
STATUTORY INSTRUMENTS

2006 No. 378

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

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(1) or section 60ZA of the Police (Northern Ireland) Act 1998(2);
- (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.

(1) 2002 c. 30; section 26A was inserted by Schedule 2 to the Serious Organised Crime and Police Act 2005.

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

(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 subparagraph (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(3), or
- (b) the provisions concerning NCIS or NCS in the Police Reform Act 2002(4),

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(5) which—

- (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(6) which—

(3) 1997 c. 50.

(4) 2002 c. 30.

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

(6) 2000 c. 23.

(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(7) 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.

(2) At any time prior to the coming into force of paragraph 16(3)(b) of Schedule 9 to the Constitutional Reform Act 2005(8) (amendment of section 33(3) of the Criminal Appeal Act 1968(9) 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) Sections 21A and 66A were inserted by sections 112 and 115 of the Criminal Justice and Police Act 2001 (c. 15), respectively.

(8) 2005 c. 4.

(9) 1968 c. 19.

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⁽¹⁰⁾;
 - (iii) the Care Standards Act 2000⁽¹¹⁾;
 - (iv) the Health and Social Care Act 2001⁽¹²⁾;
 - (v) the National Health Service Reform and Health Care Professions Act 2002⁽¹³⁾;
 - (vi) the Education Act 2002⁽¹⁴⁾;
 - (vii) the Adoption and Children Act 2002⁽¹⁵⁾;
 - (viii) paragraph 116 of Schedule 6 to the Licensing Act 2003⁽¹⁶⁾; and
 - (ix) Schedule 35 of the Criminal Justice Act 2003⁽¹⁷⁾.

Home Office
15th February 2006

Paul Goggins
Parliamentary Under Secretary of State

(10) 1999 c. 14.
(11) 2000 c. 14.
(12) 2001 c. 15.
(13) 2002 c. 17.
(14) 2002 c. 32.
(15) 2002 c. 38.
(16) 2003 c. 17.
(17) 2003 c. 44.