

SERIOUS ORGANISED CRIME AND POLICE ACT 2005

EXPLANATORY NOTES

SUMMARY

Part 1: The Serious Organised Crime Agency

4. **Chapter 1** of Part 1 establishes the Serious Organised Crime Agency (SOCA), provides for its constitution and defines its functions and general powers and its relationship with Ministers. **Chapter 2** of Part 1 enables the Director General of SOCA to designate members of staff of SOCA with some or all of the powers of a constable, a customs officer or an immigration officer. **Chapter 3** of Part 1 contains supplementary provision in respect of SOCA. In particular, this Chapter provides for the transfer of staff to SOCA and the procedures for investigating complaints and misconduct.

Part 2: Investigations, prosecutions and other measures

5. **Part 2** is divided into 6 Chapters. **Chapter 1** enables designated members of staff of SOCA, police constables or officers of Revenue and Customs, acting under the supervision of the Director of Public Prosecutions (DPP), the Director of Revenue and Customs Prosecutions or the Lord Advocate, to compel people to co-operate with an investigation by producing documents and answering questions. There are safeguards against self-incrimination and for the protection of legal privilege.
6. **Chapter 2** places the mechanism by which a defendant can plead guilty and offer Queen's Evidence in return for a discounted sentence on a statutory footing.
7. **Chapter 3** provides for the making of financial reporting orders. Such orders may be imposed as ancillary orders for certain trigger offences and would enable the financial affairs of serious acquisitive criminals to be monitored from the point of sentence.
8. **Chapter 4** places the arrangements for providing protection for witnesses and others on a statutory footing. It places a duty on public authorities to assist protection providers and introduces offences in connection with the unauthorised disclosure of information about protected persons or protection arrangements.
9. **Chapter 5** confers delegated powers to enable the Home Secretary and Scottish Ministers to give effect to the EU Framework Decision of July 2003 on the execution of orders freezing property or evidence, and amends an order making power under the Criminal Justice (International Cooperation) Act 1990 to enable the United Kingdom to give effect to the UN Conventions against Transnational Organised Crime and Corruption.
10. **Chapter 6** makes a number of amendments to the Proceeds of Crime Act 2002 to improve the effectiveness of the civil recovery scheme and ease the money laundering reporting requirements on the regulated sector.

Part 3: Police powers etc.

11. **Part 3** makes a number of changes to police powers set out in the Police and Criminal Evidence Act 1984 (PACE) and extends the powers of Community Support Officers (CSOs) and other persons designated or accredited under the provisions of Part 4 of the Police Reform Act 2002.
12. **Sections 110, 111, 113 and 114** and Schedule 7 revise the framework of arrest and search powers in PACE. In particular they provide, in the case of a constable's power of arrest, for all offences to be arrestable subject to a necessity test.
13. **Section 112** introduces a new offence of failing to obey a police direction to leave an exclusion area.
14. **Section 115** extends the powers of the police, in section 1 of PACE, to stop and search persons suspected of carrying prohibited fireworks.
15. **Sections 116 to 118** enable the police to take photographs and fingerprints of persons away from a police station and to take impressions of a person's footwear at a police station. The power to take photographs is extended to CSOs and accredited persons in limited circumstances. Section 116(3) amends section 64A of PACE to allow the police to pass a photograph to the court for the purposes of enforcing the orders of the court. This new power is in addition to that which already allows the police to pass a photograph to the court for the purposes of prosecution. Section 119 amends the definition of an intimate and non-intimate sample.
16. **Sections 120 and 121** create a new category of designated person under the Police Reform Act 2002, namely a 'staff custody officer', thereby enabling police staff to undertake custody functions previously restricted to police officers.
17. **Sections 122 and 123** and Schedules 8 and 9 extend the powers of CSOs, other designated police staff and accredited persons and enable police staff to access certain information relating to drivers, vehicle registration plate suppliers and motor insurance.

Part 4: Public order and conduct in public places etc.

18. **Part 4** strengthens the protection afforded by the criminal and civil law against acts of harassment, trespass on sites of national importance and unauthorised demonstrations in the vicinity of Parliament.
19. **Sections 125 to 127** amend the Protection of Harassment Act 1997 and Criminal Justice and Police Act 2001 to prohibit intimidating conduct designed to stop persons going about their lawful business, introduce a new offence of harassment of a person in his home and confer additional powers on the police to issue directions for the purpose of stopping harassment of a person in his home.
20. **Sections 128 to 131** introduce a new offence of trespass on sites designated by the Secretary of State.
21. **Sections 132 to 138** confer additional powers on the police to control demonstrations in Parliament Square or its environs.
22. **Sections 139 to 143** contain provisions relating to Anti-social Behaviour Orders (ASBOs). In particular, they lift the automatic reporting restrictions in Youth Courts in relation to proceedings for breach of an ASBO.
23. **Section 144** and Schedule 10 provide for magistrates' courts in England and Wales and Northern Ireland to make parental compensation orders ("PCOs") on application by a local authority or person specified by the Secretary of State in the case of Northern Ireland. The PCO is available where a child under the age of 10 has taken or caused loss or damage to property in the course of behaving anti-socially or committing an act that would have been criminal if he were 10 or over.

Part 5: Miscellaneous

24. [Sections 145 to 149](#) introduce two new offences. Section 145 creates a new offence of interference with contractual and similar relationships with the intention of harming an animal research organisation. Section 146 creates a further offence criminalising the intimidation of specified persons connected with an animal research organisation. Section 148 defines 'an animal research organisation' for the purpose of this legislation. Section 147 contains the penalties for offences, and section 149 contains a power for the legislation to be extended by means of affirmative resolution and describes the circumstances in which that power may be used.
25. [Sections 150 to 152](#) introduce a new offence of using an incorrectly registered vehicle and confer powers on the police to require the production of vehicle registration documents and to seize vehicles driven by someone who does not have appropriate insurance or a valid driving licence. Section 153 provides for the disclosure of information about the insurance status of vehicles. Section 154 amends the provisions of the Road Traffic Act relating to breath tests. Sections 155 and 156 enable payments to be made to police authorities in relation to the enforcement of certain traffic offences; such payments would be funded from revenue from fixed penalty notices.
26. [Section 157](#) requires police authorities to publish an annual "local policing summary" and confers powers on the Home Secretary to set minimum requirements in respect of the information to be included in such summaries.
27. [Section 158](#) provides that liability for breaches of health and safety legislation by police forces will normally rest with the office of Chief Constable rather than with the office holder.
28. [Section 159](#) and Schedule 11 amend Part 2 of the Police Reform Act 2002 which sets out the framework for the investigation of complaints against and misconduct by police officers and police staff. The amendments provide that disciplinary action may, in certain serious cases, be taken against a police officer before the point at which an investigation into a complaint or misconduct relating to that officer would normally be completed. Section 160 and Schedule 12 provide for the investigation of deaths and serious injuries where there is no suggestion of misconduct.
29. [Sections 161 and 162](#) and Schedule 13 provide for the abolition of the Royal Parks Constabulary and for the transfer of responsibility for policing the Royal Parks to the Metropolitan Police.
30. [Sections 163 to 168](#) and Schedule 14 make amendments to Part 5 of the Police Act 1997 which sets out the framework under which the Criminal Records Bureau (CRB) and Disclosure Scotland operate. In particular, the amendments extend the range of law enforcement agencies from whom non-conviction information may be obtained and enable the CRB and Disclosure Scotland to access passport, driving licence and national insurance number data in order to verify the identity of applicants for a criminal record disclosure.
31. [Sections 169 and 170](#) alter one of the tests for the issue, by the courts, of a witness summons.
32. [Section 171](#) and Schedule 15 extend the provisions of the Private Security Industry Act 2001 to Scotland and thereby provide for the licensing by the Security Industry Authority of security operatives in Scotland.

Part 6: Final provisions

33. [Part 6](#) deals with the making of orders and regulations under the Act, contains consequential amendments and repeals of existing legislation, and provides for the commencement of the Act. It also contains a free-standing power to make

These notes refer to the Serious Organised Crime and Police Act 2005 (c.15) which received Royal Assent on 7th April 2005

supplementary, incidental or consequential provisions, including a power to amend primary and secondary legislation.