EXPLANATORY MEMORANDUM TO

THE PROCEEDS OF CRIME ACT 2002 (REFERENCES TO FINANCIAL INVESTIGATORS) (AMENDMENT) ORDER 2005

2005 No.386

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

2. Description

2.1 This 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(SI 2003/172 – "the principal Order") as amended by SI 2004/8 and SI 2004/3339, by adding immigration officers, local authority fraud investigators, Occupational Pensions Regulatory Authority, the Department of the Environment in Northern Ireland and the Department of Agriculture and Rural Development in Northern Ireland.

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

3.1 None.

4. Legislative Background

4.1 Under section 3 of the Proceeds of Crime Act 2002 ("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.

4.2 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 three such orders - the principal order and two subsequent amendment orders.

4.3 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

5.1 England, Wales and Northern Ireland.

6. European Convention on Human Rights

6.1 Not applicable.

7. Policy Objective

7.1 The objective is to introduce an amendment order that will add immigration officers, local authority fraud investigators, the Occupational Pensions Regulatory Authority, the Dept of the Environment in Northern Ireland as well as the Dept of Agriculture and Rural Development in Northern Ireland to the list of appropriate officers able to exercise restraint proceedings and confiscation and money laundering investigation powers under the Act.

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, Organised and Financial Crime Unit can answer any queries regarding the instrument. His contact details are:

Lee Stephen
Organised and Financial Crime Unit
5th floor, Fry Building
Marsham Street, London SW1P 4DF

Tel: 0207 035 1573
Email: lee.stephen@homeoffice.gsi.gov.uk