



# Serious Organised Crime and Police Act 2005

## 2005 CHAPTER 15

### PART 6

#### FINAL PROVISIONS

#### 172 Orders and regulations

- (1) Any power of the Secretary of State to make an order or regulations under this Act, and any power of the Scottish Ministers to make an order under this Act, is exercisable by statutory instrument.
- (2) Any such power—
  - (a) may be exercised so as to make different provision for different cases or descriptions of case or different purposes or areas, and
  - (b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Secretary of State considers appropriate (or, in the case of an order made by the Scottish Ministers, as they consider appropriate).
- (3) Subject to subsections (4) and (5), orders or regulations made by the Secretary of State under this Act are to be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subsection (3) does not apply to any order under section <sup>F1</sup>... 161(4) or 178.
- (5) Subsection (3) also does not apply to—
  - <sup>F2</sup>(a) .....
  - <sup>F2</sup>(b) .....
  - (c) any order under section 61(4);
  - (d) any order under section 76(4);
  - (e) [<sup>F3</sup>any order under section 82(6);]
  - (f) any order under section 87(5);

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- (g) any order under section 89(5);
  - (h) any order under section 96(1);
  - (i) any order under section 97(1) [<sup>F4</sup> or (1ZB)];
  - (j) any order under section 146(6), 148(4) or 149;
  - (k) any order under section 173 which amends or repeals any provision of an Act; and no such order may be made by the Secretary of State (whether alone or with other provisions) unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, each House of Parliament.
- (6) Subject to subsections (7) and (8), orders made by the Scottish Ministers under this Act are to be subject to annulment in pursuance of a resolution of the Scottish Parliament.
- (7) Subsection (6) does not apply to any order under section 178.
- (8) Subsection (6) also does not apply to—
- <sup>F5</sup>(a) .....
  - (b) any order under section 61(5);
  - (c) any order under section 77(4);
  - (d) any order under section 87(6);
  - (e) any order under section 89(6);
  - (f) any order under section 96(1);
  - (g) any order under section 173 which amends or repeals any provision of an Act; and no such order may be made by the Scottish Ministers (whether alone or with other provisions) unless a draft of the statutory instrument containing the order has been laid before, and approved by a resolution of, the Scottish Parliament.
- <sup>F6</sup>(9) Any power of the Department of Justice in Northern Ireland to make an order under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
- (10) Any such power—
- (a) may be exercised so as to make different provision for different cases or descriptions of case or different purposes or areas, and
  - (b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Department of Justice considers appropriate.
- (11) Subject to subsections (12) and (13), orders made by the Department of Justice under this Act are to be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).
- (12) Subsection (11) does not apply to any order under section 178.
- (13) Subsection (11) also does not apply to—
- <sup>F7</sup>(a) .....
  - (b) any order under section 87(6A);
  - (c) any order under section 89(6A);
  - (d) any order under section 97(1A) [<sup>F8</sup> or (2A)];
  - (e) any order under section 173 which amends or repeals any provision of an Act, and no such order may be made by the Department of Justice (whether alone or with other provisions) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

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- (14) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (13) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.]

#### Textual Amendments

- F1** Word in s. 172(4) omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 162(2)**; S.I. 2013/1682, art. 3(v)
- F2** S. 172(5)(a)(b) omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 162(3)**; S.I. 2013/1682, art. 3(v)
- F3** S. 172(5)(e) repealed (E.W.S.) (13.5.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 178(5)**, 185(1) (with s. 178(7)); S.I. 2014/949, art. 3, Sch. para. 18
- F4** Words in s. 172(5)(i) inserted (E.W.N.I.) (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 40(5)(a)**, 88(1); S.I. 2015/820, reg. 3(m)
- F5** S. 172(8)(a) omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 162(4)**; S.I. 2013/1682, art. 3(v)
- F6** S. 172(9)-(14) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 15 para. 24** (with arts. 28-31)
- F7** S. 172(13)(a) omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 162(5)**; S.I. 2013/1682, art. 3(v)
- F8** Words in s. 172(13)(d) inserted (E.W.N.I.) (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), **ss. 40(5)(b)**, 88(1); S.I. 2015/820, reg. 3(m)

### 173 Supplementary, incidental, consequential etc. provision

- (1) The Secretary of State may by order make—
- such supplementary, incidental or consequential provision, or
  - such transitory, transitional or saving provision,
- as he considers appropriate for the general purposes, or any particular purpose, of this Act, or in consequence of, or for giving full effect to, any provision made by this Act.
- (2) An order under subsection (1) may amend, repeal, revoke or otherwise modify any enactment (including this Act).
- (3) The power to make an order under subsection (1) includes power to repeal or revoke an enactment which is spent.
- (4) Before exercising the power conferred by subsection (1) in relation to an enactment which extends to Scotland, the Secretary of State must consult the Scottish Ministers.
- (5) The power conferred by subsection (1) is exercisable by the Scottish Ministers (rather than by the Secretary of State) where the provision to be made is—
- for the general purposes of this Act and would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament; or
  - for the purposes of, in consequence of, or for giving full effect to—
    - section 77, 156, 171 or Schedule 15,
    - so far as extending to Scotland, any provision mentioned in section 178(4),
    - so far as relating as mentioned in section 178(5), section 174(2) and Schedule 17,

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(iv) so far as having effect as mentioned in section 178(6)(a), section 96.

(6) But an order under—

- (a) paragraph (b)(i) of subsection (5) in relation to section 171 or Schedule 15, or
- (b) paragraph (b)(iv) of that subsection,

may be made only after consulting the Secretary of State.

[<sup>F9</sup>(6A) Before exercising the power conferred by subsection (1) in relation to an enactment which extends to Northern Ireland, the Secretary of State must consult the Department of Justice in Northern Ireland.

(6B) The power conferred by subsection (1) is exercisable by the Department of Justice (rather than by the Secretary of State) where the provision to be made is for the general purposes of this Act and would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of the Assembly.

(6C) The power conferred by subsection (1) is also exercisable by the Department of Justice (rather than by the Secretary of State) where the provision to be made—

- (a) is for the purposes of, in consequence of, or for giving full effect to—
  - (i) section 78, or
  - (ii) so far as extending to Northern Ireland, any provision mentioned in section 178(7A), and
- (b) would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of the Assembly.

(6D) The Department of Justice shall not, without the consent of the Secretary of State, make an order by virtue of subsection (6B) or (6C) in relation to which, were the order a Bill of the Northern Ireland Assembly, the Secretary of State's consent would be required under section 8 of the Northern Ireland Act 1998.]

(7) Nothing in this Act affects the generality of the power conferred by this section.

#### Textual Amendments

- F9** S. 173(6A)-(6D) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 15 para. 25** (with arts. 28-31)

## 174 Minor and consequential amendments, repeals and revocations

- (1) Schedule 16 makes provision for remaining minor and consequential amendments (search warrants).
- (2) Schedule 17 makes provision for the repeal and revocation of enactments (including enactments which are spent).

#### Commencement Information

- I1** S. 174(2) in force for certain purposes at Royal Assent, see s. 178(1)
- I2** S. 174(1) in force at 1.1.2006 by [S.I. 2005/3495](#), **art. 2(1)(s)**
- I3** S. 174(2) in force at 1.7.2005 for specified purposes by [S.I. 2005/1521](#), **art. 3(1)(cc)**
- I4** S. 174(2) in force at 1.1.2006 for specified purposes by [S.I. 2005/3495](#), **art. 2(1)(t)**
- I5** S. 174(2) in force at 1.4.2006 for S. by [S.S.I. 2006/166](#), **art. 2(1)(d)**

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- 16** S. 174(2) in force at 1.4.2006 for specified purposes by S.I. 2006/378, art. 4(1), **Sch. para. 12** (with art. 4(2)-(7))
- 17** S. 174(2) in force at 6.4.2006 for specified purposes for E.W. by S.I. 2006/378, **art. 7(e)**
- 18** S. 174(2) in force at 8.5.2006 for specified purposes by S.I. 2006/1085, **art. 2(b)**
- 19** S. 174(2) in force at 1.4.2008 for specified purposes for N.I. by S.I. 2008/697, **art. 2(d)**

## **175 Penalties for offences: transitional modification for England and Wales**

- (1) This section contains transitional modifications in respect of penalties for certain offences committed in England or Wales.
- (2) In relation to an offence committed before the commencement of section 154(1) of the Criminal Justice Act 2003 (c. 44) (general limit on magistrates' court's power to impose imprisonment), the references in the following provisions to periods of imprisonment of 12 months are to be read as references to periods of imprisonment of 6 months—
- section 67(5)(b);
  - section 86(2)(b);
  - section 88(3)(b);
  - section 147(1)(a).
- (3) In relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for summary offences), the references in the following provisions of this Act to periods of imprisonment of 51 weeks are to be read as references to the periods of imprisonment specified in respect of those provisions as follows—

<i>Section</i>	<i>Modified period of imprisonment</i>
<b>F10</b>	<b>F10</b>
...	...
<b>F10</b>	<b>F10</b>
...	...
<b>F11</b>	<b>F11</b>
...	...
<b>F11</b>	<b>F11</b>
...	...
section 67(4)(a)	6 months
<b>F12</b>	<b>F12</b>
...	...
section 112(5)	4 months
section 128(5)(a)	6 months
section 136(1)	3 months
section 136(3)(a)	3 months
[ <sup>F13</sup> section 136(4)	3 months
section 136(4A)]	3 months]

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#### Textual Amendments

- F10** Words in s. 175(3) omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 163\(a\)](#); S.I. 2013/1682, art. 3(v)
- F11** Words in s. 175(3) omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 163\(b\)](#); S.I. 2013/1682, art. 3(v)
- F12** Words in s. 175(3) omitted (3.5.2015) by virtue of [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), [Sch. 4 para. 72](#); S.I. 2015/820, reg. 2(r)(xii)
- F13** Words in s. 175(3) substituted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 6 para. 64\(3\)](#) (with [Sch. 13 para. 5](#)); S.I. 2008/2504, art. 2(a)

#### Commencement Information

- I10** S. 175 in force at 1.7.2005 by [S.I. 2005/1521](#), [art. 3\(1\)\(dd\)](#)

### 176 Expenses

- (1) There shall be paid out of money provided by Parliament—
- (a) any expenditure incurred by the Secretary of State by virtue of this Act;
  - (b) any increase attributable to this Act in the sums payable out of money so provided under any other enactment.
- (2) Subsection (1)(a) does not apply to any expenditure of the Secretary of State under section 155.

### 177 Interpretation

- <sup>F14</sup>(1) . . . . .
- (2) In this Act “enactment” includes—
- (a) an enactment contained in or made under an Act of the Scottish Parliament or Northern Ireland legislation, and
  - (b) an enactment comprised in subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).
- (3) In this Act references to enactments include enactments passed or made after the passing of this Act.
- (4) Subsections (2) and (3) apply except where the context otherwise requires.

#### Textual Amendments

- F14** [S. 177\(1\)](#) omitted (7.10.2013) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 164](#); S.I. 2013/1682, art. 3(v)

### 178 Commencement

- (1) The following provisions come into force on the day on which this Act is passed—
- (a) sections 117(7) (and section 117(6) so far as relates to it), 158, 167, 172, 173, 176, 177, this section and section 179, and
  - (b) Part 1 of Schedule 17 and (so far as it relates to that Part of that Schedule) section 174(2).

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- (2) Section 163(4) comes into force at the end of the period of three months beginning with the day on which this Act is passed.
- (3) Sections 77 and 156 come into force on such day as the Scottish Ministers may by order appoint.
- (4) So far as they extend to Scotland—
  - (a) Chapter 1 of Part 2,
  - (b) sections 79 to 81,
  - (c) Chapter 4 of Part 2 (including Schedule 5),
  - (d) sections 163 to 166, and
  - (e) Schedule 14,come into force on such day as the Scottish Ministers may by order appoint.
- (5) So far as they relate—
  - (a) to sections 113 and 115 of the Police Act 1997 (c. 50) as those sections apply to Scotland;
  - (b) to section 125 of that Act, to the Regulation of Care (Scotland) Act 2001 (asp 8), to the Protection of Children (Scotland) Act 2003 (asp 5) and to the Criminal Justice (Scotland) Act 2003 (asp 7),section 174(2) and Schedule 17 come into force on such day as the Scottish Ministers may by order appoint.
- (6) The following provisions come into force on such day as the Scottish Ministers may by order appoint after consulting the Secretary of State—
  - (a) section 96 so far as it has effect for the purpose of conferring functions on the Scottish Ministers, and
  - (b) section 171 and Schedule 15.
- (7) The following provisions come into force on such day as the Secretary of State may by order appoint after consulting the Scottish Ministers—
  - (a) sections 95, 98(2), 99(2) and (3), 100, 101 and 107, and
  - (b) paragraphs 1 and 6 of Schedule 6, and section 109 so far as relating to those paragraphs.
- [<sup>F15</sup>(7A) The following provisions, so far as they extend to Northern Ireland, come into force on such day as the Department of Justice in Northern Ireland may by order appoint—
  - (a) section 144 so far as it relates to Part 2 of Schedule 10,
  - (b) section 163(1),
  - (c) section 163(3) so far as it relates to paragraphs 4 and 10 of Schedule 14,
  - (d) Part 2 of Schedule 10, and
  - (e) paragraphs 4 and 10 of Schedule 14.]
  - (8) Otherwise, this Act comes into force on such day as the Secretary of State may by order appoint.
  - (9) Different days may be appointed for different purposes or different areas.
  - (10) The Secretary of State may by order make such provision as he considers appropriate for transitory, transitional or saving purposes in connection with the coming into force of any provision of this Act.

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(11) The power conferred by subsection (10) is exercisable by the Scottish Ministers (rather than the Secretary of State) in connection with any provision of this Act which comes into force by order made by the Scottish Ministers.

[<sup>F16</sup>(12) The power conferred by subsection (10) is exercisable by the Department of Justice in Northern Ireland (rather than the Secretary of State) in connection with any provision of this Act which comes into force by order made by the Department of Justice.]

#### Textual Amendments

**F15** S. 178(7A) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 15 para. 26(2)** (with arts. 28-31)

**F16** S. 178(12) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 15 para. 26(3)** (with arts. 28-31)

### 179 Short title and extent

- (1) This Act may be cited as the Serious Organised Crime and Police Act 2005.
- (2) Subject to the following provisions, this Act extends to England and Wales only.
- (3) The following extend also to Scotland—
  - (a) sections 1 to 54 [<sup>F17</sup>and 56 to] 58,
  - (b) sections 60 to 68, 70, [<sup>F18</sup>82] to 96, 98 to 106, 107(1) and (4) and 108,
  - (c) section 123,
  - (d) section 131,
  - (e) sections 150 to 153, 156(6), 158, 163(1) and (2), 164, 165(1) and (2), 166(2), 167 and 171(1),
  - (f) sections 172, 173, 176 to 178 and this section,
  - (g) Schedules 1, 3, 5 and 15.
- (4) The following extend to Scotland only—
  - (a) section <sup>F19</sup>... 107(3),
  - (b) sections 129 and 130(3),
  - (c) sections 156(1) to (5), 166(1) and 171(2).
- (5) The following extend also to Northern Ireland—
  - (a) sections 1 to 54 [<sup>F20</sup>and 56 to] 58,
  - (b) sections [<sup>F21</sup>60] to 75, [<sup>F22</sup>82] to 106, 107(1), (2) and (4) and 108,
  - (c) section 123(1),
  - (d) sections 128, 131 and 144,
  - (e) sections 150(1), 151, 163(1) and (2), 164, 165, 166(2) and 167,
  - (f) sections 172, 173, 176 to 178 and this section,
  - (g) Schedules 1, 3 and 5.
- (6) The following extend to Northern Ireland only—
  - (a) section 55(2),
  - <sup>F23</sup>(b) .....
  - (c) section 130(2),
  - (d) Part 2 of Schedule 10.



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- (7) The following have the same extent as the enactments to which they relate—
- (a) section 55(1) and Schedule 2,
  - (b) section 59 and Schedule 4,
  - (c) section 109 and Schedule 6,
  - (d) section 154,
  - (e) section 159 and Schedule 11,
  - (f) section 160 and Schedule 12,
  - (g) section 161(5) (so far as it has effect for the purposes of Part 2 of Schedule 13) and that Part of that Schedule,
  - (h) section 163(3) and Schedule 14,
  - (i) sections 169(5) and 170,
  - (j) (subject to subsection (8)) section 174(2) and Schedule 17.
- (8) So far as Schedule 17 contains a repeal or revocation of an enactment which corresponds to the repeal or revocation of that enactment by another provision of this Act, that Schedule and section 174(2) have the same extent as that other provision.
- (9) So far as they relate to any provision of this Act which extends to any place outside the United Kingdom, sections 172, 173, 177, 178 and this section also extend there.
- (10) Subsection (2) does not apply to the following—
- (a) section 168, or
  - (b) any provision of Schedule 7 which makes provision as to its extent.

#### Textual Amendments

- F17** Words in s. 179(3)(a) substituted (E.W.S.) (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(Amendment\) Order 2005 \(S.I. 2005/3496\)](#), arts. 1(1), **3**
- F18** Word in s. 179(3)(b) substituted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), **Sch. 4 para. 73(2)**; S.I. 2016/148, reg. 3(g)
- F19** Words in s. 179(4)(a) omitted (1.3.2016) by virtue of [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), **Sch. 4 para. 73(3)**; S.I. 2016/148, reg. 3(g)
- F20** Words in s. 179(5)(a) substituted (E.W.N.I.) (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(Amendment\) Order 2005 \(S.I. 2005/3496\)](#), arts. 1(1), **4**
- F21** Word in s. 179(5)(b) substituted (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), s. 31(3), **Sch. 3 para. 9**; S.I. 2006/2966, art. 3
- F22** Word in s. 179(5)(b) substituted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), **Sch. 4 para. 73(4)**; S.I. 2016/148, reg. 3(g)
- F23** S. 179(6)(b) omitted (3.5.2015) by virtue of [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), **Sch. 4 para. 73(5)**; S.I. 2015/820, reg. 2(r)(xiii)

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