

## SCHEDULES

### SCHEDULE 2

Section 37

#### FUNCTIONS OF APPLICANT AUTHORITIES UNDER PART 1

##### *Director of Public Prosecutions*

- 1 The functions of the Director of Public Prosecutions under this Part are—
  - (a) to have the conduct of applications for serious crime prevention orders in England and Wales or for their variation or discharge;
  - (b) to appear on any application made under section 17 or 18 by another person for the variation or discharge of a serious crime prevention order in England and Wales;
  - (c) to have the conduct of, or (as the case may be) appear in, any other proceedings in connection with serious crime prevention orders (whether proceedings on appeal, by virtue of section 27 or otherwise);
  - (d) to give advice in connection with any proceedings or possible proceedings in connection with serious crime prevention orders; and
  - (e) to do anything for the purposes of, or in connection with, the functions in paragraphs (a) to (d).
- 2 (1) The Director may, to such extent as he may decide, delegate the exercise of his functions under this Part to a Crown Prosecutor.  
(2) References in this Part to the Director are accordingly to be read, so far as necessary for the purposes of sub-paragraph (1), as references to the Director or any Crown Prosecutor.
- 3 The functions of the Director under this Part are exercisable under the superintendence of the Attorney General.
- 4 (1) The Code for Crown Prosecutors issued under section 10 of the Prosecution of Offences Act 1985 (c. 23) (guidelines for Crown Prosecutors) may include guidance by the Director on general principles to be applied by Crown Prosecutors in determining in any case—
  - (a) whether to make an application for a serious crime prevention order in England and Wales or for the variation or discharge of such an order;
  - (b) whether to present a petition by virtue of section 27 of this Act; or
  - (c) where such an application has been made or petition presented, whether the proceedings concerned should be discontinued.  
(2) Section 10(2) and (3) of that Act (power to make alterations in the Code and duty to set out alterations in Director's report) are to be read accordingly.
- 5 Section 14 of that Act (power of Attorney General to make regulations about fees of legal representatives and costs and expenses of witnesses) applies in relation to proceedings in connection with serious crime prevention orders and attendance

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for the purposes of such cases as it applies in relation to criminal proceedings and attendance for the purposes of such cases.

*Director of Revenue and Customs Prosecutions*

- 6 The functions of the Director of Revenue and Customs Prosecutions under this Part are—
- (a) to have the conduct of applications for serious crime prevention orders in England and Wales or for their variation or discharge;
  - (b) to appear on any application made under section 17 or 18 by another person for the variation or discharge of a serious crime prevention order in England and Wales;
  - (c) to have the conduct of, or (as the case may be) appear in, any other proceedings in connection with serious crime prevention orders (whether proceedings on appeal, by virtue of section 27 or otherwise);
  - (d) to give advice in connection with any proceedings or possible proceedings in connection with serious crime prevention orders; and
  - (e) to do anything for the purposes of, or in connection with, the functions in paragraphs (a) to (d).
- 7 (1) The Director may, to such extent as he may decide, delegate the exercise of his functions under this Part to a Revenue and Customs Prosecutor.
- (2) References in this Part to the Director are accordingly to be read, so far as necessary for the purposes of sub-paragraph (1), as references to the Director or any Revenue and Customs Prosecutor.
- 8 The functions of the Director under this Part are exercisable under the superintendence of the Attorney General.
- 9 The Director must have regard to the Code for Crown Prosecutors issued under section 10 of the Prosecution of Offences Act 1985 (guidelines for Crown Prosecutors) so far as it applies in relation to serious crime prevention orders in England and Wales, and petitions and proceedings by virtue of section 27 of this Act, by virtue of paragraph 4 above.
- 10 Section 21 of the Commissioners for Revenue and Customs Act 2005 (c. 11) (disclosure to prosecuting authority) has effect as if the purpose mentioned in subsection (1)(b) included the purpose of enabling the Director to exercise his functions under this Part.
- 11 Section 41(1) of the Act of 2005 (disclosure of information to Director) applies in relation to a purpose connected with a serious crime prevention order or possible serious crime prevention order as it applies in relation to a purpose connected with a specified investigation or prosecution.

*Director of Serious Fraud Office*

- 12 The functions of the Director of the Serious Fraud Office under this Part are—
- (a) to have the conduct of applications for serious crime prevention orders in England and Wales or for their variation or discharge;
  - (b) to appear on any application made under section 17 or 18 by another person for the variation or discharge of a serious crime prevention order in England and Wales;

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- (c) to have the conduct of, or (as the case may be) appear in, any other proceedings in connection with serious crime prevention orders (whether proceedings on appeal, by virtue of section 27 or otherwise);
  - (d) to give advice in connection with any proceedings or possible proceedings in connection with serious crime prevention orders; and
  - (e) to do anything for the purposes of, or in connection with, the functions in paragraphs (a) to (d).
- 13 (1) The Director may, to such extent as he may decide, delegate the exercise of his functions under this Part to a member of the Serious Fraud Office designated under section 1(7) of the Criminal Justice Act 1987 (c. 38).
- (2) References in this Part to the Director are accordingly to be read, so far as necessary for the purposes of sub-paragraph (1) above, as references to the Director or any member of the Serious Fraud Office so designated.
- 14 The functions of the Director under this Part are exercisable under the superintendence of the Attorney General.
- 15 Paragraph 8 of Schedule 1 to the Criminal Justice Act 1987 (power of Attorney General to make regulations about fees of counsel and costs and expenses of witnesses) applies in relation to proceedings in connection with serious crime prevention orders and attendance for the purposes of such cases as it applies in relation to criminal proceedings and attendance for the purposes of such cases.

#### *Director of Public Prosecutions for Northern Ireland*

- 16 The functions of the Director of Public Prosecutions for Northern Ireland under this Part are—
- (a) to have the conduct of applications for serious crime prevention orders in Northern Ireland or for their variation or discharge;
  - (b) to appear on any application made under section 17 or 18 by another person for the variation or discharge of a serious crime prevention order in Northern Ireland;
  - (c) to have the conduct of, or (as the case may be) appear in, any other proceedings in connection with serious crime prevention orders (whether proceedings on appeal, by virtue of section 28 or otherwise);
  - (d) to give advice in connection with any proceedings or possible proceedings about serious crime prevention orders; and
  - (e) to do anything for the purposes of, or in connection with, the functions in paragraphs (a) to (d).
- 17 References in this Part to the Director are to be read, so far as necessary for the purposes of functions delegated by him to Public Prosecutors, as references to the Director or any Public Prosecutor.
- 18 (1) The Code for Public Prosecutors issued under section 37 of the Justice (Northern Ireland) Act 2002 (c. 26) (guidelines for Public Prosecutors) may include guidance by the Director on general principles to be applied by Public Prosecutors in determining in any case—
- (a) whether to make an application for a serious crime prevention order in Northern Ireland or for the variation or discharge of such an order;
  - (b) whether to present a petition by virtue of section 28 of this Act; or

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- (c) where such an application has been made or petition presented, whether the proceedings concerned should be discontinued.
- (2) Sections 37(4) and 39(2) of that Act (power to make alterations in the Code and duty to set out alterations in Director's report) are to be read accordingly.
- 19 Sections 75(1) and (2) and 76(1) of, and Schedule 9 to, the Northern Ireland Act 1998 (c. 47) (duties of public authorities) do not apply to the functions of the Director of Public Prosecutions for Northern Ireland under this Part.
- 20 Section 1 of the Costs in Criminal Cases Act (Northern Ireland) 1968 (c. 10 (N.I.)) (expenses of prosecution) applies in relation to proceedings in connection with serious crime prevention orders and attendance for the purposes of such cases as it applies in relation to criminal proceedings and attendance for the purposes of such cases.

#### *Interpretation*

- 21 In this Schedule references to having the conduct of proceedings include references to starting or discontinuing proceedings.