



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.

Functions

2 Functions of SOCA as to serious organised crime

- (1) SOCA has the functions of—
 - (a) preventing and detecting serious organised crime, and

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- (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.

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),
 - (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.

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.

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.

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- (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).

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,
 - (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.

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—
 - (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.

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.

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.

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.

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.
- (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.

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
 - (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—

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- (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.

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.

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.

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).

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
 - (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

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- (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).

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).

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.

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.
- (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.

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.

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.
- (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.

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.

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.
- (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;

“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),

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- (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.

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.
- (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).

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.

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,

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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.

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.

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.

- (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.

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.

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—

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- (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.
- (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.

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

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

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.

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—
 - (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));

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- (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).

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.

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).

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.

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.

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—

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- (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.
- (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.

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
 - (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.

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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.

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.

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

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

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—
 - (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.

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.

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.

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.

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—
 - (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,

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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).

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.
- (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).

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).

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,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.

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.
- (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.

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.

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)).

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.

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—

“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,

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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.”

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.

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.
- (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.

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Transfers

58 Transfers to SOCA

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

Amendments

59 Minor and consequential amendments relating to SOCA

Schedule 4 contains minor and consequential amendments relating to SOCA.