

*Draft Order laid before Parliament under section 172(5) of the Serious Organised Crime and Police Act 2005, for approval by resolution of each House of Parliament.*

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DRAFT STATUTORY INSTRUMENTS

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**2006 No.**

**SERIOUS ORGANISED CRIME AGENCY**

The Serious Organised Crime and Police Act  
2005 (Application and Modification of Certain  
Enactments to Designated Staff of SOCA) Order 2006

<i>Made</i>	- - - -	2006
<i>Coming into force</i>	- -	2006

This Order is made in exercise of the powers conferred by sections 52(1) and 172(2) of the Serious Organised Crime and Police Act 2005(1).

The Secretary of State has consulted the Scottish Ministers in accordance with section 52(6) of that Act.

A draft of this instrument has been approved by a resolution of each House of Parliament.

Accordingly, the Secretary of State makes the following Order:—

PART 1

GENERAL

**Citation, commencement and interpretation**

1.—(1) This Order may be cited as the Serious Organised Crime and Police Act 2005 (Application and Modification of Certain Enactments to Designated Staff of SOCA) Order 2006 and shall come into force either on 1<sup>st</sup> April 2006 or the day after the day on which it is made, whichever is the later.

(2) In this Order, the “2005 Act” means the Serious Organised Crime and Police Act 2005.

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(1) 2005 c. 15; the powers in section 52(1) are extended by section 52(2).

## PART 2

### DESIGNATION WITH THE POWERS OF A CONSTABLE

#### Interpretation of Part 2

2. In this Part “designated person” means a member of the staff of SOCA designated as having the powers of a constable under section 43(1)(a) of the 2005 Act.

#### Application of the Police and Criminal Evidence Act 1984 to designated persons

3. The Police and Criminal Evidence Act 1984(2) applies in relation to—

- (a) designated persons, and
- (b) the exercise of powers by such persons under Chapter 2 of Part 1 of the 2005 Act,

with the modifications set out in Schedule 1.

#### Application of the Anti-social Behaviour Act 2003 to designated persons

4.—(1) Part 1 of the Anti-social Behaviour Act 2003 (premises where drugs are used unlawfully)(3) applies in relation to—

- (a) designated persons, and
- (b) the exercise of powers by such persons under Chapter 2 of Part 1 of the 2005 Act,

with the modifications set out in this article.

(2) In sections 1(1) (closure notice) and 5(2) (extension and discharge of closure order) for the words “a police officer not below the rank of superintendent” there is substituted “a designated person not below grade 2”.

(3) For section 9(2) (exemption from liability for certain damages) there is substituted—

“(2) SOCA is not liable for relevant damages in respect of anything done or omitted to be done by a designated person under its direction or control in the performance or purported performance of the designated person’s functions (by virtue of section 46 of the Serious Organised Crime and Police Act 2005) under this Part.”.

(4) After section 11(10) (interpretation) insert—

“(10A) In this Part “designated person” means a member of the staff of SOCA designated as having the powers of a constable under section 43(1)(a) of the Serious Organised Crime and Police Act 2005.”.

## PART 3

### DESIGNATION AS HAVING THE POWERS OF AN IMMIGRATION OFFICER

#### Interpretation of Part 3

5. In this Part “designated person” means a member of the staff of SOCA designated as having the powers of an immigration officer under section 43(1)(c) of the 2005 Act.

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(2) 1984 c. 60.

(3) 2003 c. 38.

### **Application of the Immigration Act 1971 to designated persons**

6. The Immigration Act 1971(4) applies in relation to—

- (a) designated persons, and
- (b) the exercise of powers by such persons under Chapter 2 of Part 1 of the 2005 Act,

with the modifications set out in Schedule 2.

### **Application of the Immigration and Asylum Act 1999 to designated persons**

7.—(1) The Immigration and Asylum Act 1999(5) applies in relation to—

- (a) designated persons, and
- (b) the exercise of powers by such persons under Chapter 2 of Part 1 of the 2005 Act,

with the modifications set out in this article.

(2) In section 141(11) and (12)(b) (fingerprinting) for the words “chief immigration officer” there is substituted “designated person of grade 4”.

(3) In section 143(11) and (12) (destruction of fingerprints) for “Secretary of State” there is substituted “Director General of SOCA”.

(4) In section 167(2) (interpretation)—

- (a) after “certificate of entitlement” insert “designated person”, and
- (b) after “port” insert “SOCA”.

Home Office  
2006

Parliamentary Under-Secretary of State

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(4) 1971 c. 77.  
(5) 1999 c. 33.

SCHEDULE 1

Article 3

Modifications in the Application of the Police and Criminal Evidence Act 1984 to Designated Persons

1. Except where the contrary intention appears, for any reference to “police officer” or “officer” (in the context of a police officer) there is substituted “designated person”.

2.—(1) For section 2(2)(i) (provisions relating to search etc.) there is substituted—

“(i) documentary evidence that he is a designated person; and”.

(2) In section 2(2)(ii) omit the words “whether he is in uniform or not”.

(3) In section 2(3)(a) and (6)(b) for the words “of the police station” there is substituted “and location of the SOCA office”.

(4) In section 2(6)(c) for the words “police station” there is substituted “SOCA office”.

(5) In section 2(9)—

(a) in paragraph (a), for the word “constable” there is substituted “designated person”.

(b) in paragraph (b), after the word “uniform” insert “or a designated person”.

3. Section 4 (road checks) is omitted.

4.—(1) In section 16(3A)(6) and (3B)(7) (execution of warrants) for the words “police officer of at least the rank of inspector” there is substituted “designated person of at least grade 3”.

(2) In section 16(5)(a) for the words “, if not in uniform, shall produce to him documentary evidence that he is a constable” there is substituted “shall produce to him documentary evidence that he is a designated person”.

5. For section 17(3)(8) (entry for purpose of arrest) there is substituted—

“(3) The powers of entry and search conferred by this section shall not be exercisable for the purposes specified in subsection (1)(c)(ii) and (iv) by a designated person.”.

6.—(1) In section 18(4) and (6) (entry and search after arrest) for the words “an officer of the rank of inspector” there is substituted “a designated person of grade 3”.

(2) Subsections (7) and (8) of section 18 are omitted.

7. In section 21(3)(b) (access and copying) for the words “the police” there is substituted “SOCA”.

8. In section 22(6)(9) (retention) for the words “the police” there is substituted “SOCA”.

9. In section 27(1) (fingerprinting of certain offenders)—

(a) in paragraph (c)(i) for the words “the police” there is substituted “SOCA”; and

(b) after the words “police station” insert “or SOCA office”.

10. In section 29 (voluntary attendance at police station etc.) after the words “police station”, on each occasion they appear, insert “, SOCA office”.

11. In section 30(4) (arrest elsewhere than at police station) after paragraph (b), insert—

“(c) to a designated person”.

(6) Section 16(3A) was inserted by section 113(9)(a) of the 2005 Act.

(7) Section 16(3B) was inserted by section 114(8)(b) of the 2005 Act.

(8) Section 17(3) was amended by paragraph 53(b) of Schedule 10 to the Criminal Justice and Public Order Act 1994 (c. 33).

(9) Section 22(6) was inserted by paragraph 80(1) and (3) of Schedule 14 to the Immigration and Asylum Act 1999.

**12.**—(1) Subsections (2)(a)(**10**), (3) and (5) of section 41 (limits on period of detention without charge) are omitted.

(2) For section 41(2)(b)(i) there is substituted—

“(i) the time at which that person arrives at the first police station to which he is taken in England or Wales; or”.

(3) In section 41(2)(d) omit the words “, except where subsection (5) below applies,”.

**13.** Section 43 (warrants of further detention) is omitted.

**14.** In section 61(3)(b)(**11**), (3A)(**12**) and (4)(**13**) (fingerprinting) for the words “the police” there is substituted “SOCA”.

**15.** In section 61A(**14**)(3)(b) and (4) (impressions of footwear) for the words “the police” there is substituted “SOCA”.

**16.** In section 63(2C)(a)(**15**) and (3A)(b)(**16**) (other samples) for the words “the police” there is substituted “SOCA”.

**17.**—(1) In section 63A(4)(**17**) (fingerprints and samples: supplementary provisions)—

(a) after the words “police station” insert “or SOCA office”; and

(b) in paragraph (a) for the words “the police” there is substituted “SOCA”.

(2) In section 63A(5) after the words “police station” insert “or SOCA office”.

(3) For section 63A(8)(b) there is substituted—

“(b) in the case of a person falling within subsection (4)(b), the designated person in charge of the investigation of the offence of which he was convicted.”

**18.** In section 63B(10)(**18**) (testing for presence of Class A drugs) in the definition of “appropriate adult” in paragraph (c) after the words “police officer” insert “, a member of the staff of SOCA”.

**19.**—(1) In section 64(5)(b)(**19**) (destruction of fingerprints and samples) for the words “any chief officer of police controlling access to computer data relating to the fingerprints or impressions of footwear” there is substituted “if the Director General of SOCA controls access to the computer data relating to the fingerprints or impressions of footwear, he”.

(2) In section 64(6A)(**20**) for the words “responsible chief officer of police” there is substituted “Director General of SOCA”.

**20.** In section 77(3) (confessions by mentally handicapped persons) in the definition of “independent person” at the end insert “or a member of the staff of SOCA”.

**21.** In section 118(1) (general interpretation), after the definition of—

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(10) Section 41(2) has been amended by section 12 of, and paragraphs 1 and 8 of Schedule 1 to, the Criminal Justice Act 2003 (c. 44).

(11) Section 61(3) was substituted by section 9(1) and (2) of the Criminal Justice Act 2003.

(12) Section 61(3A) was inserted by section 78(3) of the Criminal Justice and Police Act 2001 (c. 16) and has been amended by section 9(1) and (3) of the Criminal Justice Act 2003.

(13) Section 61(4) was substituted by section 9(1) and (2) of the Criminal Justice Act 2003.

(14) Section 61A was inserted by section 118(1) and (2) of the 2005 Act.

(15) Section 63(2C) was inserted by section 10(1) and (2) of the Criminal Justice Act 2003.

(16) Section 63(3A) was inserted by section 55(2) of the Criminal Justice and Public Order Act 1994 and has been amended by section 10(1) and (4) of the Criminal Justice Act 2003.

(17) Section 63A was inserted by section 56 of the Criminal Justice and Public Order Act 1994.

(18) Section 63B was inserted by section 57(1) and (2) of the Criminal Justice and Court Services Act 2000 (c. 43).

(19) Section 64(5) was substituted by section 148 of the Criminal Justice Act 1988 (c. 33) and has been amended by section 118(1) and (4)(h) of the 2005 Act.

(20) Section 64(6A) was inserted by section 148 of the Criminal Justice Act 1988 and has been amended by section 118(1) and (4)(j) of the 2005 Act.

(a) “designated police station”, insert—

““designated person” means a member of the staff of SOCA designated as having the powers of a constable under section 43(1)(a) of the Serious Organised Crime and Police Act 2005;” and

(b) recordable offence”, insert—

““SOCA” means the Serious Organised Crime Agency established under section 1 of, and Schedule 1 to, the Serious Organised Crime and Police Act 2005;

“SOCA office” means a place for the time being occupied by the Serious Organised Crime Agency;”.

## SCHEDULE 2

## Article 6

### Modifications in the Application of the Immigration Act 1971 Act to Designated Persons

1. In section 28C(4)(21) (search and arrest without warrant) for the words “identification showing that he is an immigration officer” there is substituted “documentary evidence showing that he is a designated person”.

2.—(1) In section 28CA(2)(c)(22) (business premises: entry to arrest) for the words “the Secretary of State (in the case of an immigration officer)” there is substituted “the Director General of SOCA (in the case of a designated person)”.

(2) In section 28CA(2)(d) omit the words “or immigration officer” and at the end insert “or the designated person produces documentary evidence showing that he is a designated person”.

(3) In section 28CA(3)(a) for the words from “Secretary” to the end there is substituted “Director General of SOCA only by a Deputy Director of SOCA”.

(4) In section 28CA(4)(a) omit the words “or immigration officer” and after “identification” insert “or a designated person is asked to produce documentary evidence showing that he is a designated person”.

3. In section 28F(8)(23) (entry and search of premises following arrest under section 25, 25A or 25B) for the words “an immigration officer not below the rank of chief immigration officer” there is substituted “a designated person not below grade 4”.

4.—(1) In section 28FA(4)(b)(24) (search for personnel records: warrant unnecessary) omit the words “or immigration officer” and after the word “status” insert “or the designated person produces documentary evidence showing that he is a designated person”.

(2) In section 28FA(6)(a) omit the words “or immigration officer” and after the word “identification” insert “or a designated person is asked to produce documentary evidence showing that he is a designated person”.

5. In section 28K(4)(a)(25) (execution of warrants) for the words “identification showing he is an immigration officer” there is substituted “documentary evidence showing that he is a designated person”.

6. In section 33 (interpretation), after the definition of—

(21) Section 28C was inserted by section 130 of the Immigration and Asylum Act 1999.

(22) Section 28CA was inserted by section 153(1) of the Nationality, Immigration and Asylum Act 2002 (c. 41).

(23) Section 28F was inserted by section 133 of the Immigration and Asylum Act 1999.

(24) Section 28FA was inserted by section 154 of the Nationality, Immigration and Asylum Act 2002.

(25) Section 28K was inserted by section 138 of the Immigration and Asylum Act 1999.

- (a) “crew”, insert—

““designated person” means a member of the staff of SOCA designated as having the powers of an immigration officer under section 43(1)(c) of the Serious Organised Crime and Police Act 2005;”;

- (b) “ship”, insert—

““SOCA” means the Serious Organised Crime Agency established under section 1 of, and Schedule 1 to, the Serious Organised Crime and Police Act 2005;”.

7. In paragraph 1(5) of Schedule 2 omit the words “for the purpose of satisfying himself whether there are persons he may wish to examine under paragraph 2 below” and at the end insert “for the purpose of ascertaining whether there is any person who may be required to submit to examination under paragraph 2 below”.

8. In—

- (a) paragraph 22(1A)(**26**),  
(b) paragraph 25A(10)(**27**), and  
(c) paragraph 27C(8)(**28**),

of Schedule 2, for the words “an immigration officer not below the rank of chief immigration officer” there is substituted “a designated person not below grade 4”.

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

Under section 43 of the Serious Organised Crime and Police Act 2005 a member of the staff of the Serious Organised Crime Agency (“SOCA”) can be designated as having the powers of a constable, the customs powers of an officer of Revenue and Customs and the powers of an immigration officer. This Order modifies certain enactments which confer powers on the police (as well as constables) and immigration officers to enable such powers to be exercised by designated members of the staff of SOCA.

Part 2 and Schedule 1 of this Order modify the Police and Criminal Evidence Act 1984 and the Anti-social Behaviour Act 2003, in relation to persons designated with the powers of a constable. Part 3 and Schedule 2 of this Order modify the Immigration Act 1971 and the Immigration and Asylum Act 1999, in relation to persons designated with the powers of an immigration officer.

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(26) Paragraph 22(1A) was inserted by section 12(1) of, and paragraph 11(1) of Schedule 2 to, the Asylum and Immigration Act 1996 (c. 49).

(27) Paragraph 25A was inserted by section 132(2) of the Immigration and Asylum Act 1999.

(28) Paragraph 27C was inserted by section 19 of the Immigration and Asylum Act 1999.