

SERIOUS CRIME ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 4: General and Final Provisions

Section 89: Orders

323. *Subsection (1)* of this section ensures that orders made by the Secretary of State, the Treasury or the Scottish Ministers are made by statutory instrument. *Subsection (2)* enables the powers of the Secretary of State and the Treasury to make orders to be exercised to make different provision for different cases, descriptions of cases, or purposes. An order may also make supplementary, incidental, consequential, transitional, transitory and saving provision. *Subsection (3)* sets out the orders which are subject to the affirmative resolution procedure. *Subsections (5) and (6)* set out the orders which are subject to the negative resolution procedure.

Section 90: Supplementary, incidental or consequential provision

324. *Subsection (1)* of this section confers on the Secretary of State a power by order to make supplementary, incidental or consequential provision. The effect of *subsection (3)* is that the power does not extend to matters that are devolved under the Scotland Act 1998. Where such an order amends or repeals any provision of an Act, it is subject to the affirmative resolution procedure under section 89(3); otherwise it is subject to the negative resolution procedure (see section 89(4) and (5)).

Clause 91 and Schedule 13: Transitional and transitory provisions and savings

325. *Subsection (1)* of this clause gives effect to Schedule 13. *Subsection (2)* provides for the Secretary of State to make, by order, appropriate transitional, transitory or saving provisions in connection with the coming into force of any provision of the Bill other than the provisions specified in clause 94(4). The power in respect of these provisions is exercisable by the Scottish Ministers.
326. *Paragraph 6* of Schedule 13 relates to the new offences created in Part 2 of the Bill. It provides that where a person is charged in respect of the same conduct with the common law offence of incitement or an offence under section 42, but it is not possible to establish whether the conduct took place before or after the commencement of Part 2, he should be treated as if the conduct took place before the commencement of Part 2.

Section 92 and Schedule 14: Repeals and revocations

327. This section gives effect to Schedule 14 which sets out legislation to be repealed or revoked by the Act.

Section 93: Extent

328. This section sets out the extent of the Act. *Subsection (1)* lists the sections of the Act that only apply to England and Wales. *Subsection (2)* lists the sections that apply to

*These notes refer to the Serious Crime Act 2007 (c.27)
which received Royal Assent on 30th October 2007*

England, Wales and Northern Ireland. *Subsection (3)* lists those sections that apply to Scotland only. *Subsection (4)* lists the sections that extend to Northern Ireland only. *Subsection (6)* provides that any amendment, repeal or revocation in Schedule 5, 8, 10 or 14 has the same extent as the enactment amended, repealed or revoked. *Subsection (7)* provides that, subject to the limitations contained in subsections (1) to (6), the Act extends throughout the United Kingdom.

Section 94: Commencement

329. This section provides for commencement. *Subsection (1)* provides that the provisions of the Act will be brought into force by means of commencement orders made by the Secretary of State, with the exception of the sections listed in that subsection and sections 94 and 95, which will come into force on Royal Assent, and the provisions listed in *subsection (4)*, which are to be brought into force by Scottish Ministers. *Subsection (2)* requires the Secretary of State to consult the Scottish Ministers before making an order under subsection (1), in relation to section 75(1), paragraph 2 of Schedule 10 or paragraph 24 of that Schedule. *Subsections (3) and (4)* provide that the provisions listed in subsection (4) will be brought into force by orders made by Scottish Ministers.

Section 95: Short title

330. This section sets out the short title of the Act.