to give evidence or produce the document or thing,

the justice shall issue a summons directed to that person requiring him to attend before the court at the time and place appointed in the summons to give evidence or to produce the document or thing."

(3) In section 97A(1) of that Act (summons as to committal proceedings) for paragraph (b) substitute—

"(b) it is in the interests of justice to issue a summons under this section to secure the attendance of that person to give evidence or to produce the document or other exhibit, and".

(4) In paragraph 4(1) of Schedule 3 to the Crime and Disorder Act 1998 (c. 37) (power of justice to take depositions etc.) for paragraph (b) substitute—

"(b) it is in the interests of justice to issue a summons under this paragraph to secure the attendance of the witness to have his evidence taken as a deposition or to produce the document or other exhibit."

(5) In section 51A(1) of the Judicature (Northern Ireland) Act 1978 (c. 23) (issue of witness summons on application to Crown Court) for paragraph (b) substitute—

"(b) it is in the interests of justice to issue a summons under this section to secure the attendance of that person to give evidence or to produce the document or thing."

Commencement Information

I210 S. 169 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(bb)**

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
***Changes to legislation:** Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

VALID FROM 01/06/2008

170 Powers of courts-martial etc. to issue warrants of arrest in respect of witnesses

(1) Section 25 of the Armed Forces Act 2001 (c. 19) (powers to compel attendance of witnesses) is amended as follows.

(2) In subsection (1) (which inserts a new section 101A in the Army Act 1955 (3 & 4 Eliz. 2 c. 18)), in subsection (1) of the new section 101A, for paragraph (b) substitute—

"(b) that it is in the interests of justice that the person should attend to give evidence or to produce the document or other thing, and".

(3) In subsection (2) (which inserts a new section 101A in the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19)), in subsection (1) of the new section 101A, for paragraph (b) substitute—

"(b) that it is in the interests of justice that the person should attend to give evidence or to produce the document or other thing, and".

(4) In subsection (3) (which inserts a new section 65A in the Naval Discipline Act 1957), in subsection (1) of the new section 65A, for paragraph (b) substitute—

"(b) that it is in the interests of justice that the person should attend to give evidence or to produce the document or other thing, and".

VALID FROM 30/06/2006

Private Security Industry Act 2001: Scotland

171 Private Security Industry Act 2001: Scottish extent

(1) Schedule 15 amends the Private Security Industry Act 2001 (c. 12) in relation to its extent to Scotland.

(2) In Schedule 2 to the Scottish Public Services Ombudsman Act 2002 (asp 11) (persons liable to investigation) after paragraph 90 add—

"91 The Security Industry Authority."

PART 6

FINAL PROVISIONS

172 Orders and regulations

(1) Any power of the Secretary of State to make an order or regulations under this Act, and any power of the Scottish Ministers to make an order under this Act, is exercisable by statutory instrument.

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(2) Any such power—

(a) may be exercised so as to make different provision for different cases or descriptions of case or different purposes or areas, and

(b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State considers appropriate (or, in the case of an order made by the Scottish Ministers, as they consider appropriate).

(3) Subject to subsections (4) and (5), orders or regulations made by the Secretary of State under this Act are to be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Subsection (3) does not apply to any order under section 1(3), 161(4) or 178.

(5) Subsection (3) also does not apply to—

(a) any order under section 33(2)(f);

(b) any order under section 52;

(c) any order under section 61(4);

(d) any order under section 76(4);

(e) any order under section 82(6);

(f) any order under section 87(5);

(g) any order under section 89(5);

(h) any order under section 96(1);

(i) any order under section 97(1);

(j) any order under section 146(6), 148(4) or 149;

(k) any order under section 173 which amends or repeals any provision of an Act;

and no such order may be made by the Secretary of State (whether alone or with other provisions) unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.

(6) Subject to subsections (7) and (8), orders made by the Scottish Ministers under this Act are to be subject to annulment in pursuance of a resolution of the Scottish Parliament.

(7) Subsection (6) does not apply to any order under section 178.

(8) Subsection (6) also does not apply to—

(a) any order under section 52;

(b) any order under section 61(5);

(c) any order under section 77(4);

(d) any order under section 87(6);

(e) any order under section 89(6);

(f) any order under section 96(1);

(g) any order under section 173 which amends or repeals any provision of an Act;

and no such order may be made by the Scottish Ministers (whether alone or with other provisions) unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the Scottish Parliament.

173 Supplementary, incidental, consequential etc. provision

(1) The Secretary of State may by order make—

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(a) such supplementary, incidental or consequential provision, or

(b) such transitory, transitional or saving provision,

as he considers appropriate for the general purposes, or any particular purpose, of this Act, or in consequence of, or for giving full effect to, any provision made by this Act.

(2) An order under subsection (1) may amend, repeal, revoke or otherwise modify any enactment (including this Act).

(3) The power to make an order under subsection (1) includes power to repeal or revoke an enactment which is spent.

(4) Before exercising the power conferred by subsection (1) in relation to an enactment which extends to Scotland, the Secretary of State must consult the Scottish Ministers.

(5) The power conferred by subsection (1) is exercisable by the Scottish Ministers (rather than by the Secretary of State) where the provision to be made is—

(a) for the general purposes of this Act and would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament; or

(b) for the purposes of, in consequence of, or for giving full effect to—

(i) section 77, 156, 171 or Schedule 15,

(ii) so far as extending to Scotland, any provision mentioned in section 178(4),

(iii) so far as relating as mentioned in section 178(5), section 174(2) and Schedule 17,

(iv) so far as having effect as mentioned in section 178(6)(a), section 96.

(6) But an order under—

(a) paragraph (b)(i) of subsection (5) in relation to section 171 or Schedule 15, or

(b) paragraph (b)(iv) of that subsection,

may be made only after consulting the Secretary of State.

(7) Nothing in this Act affects the generality of the power conferred by this section.

174 Minor and consequential amendments, repeals and revocations

(1) Schedule 16 makes provision for remaining minor and consequential amendments (search warrants).

(2) Schedule 17 makes provision for the repeal and revocation of enactments (including enactments which are spent).

Commencement Information

I211 S. 174(2) in force for certain purposes at Royal Assent, see s. 178(1)

I212 S. 174(1) in force at 1.1.2006 by S.I. 2005/3495, **art. 2(1)(s)**

I213 S. 174(2) in force at 1.7.2005 for specified purposes by S.I. 2005/1521, **art. 3(1)(cc)**

I214 S. 174(2) in force at 1.1.2006 for specified purposes by S.I. 2005/3495, **art. 2(1)(t)**

I215 S. 174(2) in force at 1.4.2006 for S. by S.S.I. 2006/166, **art. 2(1)(d)**

I216 S. 174(2) in force at 1.4.2006 for specified purposes by S.I. 2006/378, art. 4(1), **Sch. para. 12** (with art. 4(2)-(7))

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

175 Penalties for offences: transitional modification for England and Wales

(1) This section contains transitional modifications in respect of penalties for certain offences committed in England or Wales.

(2) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' court's power to impose imprisonment), the references in the following provisions to periods of imprisonment of 12 months are to be read as references to periods of imprisonment of 6 months—

section 67(5)(b);
section 86(2)(b);
section 88(3)(b);
section 147(1)(a).

(3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the references in the following provisions of this Act to periods of imprisonment of 51 weeks are to be read as references to the periods of imprisonment specified in respect of those provisions as follows—

Section	*Modified period of imprisonment*
section 51(4)(a)	6 months
section 51(5)(a)	1 month
section 57(4)(a)	6 months
section 57(5)(a)	1 month
section 67(4)(a)	6 months
section 79(10)(a)(i)	6 months
section 112(5)	4 months
section 128(5)(a)	6 months
section 136(1)	3 months
section 136(3)(a)	3 months
section 136(4)	3 months

Commencement Information
I217 S. 175 in force at 1.7.2005 by S.I. 2005/1521, **art. 3(1)(dd)**

176 Expenses

(1) There shall be paid out of money provided by Parliament—

(a) any expenditure incurred by the Secretary of State by virtue of this Act;
(b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.

(2) Subsection (1)(a) does not apply to any expenditure of the Secretary of State under section 155.

Status: *Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.*
Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

177 Interpretation

(1) In this Act "SOCA" means the Serious Organised Crime Agency.

(2) In this Act "enactment" includes—

(a) an enactment contained in or made under an Act of the Scottish Parliament or Northern Ireland legislation, and

(b) an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).

(3) In this Act references to enactments include enactments passed or made after the passing of this Act.

(4) Subsections (2) and (3) apply except where the context otherwise requires.

178 Commencement

(1) The following provisions come into force on the day on which this Act is passed—

(a) sections 117(7) (and section 117(6) so far as relates to it), 158, 167, 172, 173, 176, 177, this section and section 179, and

(b) Part 1 of Schedule 17 and (so far as it relates to that Part of that Schedule) section 174(2).

(2) Section 163(4) comes into force at the end of the period of three months beginning with the day on which this Act is passed.

(3) Sections 77 and 156 come into force on such day as the Scottish Ministers may by order appoint.

(4) So far as they extend to Scotland—

(a) Chapter 1 of Part 2,

(b) sections 79 to 81,

(c) Chapter 4 of Part 2 (including Schedule 5),

(d) sections 163 to 166, and

(e) Schedule 14,

come into force on such day as the Scottish Ministers may by order appoint.

(5) So far as they relate—

(a) to sections 113 and 115 of the Police Act 1997 (c. 50) as those sections apply to Scotland;

(b) to section 125 of that Act, to the Regulation of Care (Scotland) Act 2001 (asp 8), to the Protection of Children (Scotland) Act 2003 (asp 5) and to the Criminal Justice (Scotland) Act 2003 (asp 7),

section 174(2) and Schedule 17 come into force on such day as the Scottish Ministers may by order appoint.

(6) The following provisions come into force on such day as the Scottish Ministers may by order appoint after consulting the Secretary of State—

(a) section 96 so far as it has effect for the purpose of conferring functions on the Scottish Ministers, and

(b) section 171 and Schedule 15.

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Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(7) The following provisions come into force on such day as the Secretary of State may by order appoint after consulting the Scottish Ministers—

(a) sections 95, 98(2), 99(2) and (3), 100, 101 and 107, and

(b) paragraphs 1 and 6 of Schedule 6, and section 109 so far as relating to those paragraphs.

(8) Otherwise, this Act comes into force on such day as the Secretary of State may by order appoint.

(9) Different days may be appointed for different purposes or different areas.

(10) The Secretary of State may by order make such provision as he considers appropriate for transitory, transitional or saving purposes in connection with the coming into force of any provision of this Act.

(11) The power conferred by subsection (10) is exercisable by the Scottish Ministers (rather than the Secretary of State) in connection with any provision of this Act which comes into force by order made by the Scottish Ministers.

179 Short title and extent

(1) This Act may be cited as the Serious Organised Crime and Police Act 2005.

(2) Subject to the following provisions, this Act extends to England and Wales only.

(3) The following extend also to Scotland—

(a) sections 1 to 54**[**F13, 57 and**][**F13and 56 to**]** 58,

(b) sections 60 to 68, 70, 79 to 96, 98 to 106, 107(1) and (4) and 108,

(c) section 123,

(d) section 131,

(e) sections 150 to 153, 156(6), 158, 163(1) and (2), 164, 165(1) and (2), 166(2), 167 and 171(1),

(f) sections 172, 173, 176 to 178 and this section,

(g) Schedules 1, 3, 5 and 15.

(4) The following extend to Scotland only—

(a) section 77 and 107(3),

(b) sections 129 and 130(3),

(c) sections 156(1) to (5), 166(1) and 171(2).

(5) The following extend also to Northern Ireland—

(a) sections 1 to 54**[**F14, 57 and**][**F14and 56 to**]** 58,

(b) sections 68, 71 to 75, 79 to 106, 107(1), (2) and (4) and 108,

(c) section 123(1),

(d) sections 128, 131 and 144,

(e) sections 150(1), 151, 163(1) and (2), 164, 165, 166(2) and 167,

(f) sections 172, 173, 176 to 178 and this section,

(g) Schedules 1, 3 and 5.

(6) The following extend to Northern Ireland only—

(a) section 55(2),

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Changes to legislation: *Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(b) section 78,
(c) section 130(2),
(d) Part 2 of Schedule 10.

(7) The following have the same extent as the enactments to which they relate—
(a) section 55(1) and Schedule 2,
(b) section 59 and Schedule 4,
(c) section 109 and Schedule 6,
(d) section 154,
(e) section 159 and Schedule 11,
(f) section 160 and Schedule 12,
(g) section 161(5) (so far as it has effect for the purposes of Part 2 of Schedule 13) and that Part of that Schedule,
(h) section 163(3) and Schedule 14,
(i) sections 169(5) and 170,
(j) (subject to subsection (8)) section 174(2) and Schedule 17.

(8) So far as Schedule 17 contains a repeal or revocation of an enactment which corresponds to the repeal or revocation of that enactment by another provision of this Act, that Schedule and section 174(2) have the same extent as that other provision.

(9) So far as they relate to any provision of this Act which extends to any place outside the United Kingdom, sections 172, 173, 177, 178 and this section also extend there.

(10) Subsection (2) does not apply to the following—
(a) section 168, or
(b) any provision of Schedule 7 which makes provision as to its extent.

Textual Amendments

F13 Words in s. 179(3)(a) substituted (E.W.S.) (1.1.2006) by Serious Organised Crime and Police Act 2005 (Amendment) Order 2005 (S.I. 2005/3496), arts. 1(1), **3**

F14 Words in s. 179(5)(a) substituted (E.W.N.I.) (1.1.2006) by Serious Organised Crime and Police Act 2005 (Amendment) Order 2005 (S.I. 2005/3496), arts. 1(1), **4**

Status:
Point in time view as at 01/04/2006. This version of this Act contains provisions that are not valid for this point in time.

Changes to legislation:
Serious Organised Crime and Police Act 2005 is up to date with all changes known to be in force on or before 05 February 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.