EXPLANATORY MEMORANDUM TO

THE PROCEEDS OF CRIME ACT 2002 (RECOVERY OF CASH IN SUMMARY PROCEEDINGS: MINIMUM AMOUNT) ORDER 2006

2006 No. 1699

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Order amends the Proceeds of Crime Act 2002 (Recovery of Cash in Summary Proceedings: Minimum Amount) Order 2004 No. 420 by reducing the cash seizure threshold from £5,000 to £1,000.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None

4. Legislative Background

4.1 Chapter 3 of Part 5 of the Proceeds of Crime Act 2002 (POCA) permits the search for, and seizure, detention and forfeiture of, cash derived from or intended for use in unlawful conduct.

4.2 These powers are limited to cash which amounts to at least the minimum amount. Article 2 of this order specifies the minimum amount as £1,000. The amount was previously £5,000. This was specified by the Order SI 2004 No. 420 which is revoked by Article 3 of this Order.

4.3 Section 303 (1) of POCA provides for the minimum amount to be able to be amended by the Secretary of State by Order after consultation with Scottish Ministers.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

7.1 There is a threshold under the Act known as the “minimum amount”, which has to be met before seizure and detention of cash by police and customs officers is

allowed. A threshold for the civil recovery scheme was included to ensure the proportionality of the scheme.

7.2 The threshold amount was originally set at £10,000. This was reduced to £5,000 in March 2004 by the Proceeds of Crime Act 2002 (Recovery of Cash in Summary Proceedings: Minimum Amount) Order 2004 No.420.

7.3 The reduction of the threshold to £1,000 is designed to help enable law enforcement to target and combat lower level criminality that blights local communities.

7.4 The reduction in the threshold is being introduced following consultation with the Association of Chief Police Officers, other government departments and the Scottish Executive.

7.5 There is likely to be a degree of public and media interest following the lowering of the threshold amount.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies

9. Contact

9.1 **Lee Stephen** at the Home Office Tel: 020 7035 1573 or e-mail: lee.stephen@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.