

**EXPLANATORY MEMORANDUM TO  
THE SERIOUS ORGANISED CRIME AND POLICE ACT 2005 (APPLICATION  
AND MODIFICATION OF CERTAIN ENACTMENTS TO DESIGNATED STAFF OF  
SOCA) ORDER 2006**

**2006 No. 987**

**1.** This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

**2. Description**

2.1 This Order modifies a small number of Acts which confer powers on the police and on immigration officers to enable these powers to be exercised by an officer of the Serious Organised Crime Agency (SOCA) who has been designated as having such powers by the Director General of SOCA. The Acts in question are the Police and Criminal Evidence Act 1984, the Anti-social Behaviour Act 2003, the Immigration Act 1971 and the Asylum and Immigration Act 1999.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None.

**4. Legislative Background**

4.1 SOCA is established by the Serious Organised Crime and Police Act 2005. Section 43 of that Act allows the Director General of SOCA to designate an officer of SOCA as a person having the powers of a constable, an officer of HM Revenue and Customs or an immigration officer. Section 43 also imposes conditions on any such designation: for instance an officer may only be designated if they have had appropriate training. Section 52 of the Act allows the Secretary of State to modify any other Act so that it can apply to a designated person and to the exercise of powers by a designated person. This Order is the first exercise of the power under Section 52.

**5. Extent**

5.1 This instrument applies to all of the United Kingdom. Scottish ministers have been consulted on this Order as the Immigration Act 1971 and the Asylum and Immigration Act 1999 extend to Scotland.

**6. European Convention on Human Rights**

6.1 The Home Secretary Charles Clarke has made the following statement regarding Human Rights:

In my view the provisions of the Serious Organised Crime and Police Act 2005 (application and modification of certain enactments to designated staff of SOCA) Order 2006 are compatible with the Convention rights.

## **7. Policy background**

7.1 The Serious Organised Crime Agency is an intelligence-led agency with law enforcement powers and harm reduction responsibilities. SOCA officers will not be police officers, HMR&C officers or immigration officers (apart from a small number of secondees), but will nevertheless need to exercise the powers of these officers. The Director General of SOCA will therefore be able to designate SOCA officers with these powers, subject to them having received appropriate training and being both capable and suitable to exercise the powers in question.

7.2 Many of the powers which SOCA officers will exercise are expressed so that they can be exercised by a designated officer without modification. However, a small number of Acts have been identified where this is not the case. The main examples of this are PACE and the Immigration Act 1971. The Order therefore modifies these Acts so that SOCA officers are able to exercise powers when designated, subject to equivalent protections to those in the existing legislation. Where the Acts provide for a duty to be exercised by a specific rank, for instance a Superintendent in the police or a Chief Immigration Officer, the Order will amend the Act by inserting the equivalent SOCA grade.

7.3 There is not expected to be any public interest in this instrument.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

8.2 The impact of this Order is purely internal to SOCA so there is no further impact on the public sector.

## **9. Contact**

Isobel Arthur at the Home Office Tel: 020 7 084 8002 or e-mail: [Isobel.arthur@homeoffice.gsi.gov.uk](mailto:Isobel.arthur@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.