

## SERIOUS ORGANISED CRIME AND POLICE BILL

### FINAL REGULATORY IMPACT ASSESSMENT

#### RATIONALISATION OF ARREST POWERS AND EXECUTION OF SEARCH WARRANTS

##### 1. Title of Proposal

Rationalise powers of arrest and raise the capacity to enable more effective approaches for the application of and execution of warrants

##### 2. Purpose and intended effect of measure

###### *Powers of Arrest*

(i) The objective: provide clarity on the present myriad of arrest powers under the Police and Criminal Evidence Act (PACE) 1984 and other specific legislation. The aim is to provide clear statement for police, Criminal Justice System and the public on arrest powers.

(ii) The background: PACE established a framework for arrest powers based on the principles of necessity and seriousness. The joint Home Office/ Cabinet Office Review of PACE published in November 2002<sup>1</sup> found that the framework was now complicated and required definition on both application of the powers and how they should be exercised.

(iii) Risk assessment: confusion and lack of clarity over exercise of arrest powers and associated 'trigger powers' on arrest impacts police efficiency and effectiveness. Potential harm may arise in the arbitrary exercise of the powers and on the disproportionate application to minority ethnic groups within the community. Existing safeguards under PACE will be complemented by the introduction of the necessity test for all arrest situations.

###### *Search Warrants*

(i) The objective: improve investigative powers by enabling simpler, less bureaucratic application process for warrants and increase the ability for usage of warrants in terms of entry and premises .

(ii) The background:

The framework for the entering and searching of premises and the seizure of property or material is set out in PACE. This focuses very much on entry to specific premises. It also requires a constable to apply in person for a search warrant and for the warrant to be used on only one occasion and within one month of the date of issue by the court. Further, crime and technology have

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<sup>1</sup> Available on the Home Office website [www.homeoffice.gov.uk](http://www.homeoffice.gov.uk)

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both moved on significantly since the introduction of PACE. Evidence and the proceeds can be moved very quickly between locations to thwart investigations. Joint HO/ Cabinet Office Review published in November 2002 recommended widening the scope of search warrants.

(iii) Risk assessment:

Section 8 of PACE sets out the provisions to obtain a search warrant with section 15 and section 16 respectively providing safeguards and modes of execution. Using modern technology such as telephones, fax machines and e-mail to apply for warrants would raise significant issues of security and integrity. Arrangements for new approaches would be subject to detailed engagement with stakeholders and practitioners.

### 3. Options

Option 1 Do nothing'

Do nothing' is not a viable option as it will not give clarity over arrest powers or provide a simpler less bureaucratic system for search warrants

Option 2 To provide an improved framework for powers of arrest and an improved system for search warrants

The increasing complexity of arrest powers and the increasing demand for powers of arrest to be granted in new legislation needs an improved framework. Amending arrest powers requires primary legislation

*Search Warrants*

Primary legislation is required to amend the provisions in PACE. This will be coupled with guidance on the necessity of ensuring both the quality of information and timeliness of applications put before magistrates

### 4. Benefits

Option 1

There are no benefits to Option 1

Option 2

- Economic:

*Arrest:* Should result in improved police efficiency and effectiveness in terms of the police investigative process and raise the level of successful outcomes to investigations. Enables police to determine on a case by case basis whether or not a person needs to be taken into custody - potential savings on police time and related accommodation issues.

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*Search Warrants:* Should raise police efficiency and effectiveness and raise quality of application process for warrants as part of the investigative process. Savings should also accrue to courts in terms of the frequency of applications for warrants

- Environmental:

None

- Social :

*Arrest:* Proposals clarify existing powers of arrest and provide police with the ability to tackle crime more effectively both in terms of detection and prevention.

*Search Warrants:* To ease the burden on police officers in seeking out material which is moved around between locations, and therefore generally raise the capacity of forces to investigate crime effectively.

*Issues of equity and fairness:* Any moves towards a “super warrant” would raise issues about the basic right to privacy. However, officers would still need to have justification for entry onto specific premises. The advantage would be in removing the need for them to obtain a new warrant merely because the key individual who was the effective target of the search had moved location or made use alternative premises. The officer applying to the court would still have to satisfy the court that a ‘multi premises’ warrant was necessary. The court would be required to sanction multiple use of the warrant within the agreed timeframe. Safeguards already in place for a person subject to entry and search would continue to apply and additional protections added when necessary through the PACE Codes.

### **5. Costs**

Option 1

There are no costs to Option 1

Option 2

- Economic

There will be initial costs of in retraining present police officers.

- Environmental

None

- Social: Safer neighbourhoods, increased public reassurance on the ability for police to more effectively target criminals

## **6. Equity and Fairness**

Concerns are likely to be raised on the disproportionate use of arrest powers against members of minority ethnic communities. Extensive analysis and activity is already carried out across the Department to tackle equality of treatment and diversity issues and the existing monitoring of arrest powers will continue. A Race Equality Impact Assessment initial screening has been prepared and will also be published.

## **7. Enforcement and Sanctions**

### *Arrest*

The changes to the arrest powers are a rationalisation of existing statutory provisions. Search warrant powers will be enforced through the powers of entry and seizure under the Police and Criminal Evidence Act 1984

Police and other investigative agencies and the courts will enforce the regulations.

## **8. Monitoring and Review**

### *Arrest*

Arrest powers specifically and PACE powers more generally are subject to ongoing review and update, including annual review of PACE Codes. Monitoring is carried out through research studies, annual statistical reporting and consultation with stakeholders.

### *Search Warrants*

Issues relating to warrants specifically and PACE powers more generally are subject to ongoing review and update, including annual review of PACE Codes. Monitoring is carried out through research studies, annual statistical reporting and consultation with stakeholders

## **9. Consultation**

- i) Within government consideration of proposals with Other Government Departments and relevant agencies
- ii) Public Consultation ended on 8 October but comments received after that date have been accepted. Prior discussions had taken place with key stakeholders.

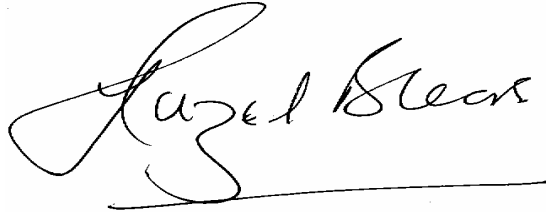
## **10. Summary and Recommendation**

It is recommended that Option 2 be agreed.

**11. Declaration**

*I have read the regulatory impact assessment and I am satisfied that the benefits justify the costs*

**Signed**

A handwritten signature in black ink, reading "Hazel Blears". The signature is written in a cursive style with a long horizontal line underneath the name.

**November 2004**

**Hazel Blears, Minister of State for Crime Reduction, Policing and  
Community Safety**