EXPLANATORY MEMORANDUM TO

THE SERIOUS ORGANISED CRIME AND POLICE ACT 2005 (DELEGATION UNDER SECTION 43) ORDER 2006

2006 No. 100

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 prescribes the grade of Deputy Director of the Serious Organised Crime Agency (SOCA) as the prescribed level for the purpose of section 44(1) of the Serious Organised Crime and Police Act 2005 (the Act). Section 44 allows the Director General of SOCA to delegate his function under section 43 to an employee at the level specified by order, so the effect of this Order will be that the Director General of SOCA can only delegate his function under section 43 to a Deputy Director or above. Section 43 allows the Director General of SOCA to designate members of SOCA's staff with the powers of a constable, the customs powers of an officer of Revenue and Customs or the powers of an immigration officer.

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

3.1 None

4. Legislative Background

4.1 The order is being made to enable the Director General of SOCA to delegate his function under section 43 of the Act. It is made under section 44(2) of the Act and it is the first order to be made under that section. Section 44(2) of the Act (the power to make an order specifying the level to which the Director General can delegate his function under Section 43) is already in force. Sections 43 and 44(1) of the Act will come into force on 1 March 2006, and this order is a necessary precursor for the exercise of the functions in those sections.

5. Extent

5.1 This instrument applies to all of the United Kingdom.

6. European Convention on Human Rights

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

7. Policy background

7.1 SOCA will contain staff who have previously been police officers, HMRC officers and Immigration officers. When they transfer to the new Agency, these officers will cease to hold their previous status and will therefore no longer be able to exercise the law enforcement powers which accompanied that status. Section 43

allows the Director General of SOCA to designate SOCA officers with law enforcement powers, which is essential if the Agency is to fulfil its functions in respect of the prevention and detection of serious organised crime. In many cases, officers will be designated with the powers that they have exercised in their precursor agency. Any additional designation, and the designation of new officers who were not members of a precursor agency, can only happen after the officer in question has received appropriate training.

7.2 The decision to delegate this power from the Director General to Deputy Director within SOCA reflects the practical realities of an operational business. The Deputy Directors, who will be responsible for regional commands, will be best placed to manage the practicalities of the designation process within the organisation. They will be accountable for their actions through the Executive Directors to the Director General. It is not expected that this will attract public interest: the principle of designation of powers has already been discussed and accepted by Parliament.

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.

8.2 The impact of this Order is purely internal to SOCA so there is no further impact on the public sector.

9. Contact

Isobel Arthur at the Home Office Tel: 020 7084 8002 or e-mail: Isobel.arthur@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.