

2006 No. 378 (C. 9)

SERIOUS ORGANISED CRIME AGENCY
CRIMINAL LAW: ENGLAND AND WALES
CRIMINAL LAW: NORTHERN IRELAND
POLICE: ENGLAND AND WALES

The Serious Organised Crime and Police Act 2005
(Commencement No. 5 and Transitional and Transitory
Provisions and Savings) Order 2006

Made - - - -

15th February 2006

The Secretary of State, in exercise of the powers conferred on him by section 178(8), (9) and (10) of the Serious Organised Crime and Police Act 2005(a), makes the following Order:—

1.—(1) This Order may be cited as the Serious Organised Crime and Police Act 2005 (Commencement No. 5 and Transitional and Transitory Provisions and Savings) Order 2006.

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

2.—(1) Subject to paragraphs (2) to (4), section 1(1) and (2) of, and Schedule 1 (except paragraphs 9(4), 12 and 13 and 15(5)) to, the Act shall come into force on 1st March 2006 for the purposes of—

- (a) making appointments which take effect before 1st April 2006 of the chairman and other members of SOCA;
- (b) SOCA exercising the powers in section 6 (annual plans) of the Act;
- (c) SOCA exercising the powers in paragraph 8(1)(b) and (2) of Schedule 1 to the Act in respect of appointments or secondments to take effect on or after 1st April 2006;
- (d) SOCA exercising its power under paragraphs 15(1) and 16(1) of Schedule 1 to the Act in respect of committees and delegation to take effect on or after 1st April 2006;
- (e) making determinations under paragraph 17 of Schedule 1 to the Act;
- (f) SOCA exercising functions under paragraph 21 of Schedule 1 to the Act, section 26A of the Police Reform Act 2002(b) or section 60ZA of the Police (Northern Ireland) Act 1998(c);

(a) 2005 c.15.

(b) 2002 c.30; section 26A was inserted by Schedule 2 to the Serious Organised Crime and Police Act 2005.

(c) 1998 c.32; section 60ZA was inserted by section 55(2) of the Serious Organised Crime and Police Act 2005.

- (g) the Director General of SOCA exercising the powers in section 44(1) of the Act and paragraph 11 of Schedule 1 to the Act (delegation);
- (h) the Director General of SOCA, or any employee of SOCA to whom functions under section 43 of the Act have been delegated, exercising the functions in that section (designation of SOCA staff) to take effect on or after 1st April 2006.

(2) Paragraphs 1(4) and 9(3)(b) of Schedule 1 to the Act (consultation with the Scottish Ministers) do not apply to the first exercise of the powers conferred by paragraphs 1(3) and 9(1)(a) of that Schedule.

(3) During the period prior to 1st April 2006, paragraph 6(1) of Schedule 1 to the Act (remuneration etc. of chairman and ordinary members) shall have effect as if the references to SOCA were references to the Secretary of State.

(4) A person may be appointed as an ex-officio member of SOCA (including the Director General), notwithstanding that his appointment as an employee of SOCA does not take effect until on or after 1st April 2006.

(5) A person appointed as a member of SOCA (including the Director General) may exercise the powers referred to in paragraph (1) prior to his appointment taking effect.

3.—(1) Subject to paragraphs (3) and (4), the following provisions of the Act shall come into force on 1st March 2006.

(2) Those provisions are—

- (a) section 6 (annual plans);
- (b) sections 43 and 44(1) (designation of SOCA staff);
- (c) section 55(1) (complaints and misconduct) so far as it relates to the entry in sub-paragraph (e);
- (d) section 55(2);
- (e) paragraph 8 of Schedule 2 (complaints and misconduct).

(3) Section 6(9) shall not apply in respect of the annual plan for the financial year ending on 31st March 2007.

(4) During the period from 1st to 31st March 2006—

- (a) the references in section 43 to a member of the staff of SOCA include a person who is due to become such a member on or after 1st April 2006; and
- (b) the reference in section 44(1) to an employee of SOCA includes a person who is due to become such an employee on or after 1st April 2006.

4.—(1) Subject to paragraphs (2) to (7), the provisions of the Act which are specified in the Schedule to this Order shall come into force on 1st April 2006.

(2) Nothing in the coming into force of the repeals of—

- (a) sections 37, 38, 39, 81, 82 and 83 of the Police Act 1997(a), or
- (b) the provisions concerning NCIS or NCS in the Police Reform Act 2002(b),

by Schedules 2 and 17 to the Act shall affect what could otherwise be done under those provisions in respect of any act or omission that occurred, or is alleged to have occurred, before 1st April 2006; and, as respects what could otherwise be done under those provisions, any reference to NCIS or NCS is to have effect as a reference to SOCA (with such further amendment as may be necessary).

(3) An authorisation to interfere with property (etc.) under section 93 of the Police Act 1997(c) which—

(a) 1997 c.50.

(b) 2002 c.30.

(c) There are various amendments to section 93 which are not directly relevant to article 4(3) of this Order.

- (a) had been given by or on behalf of the Director General of NCIS or NCS, and
- (b) would be in force on 1st April 2006 but for NCIS or, as the case may be, NCS ceasing to exist,

shall be treated as being given by the Director General of SOCA on the coming into force of paragraph 97 of Schedule 4 to the Act (except that the relevant area of an authorisation originally given by or on behalf of the Director General of NCS is England and Wales only).

(4) An interception warrant issued under Chapter 1 of Part 1 of the Regulation of Investigatory Powers Act 2000(a) which—

- (a) was addressed to the Director General of NCIS (being a person falling within section 6(2) of that Act), and
- (b) would be in force on 1st April 2006 but for NCIS ceasing to exist,

shall be treated as being addressed to the Director General of SOCA on the coming into force of paragraph 132 of Schedule 4 to the Act.

(5) An authorisation of intrusive surveillance under section 32 of the Regulation of Investigatory Powers Act 2000 which—

- (a) was granted by the Director General of NCIS or NCS or other senior authorising officer by reference to NCIS or NCS, and
- (b) would be in force on 1st April 2006 but for NCIS or, as the case may be, NCS ceasing to exist,

shall be treated as granted by the Director General of SOCA or some other person who is a senior authorising officer by reference to SOCA on the coming into force of paragraph 136 of Schedule 4 to the Act (except that the area of operation of an authorisation originally granted by a person who is a senior authorising officer by reference to NCS is England and Wales only).

(6) An authorisation of intrusive surveillance under section 32 of the Regulation of Investigatory Powers Act 2000 which—

- (a) was granted by a person entitled to act by virtue of section 34(4)(j) or (k) of that Act (as enacted), and
- (b) would be in force on 1st April 2006 but for NCIS or, as the case may be, NCS ceasing to exist,

shall be treated as granted by a person entitled to act by virtue of section 34(4)(j), as substituted by paragraph 138(4) of Schedule 4 to the Act, on the coming into force of that provision (except that the area of operation of an authorisation originally granted by a person entitled to act by virtue of section 34(4)(k) is England and Wales only).

(7) Nothing in the coming into force of the repeals of sections 21A and 66A of the Police Act 1997(b) by Schedule 17 to the Act shall affect the duties relating to the statements of accounts in respect of the financial year ending on 31st March 2006, but those sections shall have effect so as to require the statements to be prepared by the Secretary of State and sent by him to the Comptroller and Auditor General.

(8) In this article—

“NCIS” means the National Criminal Intelligence Service, and

“NCS” means the National Crime Squad.

5.—(1) Chapter 2 (offenders assisting investigations and prosecutions) (sections 71 to 75) of Part 2 of the Act shall come into force on 1st April 2006.

(a) 2000 c.23.

(b) Sections 21A and 66A were inserted by sections 112 and 115 of the Criminal Justice and Police Act 2001 (c.15), respectively.

(2) At any time prior to the coming into force of paragraph 16(3)(b) of Schedule 9 to the Constitutional Reform Act 2005(a) (amendment of section 33(3) of the Criminal Appeal Act 1968(b) to replace references to the House of Lords with references to the Supreme Court), section 74(9) of the Act (which refers to section 33(3) of the 1968 Act) has effect as if the reference to the Supreme Court were a reference to the House of Lords.

6. Except so far as they extend to Scotland, sections 79 to 81 of the Act (financial reporting orders) shall come into force on 1st April 2006.

7. The following provisions of the 2005 Act shall come into force on 6th April 2006 in England and Wales only—

- (a) section 163(1) and (2) (criminal record certificates) save to the extent it relates to—
 - (i) section 113B(10)(a) to (i) and (m) of the Police Act 1997;
 - (ii) section 113C(3)(b) to (d) of the Police Act 1997;
 - (iii) section 113D(3)(b) of the Police Act 1997; and
 - (iv) section 113E(1) and (2) of the Police Act 1997.
- (b) section 163(3) (criminal record certificates) in so far as it relates to the entries in Schedule 14 in paragraph (c) below;
- (c) paragraphs 1 to 4, 6(b) and (c), 7, 8, 10, 11, 12 and 14 of Schedule 14 (amendments of Part 5 of the Police Act 1997);
- (d) section 165 (certain references to police forces) to the extent not already in force;
- (e) section 174(2) (minor and consequential amendments, repeals and revocations) in so far as it relates to the entries in Schedule 17 in paragraph (f) below; and
- (f) in Part 2 of Schedule 17 (repeals and revocations), the entries relating to—
 - (i) sections 113 and 115 of the Police Act 1997;
 - (ii) the Protection of Children Act 1999(c);
 - (iii) the Care Standards Act 2000(d);
 - (iv) the Health and Social Care Act 2001(e);
 - (v) the National Health Service Reform and Health Care Professions Act 2002(f);
 - (vi) the Education Act 2002(g);
 - (vii) the Adoption and Children Act 2002(h);
 - (viii) paragraph 116 of Schedule 6 to the Licensing Act 2003(i); and
 - (ix) Schedule 35 of the Criminal Justice Act 2003(j).

Home Office
15th February 2006

Paul Goggins
Parliamentary Under Secretary of State

(a) 2005 c.4.
(b) 1968 c.19.
(c) 1999 c. 14.
(d) 2000 c. 14.
(e) 2001 c. 15.
(f) 2002 c. 17.
(g) 2002 c. 32.
(h) 2002 c. 38.
(i) 2003 c. 17.
(j) 2003 c. 44.

SCHEDULE

Article 4(1)

PROVISIONS OF THE SERIOUS ORGANISED CRIME AND POLICE ACT 2005 WHICH COME INTO FORCE ON 1ST APRIL 2006

1. Section 1(1) and (2), together with Schedule 1 (so far as not already in force).
2. Sections 2 to 5 and 7.
3. Sections 11 to 16.
4. Sections 19 to 26.
5. Sections 28 to 38.
6. Sections 40, 41 and 45 to 51.
7. Section 53.
8. Section 55, together with Schedule 2 (so far as not already in force).
9. Sections 56 and 57.
10. Section 59, together with Schedule 4 (except paragraphs 42, 170, 171 and 172).
11. Sections 76 and 78.
12. Section 174(2) so far as it relates to the entries in Schedule 17 in paragraph 13 below.
13. In Part 2 of Schedule 17 (repeals), the entries relating to—
 - (a) the Army Act 1955(a);
 - (b) the Air Force Act 1955(b);
 - (c) the Naval Discipline Act 1957(c);
 - (d) the Public Records Act 1958(d);
 - (e) the Trustee Investments Act 1961(e);
 - (f) the Parliamentary Commissioner Act 1967(f);
 - (g) the Police (Scotland) Act 1967(g);
 - (h) the Leasehold Reform Act 1967(h);
 - (i) the Employment Agencies Act 1973(i);
 - (j) the House of Commons Disqualification Act 1975(j);
 - (k) the Northern Ireland Assembly Disqualification Act 1975(k);
 - (l) the Sex Discrimination Act 1975(l);
 - (m) the Police Pensions Act 1976(m);

(a) 1955 3 & 4 Eliz. 2 c. 18.

(b) 1955 3 & 4 Eliz. 2 c. 19.

(c) 1957 c.53.

(d) 1958 c.51.

(e) 1961 c.62.

(f) 1967 c.13.

(g) 1967 c.77.

(h) 1967 c.88.

(i) 1973 c.35.

(j) 1975 c.24.

(k) 1975 c.25.

(l) 1975 c.65.

(m) 1976 c.35.

- (n) the Race Relations Act 1976(a);
- (o) the Health and Safety at Work (Northern Ireland) Order 1978(b);
- (p) the Stock Transfer Act 1982(c);
- (q) sections 5(1A) and 55(14A) of the Police and Criminal Evidence Act 1984(d);
- (r) the Prosecution of Offences Act 1985(e);
- (s) the Ministry of Defence Police Act 1987(f);
- (t) sections 124(2) and 144(2)(ba) of the Road Traffic Act 1988(g);
- (u) section 22(4)(b) of the Aviation and Maritime Security Act 1990(h);
- (v) the Tribunal and Inquiries Act 1992(i);
- (w) the Criminal Appeal Act 1995(j);
- (x) the Disability Discrimination Act 1995(k);
- (y) the Police Act 1996(l);
- (z) the Employment Rights Act 1996(m);
- (aa) the Juries (Northern Ireland) Order 1996(n);
- (bb) the Employment Rights (Northern Ireland) Order 1996(o);
- (cc) the Police (Health and Safety) Act 1997(p);
- (dd) the Police Act 1997(q), except those in respect of sections 113, 115 and 125;
- (ee) the Police (Health and Safety) (Northern Ireland) Order 1997(r);
- (ff) the Police (Northern Ireland) Act 1998(s);
- (gg) section 113 of the Crime and Disorder Act 1998(t);
- (hh) the Regulation of Investigatory Powers Act 2000(u), except those in respect of Schedule 1;
- (ii) section 2 of the Football (Disorder) Act 2000(v);
- (jj) the Police (Northern Ireland) Act 2000(w);
- (kk) the Freedom of Information Act 2000(x);
- (ll) the Criminal Justice and Police Act 2001(y), except sections 42(8) and 47(3);
- (mm) the International Development Act 2002(z);

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- (a) 1976 c.74.
 - (b) S.I. 1978/1039 (N.I. 9).
 - (c) 1982 c.41.
 - (d) 1984 c.60.
 - (e) 1985 c.23.
 - (f) 1987 c.4.
 - (g) 1988 c.52.
 - (h) 1990 c.31.
 - (i) 1992 c.53.
 - (j) 1995 c.35.
 - (k) 1995 c.50.
 - (l) 1996 c.16.
 - (m) 1996 c.18.
 - (n) S.I. 1996/1141 (N.I.6).
 - (o) S.I. 1996/1919 (N.I.16).
 - (p) 1997 c.42.
 - (q) 1997 c.50.
 - (r) S.I. 1997/1774 (N.I.6).
 - (s) 1998 c.32.
 - (t) 1998 c.37.
 - (u) 2000 c.23.
 - (v) 2000 c.25.
 - (w) 2000 c.32.
 - (x) 2000 c.36.
 - (y) 2001 c.16.
 - (z) 2002 c.1.

- (nn) section 313(1) of, and paragraphs 30(3) and (4) and 34(3) and (4) of Schedule 11 to the Proceeds of Crime Act 2002(a);
- (oo) sections 8, 9(3)(e), 10, 15(6), 25, 38, 42, 45, 47(1), sections 82(1)(c), (2) and (3)(d), 85 to 91, 93, 102, 103 and 108(7)(e) of, and Schedule 1, paragraph 36 of Schedule 4 and paragraphs 16, 17, 19(2) and (3), 21 and 22(2) of Schedule 7 to the Police Reform Act 2002(b);
- (pp) section 85 of the Crime (International Co-operation) Act 2003(c); and
- (qq) the Energy Act 2004(d).

EXPLANATORY NOTE

(This note is not part of the Order)

The provisions of the Serious Organised Crime and Police Act 2005 which are listed in article 2(1) are brought into force on 1st March 2006 for the purposes set out in that provision and subject to transitional provisions. The provisions listed in article 3 are also brought into force on that date, subject to transitional provisions. The provisions listed in the Schedule to this Order and article 5 are brought into force on 1st April 2006, subject to the transitional provisions in that article and article 4. The provisions referred to in article 6 also come into force on 1st April 2006 except so far as they extend to Scotland. The provisions listed in article 7 are brought into force on 6th April 2006 in England and Wales only.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Serious Organised Crime and Police Act 2005 have been, or are to be, brought into force by commencement orders made before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1(3)	1st January 2006	2005/3495
Sections 8 to 10	1st January 2006	2005/3495
Sections 17 and 18	1 st January 2006	2005/3495
Section 27	1 st January 2006	2005/3495
Section 39	1 st January 2006	2005/3495
Section 42	1 st January 2006	2005/3495
Section 44(2)	1 st January 2006	2005/3495
Section 52	1 st January 2006	2005/3495
Section 54	1 st January 2006	2005/3495
Section 58	1 st January 2006	2005/3495
Section 59 (partially)	1 st January 2006	2005/3495
Sections 60 to 70 (as to England and Wales)	1 st April 2006	2005/1521
Sections 82 to 94 (as to England and Wales and Northern Ireland)	1 st April 2006	2005/1521
Section 95	1 st July 2005	2005/1521
Section 96 (Scotland)	1 st July 2005	SSI 2005/358
Section 96 (England, Wales and Northern Ireland)	1 st July 2005	2005/1521
Section 97	1 st July 2005	2005/1521

- (a) 2002 c.29.
 (b) 2002 c.30.
 (c) 2003 c.32.
 (d) 2004 c.30.

Section 98	1 st January 2006	2005/3136
Sections 99 to 101	1 st July 2005	2005/1521
Sections 103 to 108	1 st July 2005	2005/1521
Section 109 (partially)	1 st August 2005	2005/2026
Section 109 (to the extent not already in force)	1 st January 2006	2005/3136
Sections 110 and 111	1 st January 2006	2005/3495
Section 112	1 st July 2005	2005/1521
Sections 113 and 114(1) to (8)	1 st January 2006	2005/3495
Section 115	1 st July 2005	2005/1521
Section 116(1) to (3) and (5)	1 st August 2005	2005/2026
Section 116 (to the extent not already in force)	1 st January 2006	2005/3495
Section 118	1 st January 2006	2005/3495
Section 119	1 st July 2005	2005/1521
Section 122(1) to (6)	1 st August 2005	2005/2026
Section 122(7) (partially)	1 st July 2005	2005/1521
Section 122(7) (partially)	1 st January 2006	2005/3495
Sections 123 to 131	1 st July 2005	2005/1521
Section 132 (partially)	1 st July 2005	2005/1521
Section 132 (to the extent not already in force)	1 st August 2005	2005.1521
Section 133 (partially)	1 st July 2005	2005/1521
Section 133 (to the extent not already in force)	1 st August 2005	2005/1521
Section 134 (partially)	1 st July 2005	2005/1521
Section 134 (to the extent not already in force)	1 st August 2005	2005/1521
Sections 135 to 137	1 st August 2005	2005/1521
Sections 138 to 143	1 st July 2005	2005/1521
Sections 145 to 155	1 st July 2005	2005/1521
Section 156	1 st July 2005	SSI 2005/358
Section 157	1 st April 2006	2005/1521
Sections 159 and 160	1 st July 2005	2005/1521
Section 161 (partially)	1 st July 2005	2005/1521
Section 161 (to the extent not already in force)	1 st August 2005	2005/2026
Section 162 (partially)	1 st July 2005	2005/1521
Section 164 (as to Scotland)	1 st July 2005	SSI 2005/358
Section 164 (to the extent not already in force)	1 st July 2005	2005/1521
Section 165 (partially) (as to England, Wales and Northern Ireland)	1 st July 2005	2005/1521
Section 166 (partially) (as to Scotland)	1 st July 2005	SSI 2005/358
Section 166 (partially) (as to England, Wales and Northern Ireland)	1 st July 2005	2005/1521
Sections 168 and 169	1 st July 2005	2005/1521
Section 174(1)	1 st January 2006	2005/3495
Section 174(2) (partially)	1 st July 2005	2005/1521
Section 174(2) (partially)	1 st January 2006	2005/3495
Section 175	1 st July 2005	2005/1521
Schedule 3	1 st January 2006	2005/3495
Schedule 4 (partially)	1 st January 2006	2005/3495
Schedule 5 (as to England, Wales and Northern Ireland)	1 st April 2006	2005/1521
Schedule 6 (partially)	1 st August 2005	2005/2026
Schedule 6 (to the extent not already in force)	1 st January 2006	2005/3136
Schedule 7	1 st January 2006	2005/3495
Schedule 8 (partially)	1 st July 2005	2005/1521
Schedule 8 (to the extent not already in force)	1 st January 2006	2005/3495

Schedule 9 (partially)	1 st July 2005	2005/1521
Schedules 11 and 12	1 st July 2005	2005/1521
Schedule 16	1 st January 2006	2005/3495
Schedule 17 (partially)	1 st July 2005	2005/1521
Schedule 17 (partially)	1 st January 2006	2005/3495

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