These notes refer to the Policing and Crime Act 2009 (c.26) which received Royal Assent on 12 November 2009

POLICING AND CRIME ACT 2009

EXPLANATORY NOTES

TERRITORIAL EXTENT AND APPLICATION

Part 8 – Miscellaneous
Chapter 1 – Safeguarding Vulnerable Groups and Criminal Records

Renaming of Independent Barring Body

Section 81 Renaming of Independent Barring Body

509. This section amends provisions in the Safeguarding Vulnerable Groups Act 2006 ("the 2006 Act") to change the name of the Independent Barring Board (IBB) to the Independent Safeguarding Authority (ISA). The IBB was established under section 1 of the 2006 Act as a body corporate to consider the suitability of persons seeking to do certain specified work with children or vulnerable adults, and empowered to bar from such work those considered unsuitable. Bars are based on an assessment by the Board of any possible risk of harm posed to children or vulnerable adults by persons doing, or seeking such work, with these groups in either a paid or voluntary capacity.

510. Section 81 amends sections of the 2006 Act where references to the IBB appear in that Act, in order to change the name of the Board by substituting the name Independent Safeguarding Authority. It similarly amends references to the abbreviations "IBB" with "ISA", and other enactments and documents in place prior to the passage of this Act where references to the Independent Barring Board or "IBB" appear. The change applies to subordinate legislation as defined by the Interpretation Act 1978.

511. This applies to England, Wales and Northern Ireland and to any enactments of the Scottish Parliament and Northern Ireland legislation.

Safeguarding vulnerable groups: England and Wales

Section 82 Educational establishments: check on members of governing body

512. Section 82 amends provisions in the 2006 Act. Its objectives are:

a) to ensure that a person ("the appropriate officer") who is required under section 13 of the 2006 Act to make a check on a member of a governing body ("governor") of an educational establishment as defined in section 8(5) of the Act, does not commit an offence if the governor fails to consent to the check or fails to provide the appropriate officer with any information necessary to make the check; and

b) to create a new criminal offence where a governor acts as a member of a governing body before consenting to the check or providing the appropriate officer with any information required to carry out the check.

513. The appropriate officer is required under section 13 of the 2006 Act to make the check within a prescribed period. To achieve the first objective above, subsection (6) of the section provides that the prescribed period must not start before the governor consents

to the appropriate officer making the check and provides any information required to make the check.

514. To achieve the second objective, subsection (2) of the section provides that a governor commits an offence if he or she starts to act as a governor without first consenting to a check and providing the appropriate officer with any information required to make the check.

515. Provisions in sections (4) and (5) of the section mirror the provision at sections 13(3) and (4) of the 2006 Act. Section 13(3) of the SGVA ensures that the appropriate officer does not commit an offence if he or she does not make a check on a governor where the governor was appointed before the commencement of section 13; section 13(4) of the Act allows the Secretary of State by order to set a date when the exception in section 13(3) comes to an end (known as "sunsetting"). These provisions relate to the Government's announced policy of phasing in, over a few years, the Vetting and Barring Scheme's requirements to register with the Independent Safeguarding Authority referred to as the Independent Barring Board or IBB in the Act.

Section 83 Monitoring application

516. Section 83 amends provisions in section 24 of the 2006 Act relating to an application to become subject to monitoring. Section 24(1) states that an individual must make a monitoring application in order to become subject to monitoring (in effect register with the Vetting and Barring Scheme established by the Act). Section 24(10) previously provided that the "form and manner" of an application would be prescribed in regulations.

517. This amendment allows the Secretary of State to determine the form, manner and content of the application form. This allows the Secretary of State to amend the application form without needing to make secondary legislation.

Section 84 Monitoring: additional fees

518. This section makes provision for the payment of a fee by persons who are subject to monitoring under the 2006 Act, and have benefited from a free application to the monitoring scheme as a volunteer, if they subsequently enter paid employment in activities regulated under the Act.

519. Fees for applications for monitoring under the 2006 Act will be prescribed under powers set out in section 24. The fees are based on cost-recovery for the scheme. It is intended that no fee will be prescribed for persons joining the scheme as unpaid volunteers. This section provides that a fee becomes payable when persons who have benefited from a free application (volunteers) undergo a change of circumstances which means that a fee would have been payable under section 24(1)(d) (persons in paid regulated activity). This removes a loophole which would have enabled persons to apply solely as volunteers and avoid any fee when moving into paid activities.

520. The section provides a power to prescribe the change in circumstances (moving from unpaid to paid activity) and to set a fee for such persons. It also clarifies that an individual does not cease to be subject to monitoring under section 24, merely because the required fee has not been paid. However, subsection (3) inserts a specific power for the Secretary of State to refuse to provide information under section 30 unless the relevant fee under section 24A is paid.

Section 85 Vetting Information

521. This section amends section 30 of the 2006 Act.

522. The section changes the requirements arising from the declaration to be made by persons eligible to receive vetting information under section 30. Section 30 requires the Secretary of State to provide vetting information to certain categories of persons entitled

to know the status of an individual under the Vetting and Barring Scheme established by the Act. This is information which indicates whether the individual is registered with the scheme (or "subject to monitoring" under section 24 of the Act). The persons entitled to see such information are employers, personnel suppliers, local authorities and certain other bodies set out in Schedule 7 to the 2006 Act.

523. Section 30(2) of the 2006 Act previously required a declaration to be made indicating within which of the "specified entries" in Schedule 7 of the Act the enquirer falls. The Government believes that this is no longer necessary. The amendment simplifies the declaration by removing the reference to a "specified entry" in Schedule 7, and substituting a requirement for the enquirer to indicate whether he is entitled to information relating to children, to vulnerable adults, or to both. The effect is to simplify the application procedure for those entitled to the information.

524. Subsection (6) of the section relates specifically to members of the governing body of an educational institution. Previously section 30(5) aimed to ensure that the appropriate officer could make an application under section 30 to receive vetting information in relation to any appointed governor without the need to obtain the consent of the governor. This provision is no longer effective as, under section 82, a governor must consent to a check being made under section 30 of the 2006 Act and must provide information enabling the appropriate officer to make such a check before the governor can legally act as a governor.

525. New section 24A (section 84) provides that persons who had been entitled to a free application because they were unpaid volunteers must pay a prescribed fee upon taking part in paid activities. This section amends the declaration by the person seeking the information under section 30 to require them to indicate whether the application relates to paid activities. This provision assists the enforcement of fees. The new requirement to indicate whether the application related to paid activities should flag up those individuals who are now seeking paid employment, having previously registered as a volunteer, and therefore alert the Secretary of State that a required fee is due. If this fee is not paid, the Secretary of State can refuse to provide the information required.

526. Subsection (6) provides that paid activity means an activity that is carried out for financial gain and that the Secretary of State can clarify areas of doubt as to when an activity must, or must not, be treated as paid.

Section 86 Notification of cessation of monitoring

527. Section 86 amends section 32 of the 2006 Act, changing the requirements arising from the declaration to be made by persons eligible to receive information about the cessation of monitoring under section 32. Section 32 requires the Secretary of State to establish a register of persons entitled to be notified when an individual ceases to be monitored in accordance with provisions in section 24 of the 2006 Act, that is, persons who are "registered" with the Vetting and Barring Scheme established by that Act.

528. The previous provisions required the Secretary of State to provide such persons with information when an individual in whom they have registered an interest ceases to be monitored under the 2006 Act. Persons entitled to this information are those registered under section 32, who must also fall within the categories of person set out in Schedule 7. This includes employers, personnel suppliers, local authorities and certain other bodies set out in Schedule 7.

529. Section 32(3) previously required a declaration to be made indicating within which of the "specified entries" in Schedule 7 the applicant for registration falls. Section 32(5) provided that the application and registration apply to those specified entries.

530. The effect of subsections (1) to (4) is that the relevant declaration need not specify which particular entry of the table in Schedule 7 the applicant falls within; all that is needed is for the declaration to state that the applicant falls within the table.

531. Subsection (5) relates specifically to members of the governing body of an educational institution. Previously section 32(8) aimed to ensure that the appropriate officer can register in relation to any appointed governor without the need to obtain the consent of the governor. This provision is no longer effective as under section 82 a governor must consent to a check under section 30 of the 2006 Act before he or she can legally act as a governor. Under section 32(9), consent given for the purposes of section 30 has effect as consent to an application by the appropriate officer to register in relation to the governor under section 32.

Section 87 Notification of proposal to include person in barred list

532. Section 87 amends the 2006 Act by inserting an additional duty and conferring a further power on the ISA in circumstances where it proposes to bar an individual from working with children or vulnerable adults. In such circumstances, this section requires the ISA to notify any person who is registered under section 32 of the 2006 Act with respect to the individual concerned that the ISA is proposing to bar him or her and to provide reasons why. Section 87 also empowers the ISA to notify any other person who is permitting the individual to engage in regulated or controlled activity of the proposal to bar and the reasons why. A further notification must confirm whether the individual has been barred or not. Once the ISA has decided that it proposes to bar someone, it must give him or her eight weeks to make any representations before it can make its final barring decision. If the person is working with children or vulnerable adults during this time, notification under this section allows the employer to be aware of the potential risk so that it can consider whether it needs to take any action.

Section 88 Provision of safeguarding information to the police

533. This section inserts a new provision (section 50A) into the 2006 Act that empowers the ISA to provide information that it holds to the police in England and Wales for use by the police for any of the purposes specified in subsection (1). This power provides an additional safeguard to that in section 87 in that it allows the ISA to provide information to the police in what are likely to be exceptional cases where the ISA has not reached a decision as to whether or not it proposes to bar a person but considers that an individual may pose a risk of harm to vulnerable groups. Another use for this power is to enable the ISA to inform the police if it thinks that someone it has barred poses a risk to children in their own household.

Section 89 Barring process

534. This section adjusts the procedure for automatic barring in England and Wales so that it is the ISA, rather than the Secretary of State, that must be satisfied that a person has met the prescribed criteria for automatic barring before the ISA is required to bar him or her. The section also makes a consequential change to the duty on the Secretary of State to check records. The prescribed criteria that trigger an automatic bar consist of certain serious offences and in some of these cases the automatic bar is triggered only if certain specified circumstances arise, for example, the victim is a child. This means that the circumstances of an offence will sometimes need to be verified before it can be confirmed that any of the prescribed criteria are satisfied with respect to him or her.

Safeguarding vulnerable groups: Northern Ireland

Section 90 Notification of proposal to include person in barred list: Northern Ireland

535. This section makes equivalent provision in relation to Northern Ireland to that made in relation to England and Wales by section 87.

Section 91 Provision of safeguarding information to the police: Northern Ireland

536. This section makes equivalent provision in relation to Northern Ireland to that made in relation to England and Wales by section 88.

Section 92 Barring process: Northern Ireland

537. This section makes equivalent provision in relation to Northern Ireland to that made in relation to England and Wales by section 89.

Criminal records etc

Section 93 Criminal conviction certificates to be given to employers

538. Part V of the Police Act 1997 ("the 1997 Act") sets out the scheme under which the Secretary of State, under the form of the "Criminal Records Bureau" (the "CRB"), must issue criminal conviction certificates (also known as Basic Disclosures) and criminal record or enhanced criminal record certificates (known as Standard and Enhanced Disclosures). Currently, section 112 only provides for Basic Disclosures to be sent to applicants. It is envisaged that when the Basic Disclosure service is introduced by the CRB the majority of applications will be made for the purposes of employment. This section therefore provides for a copy of the Basic Disclosure to be sent to an employer where specifically requested.

Section 94 Certificates of criminal records etc: right to work information

539. Section 94 inserts a new section 113CD into the 1997 Act to provide for "right to work" information to be recorded on Basic, Standard and Enhanced Disclosures where a request for such information is made. This follows a request from the Home Secretary in early 2008 to explore the possibility of incorporating "right to work" checks within the CRB service following concerns about the employment of illegal workers in sectors required to obtain a CRB disclosure. Currently, CRB certificates do not provide information pertaining to an individual's immigration status.

540. The amendments will enable an employer to be informed, should they so request, whether prospective or current employees have a "right to work" in the UK based on the UK Border Agency (UKBA) records. This will assist employers in avoiding the employment of illegal workers which under the current legislation makes an employer liable to pay a civil penalty of up to £10,000 per person if found to be employing someone illegally. This civil penalty regime was introduced in February 2008 and is set out under sections 15 and 22 of the Immigration, Asylum and Nationality Act 2006.

541. This will be an optional service offered by the CRB and there will remain other ways for employers to satisfy themselves of an individual's right to work status.

542. Where a request for a "right to work" check is made, the certificate will state whether the applicant has a right to work or not and any conditions attached to the relevant status will also be disclosed where appropriate. If an individual's right to work status cannot be determined from UKBA records, employers will be provided with further information on how to identify whether the individual has a right to work.

543. The intention is to charge a fee to recover the development and running costs of this service and this will be in addition to the fee paid for a Disclosure. Prior to any fee being introduced, a public consultation will be carried out.

Section 95 Criminal conviction certificates: verification of identity

544. Section 95 allows for other methods of identity verification to be prescribed under section 118 of the 1997 Act when making an application for a certificate. The taking of fingerprints is already provided for under section 118 and any method prescribed under this section is likely to be less intrusive than requiring fingerprints. Such requirements

may include requiring evidence of identity (such as a passport, driving licence and current utility bills etc).

Section 96 Registered persons

545. Section 96 enables the CRB, when checking the suitability of individuals to be registered to countersign and receive Standard and Enhanced Disclosures in respect of applicants, to be checked against the new barred lists established under the Safeguarding Vulnerable Groups Act 2006. Such individuals are known as "Registered Persons" under the Police Act 1997. Although the 2006 Act enables suitability information to be disclosed to employers, it does not amend the definition of suitability information the CRB itself should have regard to when assessing whether an individual should be registered. This was an oversight as the current provision enables checks to be undertaken against the old barring lists for this purpose.

Section 97 Criminal Records: applications

546. Section 97 makes amendments to the 1997 Act so that the Secretary of State may determine the "form, manner and contents" in which applications for such Disclosures are made.

547. Currently regulations are required for any change to such applications and this provision will enable the Secretary of State to determine administratively the way people apply, what applicants are required to disclose on the applications and how people sign and countersign them without having to make regulations each time. This will include providing for electronic or on-line applications.

548. A similar amendment is being made for "monitoring" applications made under the Safeguarding Vulnerable Groups Act 2006 because when the new Vetting and Barring Scheme is live many Enhanced Disclosure applications will be made jointly with applications for monitoring and the initial application will be made via the CRB.

Chapter 2 – Other

Border controls

Section 98 General information powers in relation to persons entering or leaving the UK

549. This section amends the Customs and Excise Management Act 1979 (CEMA) by inserting new section 157A to enable an officer of Revenue and Customs to require a person entering or leaving the UK to produce their passport or travel documents and answer questions about their journey. Referring to the subsections of the new section 157A**:**

- Subsection (1) empowers officers to require the production of a person's passport and travel documents and to ask questions about a person's journey.
- Subsection (2) defines "passport".
- Subsection (3) applies these powers at the final airport of destination in the UK for air transit passengers who first entered the UK at another airport.
- Subsection (4) defines a "transit air passenger".

550. Subsection (2) of section 98 of the Act adds the new power to the list of powers contained in section 4(3) of the Finance (No. 2) Act 1992. This restricts the application of certain CEMA powers in relation to the movement of people or things between EU Member States.

Section 99 *Powers in relation to cash.*

551. Section 99 deals with powers available to detect cash at the border. The aim of this section is the prevention of money laundering by means of movement of cash into and out of the UK.

552. Subsection (1) inserts new section 164A into CEMA. The new section clarifies those CEMA powers available to officers at the border to ask questions about, and to search for, cash that is recoverable property or is intended by any person for use in unlawful conduct (as defined in subsections 289(6) and (7) of the Proceeds of Crime Act 2002). The new section also ensures compliance with the Cash Control Regulation on controls of cash entering or leaving the Community (Regulation (EC) No. 1889/2005 of the European Parliament and of the Council).

553. Subsections (2) and (3) amends section 4(2) of the Finance (No. 2) Act 1992 to make clear that the powers listed in section 4(3) of that Act apply to cash which is recoverable property or intended for use in unlawful conduct as well as to goods.

Section 100 *Lawful interception of postal items by Revenue and Customs*

554. Section 100 clarifies the Regulation of Investigatory Powers Act 2000 (RIPA). The section puts beyond doubt that the protection from interception afforded to postal communications in RIPA does not restrict Revenue and Customs powers to check international postal traffic for customs or excise purposes.

555. The section inserts a new subsection (3A) into section 3 of RIPA. This makes it clear that checks on international postal traffic carried out under section 159 CEMA (as applied to postal traffic by the Postal Services Act 2000) are lawful interceptions for the purpose of RIPA.

556. It also adds persons engaged by the Commissioners of Her Majesty's Revenue and Customs to the list of persons in s17(3) of RIPA who may lawfully intercept communications and disclose the contents for the purpose of legal proceedings.

Section 101 *Prohibition on importation or exportation of false identity documents etc*

557. Section 101 prohibits the importation and exportation of false identity documents.

558. Subsection (1) creates a prohibition on the importation and exportation of false identity documents. A prohibition on importation or exportation engages the existing powers in CEMA. This means that where the prohibited items are discovered they are liable to forfeiture under section 49 CEMA and can be seized under section 139 of that Act. Improper importation of a prohibited item is an offence under section 50 of CEMA and evading the prohibition is an offence under section 170 of that Act.

559. Subsection (2) sets out which documents are caught by the prohibition.

560. Subsection (3) defines "document", "false" and "identity document". It relies on definitions in the Identity Cards Act 2006 and the Forgery and Counterfeiting Act 1981.

Section 102 *Prohibition on importation of offensive weapons*

561. Section 141(2) of the Criminal Justice Act 1988 (CJA) contains a power for the Secretary of State to specify offensive weapons. Where a weapon is specified, it is an offence to sell, hire or manufacture that weapon under section 141(1) CJA. The importation of a specified weapon was previously also prohibited under section 141(4) CJA. Section 141(4) CJA is repealed by paragraph 119(2) in Part 11 of Schedule 7 to this Act (minor and consequential amendments).

562. Section 102 inserts new sections 141ZB, 141ZC and 141ZD into the CJA. New section 141ZB CJA creates a new prohibition on the importation of a weapon, replacing

that in section 141(4) CJA. Section 141ZB CJA also creates a separate power for the Secretary of State to specify weapons for the purposes of the prohibition on importation only. New section 141ZC CJA sets out the exceptions to the prohibition on importation, which mirror the defences to an offence under section 141(1) CJA. New section 141ZD CJA makes provision about the burden of proof applying in respect of the exceptions.

563. The purpose of section 102 is to clarify the position of Scottish Ministers in relation to the power to make orders specifying weapons for prohibition, by drawing a distinction between the prohibition on manufacture, sale or hire, and the prohibition on importation (restrictions on importation being a reserved matter). The effect of section 102 is that importation restrictions are created by the Secretary of State on a UK wide basis. Scottish Ministers are still be able to make an order under section 141 CJA specifying weapons for the purposes of the prohibition on their manufacture, sale or hire in Scotland, but no importation consequences flow from the order.

564. Subsections (2) to (4) contain transitional provisions. These provisions apply where a weapon has been imported in breach of a prohibition but it cannot be proven whether the prohibition is that imposed by section 141(4) CJA (before it was repealed) or by section 141ZB CJA. In such a case, then for the purposes of any criminal proceedings under the Customs and Excise Management Act 1979, it shall be conclusively presumed that the conduct took place after the commencement of section 102 and therefore that the relevant prohibition is that in section 141ZB CJA. The purpose of this transitional provision is to ensure that a defendant is not able to escape liability solely on the basis that it cannot be proven which importation prohibition has been breached.

Football spectators

Section 103 Prohibiting attendance at matches in Scotland and Northern Ireland etc

565. Subsection (1) extends the definitions of "banning order", "external tournament" and "control period" in the Football Spectators Act 1989 ("the 1989 Act"), so that those subject to English and Welsh orders will be banned from attending regulated football matches in Scotland and Northern Ireland. Reporting requirements and related provisions will only apply to "regulated football matches" involving Scottish and Northern Irish teams when they are played outside the UK.

566. A "regulated match" means any association football match prescribed by an order made by the Secretary of State in exercise of the powers conferred upon him by section 14(2) of the 1989 Act. When a court in England or Wales imposes a football banning order the subject is prevented from attending any regulated match in England and Wales, and from attending any regulated match outside England and Wales when given notice in writing by the English and Welsh enforcing authority under section 19(2B) of the 1989 Act. Prior to commencement the order prescribing regulated matches would be amended to reflect the effect of section 103.

Section 104 Requirements to report at police stations

567. Section 104 provides that when an individual is directed to report to police by the court or by the enforcing authority, the specified police station may be anywhere in the UK and thus local to the individual's place of residence.

568. Subsection (1) provides that the police stations specified under any of the provisions listed in subsection (2) may be anywhere in the United Kingdom. The provisions are:

- Initial reporting at a police station as specified in an order imposed in England, Wales or Scotland.

- Reporting at a police station as required by a notice from the English and Welsh enforcing authority or the Scottish Football Banning Orders Authority in relation to regulated football matches outside the UK.

Section 105 Enforcement of 1989 Act in Scotland and Northern Ireland

569. Subsection (1) provides that the following offences under the 1989 Act extend to Scotland and to Northern Ireland:

- failure to comply with a requirement imposed by a banning order or the requirements of a notice issued by the English and Welsh enforcing authority;
- failing, without reasonable excuse, to comply with a requirement imposed by police on a person reporting initially at a police station specified by the banning order;
- providing the English and Welsh enforcing authority or police with what is known to be false information in connection with an application to the authority for an exemption from their reporting instructions.

570. Subsection (2) provides a defence in Scotland of reasonable excuse for failing to comply with a requirement of a banning order or notice issued by the English and Welsh enforcing authority. The 1989 Act does not provide a statutory defence in England and Wales for failing to comply with a requirement of a banning order or notice issued by the English and Welsh enforcing authority. However section 68(2) of the Police, Public Order and Criminal Justice (Scotland) Act 2006 provides a defence in Scotland of reasonable excuse for failing to comply with a requirement of a banning order or notice issued by the Scottish enforcing authority. For consistency in the treatment of breaches of banning order requirements within Scotland, a statutory defence is provided.

571. Subsections (3), (4) and (5) set out the maximum penalties for the offences described in subsection (1). A person guilty of an offence by virtue of subsection (1)(a) is liable on summary conviction to imprisonment for a term not exceeding six months or a fine not exceeding level 5 on the standard scale (currently £5,000) (or both). A person guilty of an offence by virtue of subsection (1)(b) is liable on summary conviction to a fine not exceeding level 2 on the standard scale (currently £500). A person guilty of an offence by virtue of subsection (1)(c) is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

Section 106 Enforcement of 2006 Act in England and Wales and Northern Ireland

572. Section 106 extends to England, Wales and Northern Ireland, with appropriate sentencing provisions, the offences of failing to comply with the requirements of a Scottish banning order or a notice issued by the Scottish Football Banning Orders Authority and the offence of giving false information in connection with an application for an exemption.

573. Subsection (2) increases the maximum custodial penalty available for failing to comply in England, Wales and Northern Ireland with a requirement imposed by a Scottish banning order, or a notice pursuant to one issued by the Scottish Football Banning Orders Authority. That penalty, which is currently imposed under the Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007, is increased from three months to six months (the maximum available in Scotland).

574. Subsections (3) and (4) set out the sentencing provisions for other offences under the Police, Public Order and Criminal Justice (Scotland) Act 2006 ("the 2006 Act") as they apply in England, Wales and Northern Ireland. A person guilty of an offence under section 68(1)(b) of the 2006 Act (failure to comply with requirement imposed by constable) is liable on summary conviction to a fine not exceeding level 2 on the standard scale (currently £500). A person guilty of an offence by virtue of section 68(5)

of the 2006 Act (knowingly or recklessly providing a false statement) is liable on summary conviction to a fine not exceeding level 3 on the standard scale (currently £1,000).

575. Subsection (5) revokes Articles 1(5) and 5 of the Police, Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007 which created offences in England and Wales and Northern Ireland of breaching Scottish banning orders.

Section 107 *Relevant offences for the purposes of Part 2 of 1989 Act*

576. Section 107 adds to the list of relevant offences for England and Wales failing to comply with a requirement made on initially reporting to the police in respect of an English and Welsh imposed order and knowingly making false statements in relation to an application for an exemption to the English and Welsh enforcing authority. The section also includes those offences extended to England and Wales in respect of the Police, Public Order and Criminal Justice (Scotland) Act 2006 by virtue of section 106.

577. The offences listed in Schedule 1 to the 1989 Act are offences in relation to which English and Welsh courts may seek football banning orders (or the extension of existing banning orders) on conviction.

Other

Section 108 *Strategies for crime reduction etc probation authorities*

578. Section 108 provides for every provider of probation services in a particular area, whose arrangements under section 3 of the Offender Management Act 2007 provide for it to be a responsible authority, to be added to the list of "responsible authorities" which comprise the CDRP (Crime and Disorder Reduction Partnerships in England) or CSP (Community Safety Partnership in Wales) in that area. It also extends the remit of CDRPs/CSPs to explicitly include the reduction of re-offending.

579. Subsection (2) adds every provider of probation services in a local government area, whose arrangements under section 3 of the Offender Management Act 2007 provide for it to be a responsible authority, to the list of responsible authorities for that area. The responsible authorities must work together and with other local agencies and organisations to formulate and implement crime and disorder strategies and strategies for combating the misuse of drugs, alcohol and other substances in the area. Prior to this, local probation boards were not responsible authorities but were required to co-operate with those persons and bodies who were. The Offender Management Act 2007 gives the Secretary of State power to make arrangements with providers of probation services from the public (probation trusts), private or third sector or to provide the services himself. Those arrangements will state whether the provider will be a responsible authority or whether they will remain a co-operating body.

580. Subsection (3) amends section 5(1B)(b) of the Crime and Disorder Act 1998 which limits the Secretary of State's power to merge by order two or more partnership areas in England to cases where he considers it would be in the interests of reducing crime and disorder or substance misuse. This subsection extends these criteria to include reducing re-offending.

581. Subsection (4) extends the existing duties of responsible authorities to include a requirement to formulate and implement a strategy to reduce re-offending in the area.

582. Subsection (5) provides that the appropriate national authority for making regulations relating to strategies for reducing re-offending is the Secretary of State and the Welsh Ministers acting jointly.

583. Subsection (6) amends section 17 of the Crime and Disorder Act 1998. Section 17 places a duty on certain defined authorities, such as local authorities, to exercise their

functions with due regard to the likely effect on, and the need to do all that it reasonably can to prevent, crime and disorder and substance misuse. This subsection expands this duty to include reducing re-offending.

Section 109 Application of aspects of UK law to SOCA employees working abroad

584. Section 109(a) inserts into paragraph 20 of Schedule 1 to the Serious Organised Crime and Police Act 2005 new exceptions to the Serious Organised Crime Agency's status as a non-Crown body so that SOCA employees, in certain circumstances, will be deemed to be carrying out the work of the Crown.

585. Section 109(b) sets out the three exceptions to the general rule that SOCA employees are not servants of the Crown by inserting three new sub-paragraphs into paragraph 20 of Schedule 1 to the Serious Organised Crime and Police Act 2005. These are:

- Sub-paragraph (2) SOCA employees who are working outside the United Kingdom will be treated as Crown servants for the purposes of section 31(1) of the Criminal Justice Act 1948 and will therefore be subject to prosecution and punishment for any indictable offence carried out whilst on duty abroad.
- Sub-paragraph (3) SOCA employees who are working outside the United Kingdom will be treated as Crown servants for the purposes of sections 26 to 28 of the Income Tax (Earnings and Pensions) Act 2003 and will consequently be liable to pay UK tax on their earnings.
- Sub-paragraph (4) SOCA employees who are working outside the United Kingdom will be deemed servants of the Crown for the purposes of section 299 of the Income Tax (Earnings and Pensions) Act 2003 and will therefore be entitled to the tax free allowances of a Crown servant intended to facilitate their operating in a foreign jurisdiction.

Section 110 Partial exemption for SCDEA from Firearms Act 1968

586. Section 110 amends section 54 of the Firearms Act 1968 to bring members of the Scottish Crime and Drug Enforcement Agency (SCDEA) within the meaning of "persons in the service of Her Majesty" in that section. Certain provisions of the Firearms Act therefore apply to a member of the SCDEA (subject to modifications) in the same way as they apply to a member of a police force and a member of staff of the Serious Organised Crime Agency.

Section 111 Removal of limitation of warrants under Misuse of Drugs Act 1971

587. Section 111 removes the requirement for a constable, who wishes to obtain a warrant under section 23(3) of the Misuse of Drugs Act 1971 to enter and search premises, to be acting for the police area within which the premises are situated. This confirms that those police officers working for the Scottish Crime and Drugs Enforcement Agency and the Serious Organised Crime Agency can rely on these powers.