



Serious Organised Crime and Police Act 2005

2005 CHAPTER 15

PART 1

THE SERIOUS ORGANISED CRIME AGENCY

CHAPTER 1

SOCA: ESTABLISHMENT AND ACTIVITIES

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.

Status: Point in time view as at 25/07/2006.

Changes to legislation: Serious Organised Crime and Police Act 2005, Cross Heading: Liability for unlawful conduct is up to date with all changes known to be in force on or before 16 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Modifications etc. (not altering text)

- C1** S. 28 excluded by 1974 c. 37, s. 51A(2D)(2E)(f) (as inserted by 2005 c. 15, ss. 158(f), 178(1)(a) (with s. 158(5)-(7)))
- C2** S. 28 excluded by SI 1978/1039 (N.I. 9) art. 2E(d) (as inserted (with effect in accordance with s. 27(4) of the amending Act) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 27(1), 31(1)(f) (with s. 27(5)))

Commencement Information

- I1** S. 28 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), Sch. para. 5 (with art. 4(2)-(7))

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.

Commencement Information

- I2** S. 29 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), Sch. para. 5 (with art. 4(2)-(7))

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—
- (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).

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- (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.

Commencement Information

I3 S. 30 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), Sch. para. 5 (with art. 4(2)-(7))

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
 - (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

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(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.

Commencement Information

I4 S. 31 in force at 1.4.2006 by S.I. 2006/378, art. 4(1), **Sch. para. 5** (with art. 4(2)-(7))

Status:

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