

## Criminal Legislation

### Driver – Legal

Related Drivers – Anti-Social Behaviour, Counter Terrorism, Organised Crime, Fraud, E-Crime / Cyber Crime, Collaborative Working, Advances in Technology, Asset Recovery, Data Mining, Drugs – Cocaine, Drugs – Cannabis, 2012 Olympics, Race & Hate Crime, Youth Crime

### Background

This driver focuses on legislation relevant to all different types of criminal legislation such as drugs, hate crime and murder.

The **Serious Crime Act 2007** introduced a package of powers to strengthen and improve the ability of law enforcement agencies to tackle and prevent serious crime. The measures most relevant to the police service in England & Wales include:

- **additional powers** are given to **accredited financial investigators**, including the power to seize any property to which a restraint order applies, and the power to search for cash on a person or premises and seize it if it is suspected that it is the proceeds of unlawful conduct or intended for use in such conduct. Such powers are given to constables and officers of HMRC.
- new criminal offences of encouraging or assisting a criminal offence with intent, or encouraging or assisting a criminal offence or one or more offences believing that an offence will be committed. (Law Commission Reports).<sup>1</sup>

In addition, in March 2008 separate guidance was issued regarding the operation of the powers under Section 289 of the Proceeds of Crime Act (POCA) to **search for cash** which is suspected of being either the proceeds of, or intended for use in, crime as a result of the Serious Crime Act 2007 (Section 79) and UK Borders Act 2007 (Section 289), extending them to a wider range of investigators.<sup>2</sup> These powers have been expanded to include accredited financial investigators who have been trained and accredited by the NPIA, and immigration officers as well as police officers and HMRC officers.

The **Criminal Justice & Immigration Act 2008** introduces the following provisions which cover murder, hate crime, anti-social behaviour and youth crime. The provisions:

- create a new criminal offence of incitement to hatred on the grounds of sexual orientation
- clarify the law on self defence
- introduce a new offence of possession of extreme pornographic images
- extend crack house closure order powers to cover more serious types of anti-social behaviour

- provide for non-dangerous offenders who breach the terms of their license to be recalled to prison for a fixed 28 days
- introduce the Youth Conditional Caution for young offenders
- statutory review of ASBOs on all under 18 year olds after one year to ensure that they are working and to pave the way for other interventions.<sup>3</sup>

The Home Secretary has announced in June 2008 that **cannabis be reclassified back to a class B drug**.<sup>4</sup> The statement has come despite the Advisory Council on the Misuse of Drugs' (ACMD) Review, commissioned by the Prime Minister, which states it should remain class C.<sup>5</sup> This will mean:

- more robust **enforcement against cannabis supply and possession**, and those repeatedly caught with the drug would not just receive cannabis warnings
- a new strategic and targeted approach to **tackling cannabis farms**
- introducing additional aggravating sentencing factors for those caught supplying cannabis and other illegal substances near further and higher education establishments, mental health institutions and prisons.<sup>6</sup>

In July 2005, the Government announced a **review of the various elements of murder**, including the defences and partial defences, and the relationship between the law of murder and the law relating to homicide (in particular manslaughter) in England and Wales.<sup>7</sup>

The review was carried out by the Law Commission<sup>8</sup> and findings were fed into the Ministry of Justice consultation, '*Murder and Manslaughter: Proposals for Reform of the Law*', which set out the government proposals for reforms on:

- partial defences to murder of diminished responsibility and provocation
- the law on complicity in relation to homicide
- infanticide.<sup>9</sup>

The proposals and draft clauses were put out for public consultation (until October 2008) prior to introducing any legislation. As a result of the consultation, the provisions to change the law on partial defences to murder of provocation and diminished responsibility would stay largely as proposed, but subject to the changes outlined above.<sup>10</sup> The proposals to clarify the law on infanticide remain unchanged. The proposal on complicity in relation to murder was dropped from the legislation. It was included in the first stage of reform as per recommendations from the Law Commission's report on murder, however after receiving a report from the Commission on the area of complicity as a whole, it was recommended to reform complicity separately. The Government is supporting a comprehensive reform programme for the law on secondary liability in the future. All of these legislative changes will be included in the Coroners and Justice Bill.

The **Coroners and Justice Bill** was introduced in the House of Commons on 14 January 2009. It includes measures to:

- reform and clarify the law on homicide, in particular in relation to partial defences
- update the language of the offence of assisting suicide
- establish a new Sentencing Council for England and Wales, with a strengthened remit to promote consistency in sentencing practice
- create a new national coroner service, led by a new chief coroner
- prevent criminals from profiting from publications about their crimes.<sup>11</sup>

As of the beginning of June 2009 the bill has reached committee stage in the House of Lords.

## **Potential Skills Needs**

**Analytical skills** - visualise, articulate, and solve complex problems and concepts, and make decisions that make sense based on available information

**Arrest referral skills** – for arrested cannabis users given possible reclassification

**Charging skills** – to determine whether a suspect should be released with charge or on bail pending CPS advice and current legislation

**Community policing skills** – to discuss and set local priorities and encourage more people to become involved in crime reduction alongside operational policing tasks

**Data handling and analysis skills** – handle and organise information and intelligence

**Evidence collection skills** - to search for cash which is suspected of being either the proceeds of or intended for use in crime

**Financial monitoring skills** – monitoring financial transactions looking specifically for signs of criminal activity

**Inter-agency working skills** – to work effectively with two or more governmental agencies

**Intelligence analysis skills** – make the links between information gathered and intelligence / problem solving

**Intelligence gathering skills** – to scan multiple data sources and follow leads

**Investigation skills** – to take into account new legislation during the investigation process in relation to drugs, murder, manslaughter and infanticide and fraud

**Source handling skills** – develop operations against suppliers

**Surveillance skills** – to identify cannabis farms and organised criminals behind them

- <sup>1</sup> [Serious Crime Act 2007 \(England, Wales, Northern Ireland\)](#)
- <sup>2</sup> [Home Office \(2008\) 'Proceeds of Crime Act 2002 Seizures of Cash Policy'](#)
- <sup>3</sup> [Criminal Justice and Immigration Act 2008 \(England, Wales and Northern Ireland\)](#)
- <sup>4</sup> [Home Secretary Statement to Parliament, 7 May 2008](#)
- <sup>5</sup> [Advisory Council on the Misuse of Drugs \(2008\) \*Cannabis: Classification and Public Health\*. London: Home Office.](#)
- <sup>6</sup> [Drugs \(Reclassification\) Bill](#)
- <sup>7</sup> [Home Office Press Release, 21 July 2005, 'Fundamental Review of Murder Law'.](#)
- <sup>8</sup> [Law Commission \(2006\) \*Murder, Manslaughter and Infanticide: Project 6 of the Ninth Programme of Law Reform: Homicide\*. London: The Stationery Office Ltd](#)
- <sup>9</sup> [Ministry of Justice \(2008\) \*Murder and Manslaughter: Proposals for Reform of the Law\*. London: Ministry of Justice.](#)
- <sup>10</sup> [Ministry of Justice \(2009\) \*Murder, manslaughter, and infanticide: Summary of responses and Government position\*. CP\(R\) 19/08, London: Ministry of Justice.](#)
- <sup>11</sup> [Coroners and Justice Bill \(UK\)](#)