**EXPLANATORY MEMORANDUM TO THE**

**THE PROCEEDS OF CRIME 2002 (REFERENCES TO FINANCIAL INVESTIGATORS) (AMENDMENT No.2) ORDER 2004**

**2004 No. 3339**

**1.** This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

## 2. Description

The above Order is made in exercise of the powers conferred under section 453 and 459(2) of the Proceeds of Crime Act 2002. This Order amends the Proceeds of Crime Act 2002 (References to Financial Investigators) Order 2003 (S.I. 2003/172, as amended by S.I. 2004/8 – the principal Order by adding members of staff of the Inland Revenue.

This explanatory memorandum includes instructions for the following:

- Amending the principal Order by adding members of staff of the Inland Revenue to the list of appropriate officers and senior investigative officers for the purposes of money laundering investigations.

- The grade and seniority requirements.

- The territorial extent.

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

None.

## 4. Legislative Background

Under section 3 of the Act, the Director of the Assets Recovery Agency ('the Director') has established a system for the accreditation of financial investigators. Financial investigators are accredited by the Agency as possessing the skills to apply in England, Wales and Northern Ireland for restraint orders and certain ancillary orders under Parts 2 and 4, and for certain investigation orders under Part 8. The Director is able to provide different classes of accreditation for different purposes.

Under section 453 the Secretary of State can specify by order a description of the type of accredited financial investigators who may exercise the restraint powers under Part 2 or 4, or the investigation powers under Part 8 of the Act. There have been two such orders - the principal Order and a subsequent amendment order.

The Order ensures that it is the Secretary of State (and not the Director) who decides ultimately who should have access to the powers of restraint and investigation. The Director can accredit, but financial investigators only have access to the powers where they fall within the specified description - e.g. as to their employer or grade – in an

order made under section 453. This will add to the list set out in the principal and amending Order.

## 5. Extent

England, Wales and Northern Ireland

## 6. European Convention on Human Rights

Not applicable

## 7. Policy Objective

The objective is to introduce an amendment order that will add the Inland Revenue to the list of appropriate officers able to exercise money laundering investigation powers under the Act. They are already listed in the principal Order for inclusion for the restraint and confiscation provisions.

## 8. Impact

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

## 9. Contact

Lee Stephen at the Home Office, Organised and Financial Crime Unit can answer any queries regarding the instrument. His contact details are:

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