

SCHEDULES

SCHEDULE 1

Sections 2 and 3

SERIOUS OFFENCES

PART 1

SERIOUS OFFENCES IN ENGLAND AND WALES

Drug trafficking

- 1 (1) An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38)—
- (a) section 4(2) or (3) (unlawful production or supply of controlled drugs);
 - (b) section 5(3) (possession of controlled drug with intent to supply);
 - (c) section 8 (permitting etc. certain activities relating to controlled drugs);
 - (d) section 20 (assisting in or inducing the commission outside the United Kingdom of an offence punishable under a corresponding law).
- (2) An offence under any of the following provisions of the Customs and Excise Management Act 1979 (c. 2) if it is committed in connection with a prohibition or restriction on importation or exportation which has effect by virtue of section 3 of the Misuse of Drugs Act 1971—
- (a) section 50(2) or (3) (improper importation of goods);
 - (b) section 68(2) (exportation of prohibited or restricted goods);
 - (c) section 170 (fraudulent evasion of duty etc.).
- (3) An offence under either of the following provisions of the Criminal Justice (International Co-operation) Act 1990 (c. 5)—
- (a) section 12 (manufacture or supply of a substance for the time being specified in Schedule 2 to that Act);
 - (b) section 19 (using a ship for illicit traffic in controlled drugs).

People trafficking

- 2 (1) An offence under section 25, 25A or 25B of the Immigration Act 1971 (c. 77) (assisting unlawful immigration etc.).
- (2) An offence under any of sections 57 to 59 of the Sexual Offences Act 2003 (c. 42) (trafficking for sexual exploitation).
- (3) An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (trafficking people for exploitation).

Status: This is the original version (as it was originally enacted).

Arms trafficking

- 3 (1) An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c. 2) if it is committed in connection with a firearm or ammunition—
- (a) section 68(2) (exportation of prohibited or restricted goods);
 - (b) section 170 (fraudulent evasion of duty etc.).
- (2) An offence under section 3(1) of the Firearms Act 1968 (c. 27) (dealing etc. in firearms or ammunition by way of trade or business without being registered).
- (3) In this paragraph “firearm” and “ammunition” have the same meanings as in section 57 of the Firearms Act 1968.

Prostitution and child sex

- 4 (1) An offence under section 33A of the Sexual Offences Act 1956 (c. 69) (keeping a brothel used for prostitution).
- (2) An offence under any of the following provisions of the Sexual Offences Act 2003 (c. 42)—
- (a) section 14 (arranging or facilitating commission of a child sex offence);
 - (b) section 48 (causing or inciting child prostitution or pornography);
 - (c) section 49 (controlling a child prostitute or a child involved in pornography);
 - (d) section 50 (arranging or facilitating child prostitution or pornography);
 - (e) section 52 (causing or inciting prostitution for gain);
 - (f) section 53 (controlling prostitution for gain).

Armed robbery etc.

- 5 (1) An offence under section 8(1) of the Theft Act 1968 (c. 60) (robbery) where the use or threat of force involves a firearm, an imitation firearm or an offensive weapon.
- (2) An offence at common law of an assault with intent to rob where the assault involves a firearm, imitation firearm or an offensive weapon.
- (3) In this paragraph—
- “firearm” has the meaning given by section 57(1) of the Firearms Act 1968;
 - “imitation firearm” has the meaning given by section 57(4) of that Act;
 - “offensive weapon” means any weapon to which section 141 of the Criminal Justice Act 1988 (c. 33) (offensive weapons) applies.

Money laundering

- 6 An offence under any of the following provisions of the Proceeds of Crime Act 2002 (c. 29)—
- (a) section 327 (concealing etc. criminal property);
 - (b) section 328 (facilitating the acquisition etc. of criminal property by or on behalf of another);
 - (c) section 329 (acquisition, use and possession of criminal property).

Fraud

- 7 (1) An offence under section 17 of the Theft Act 1968 (c. 60) (false accounting).
- (2) An offence under any of the following provisions of the Fraud Act 2006 (c. 35)—
- (a) section 1 (fraud by false representation, failing to disclose information or abuse of position);
 - (b) section 6 (possession etc. of articles for use in frauds);
 - (c) section 7 (making or supplying articles for use in frauds);
 - (d) section 9 (participating in fraudulent business carried on by sole trader etc.);
 - (e) section 11 (obtaining services dishonestly).
- (3) An offence at common law of conspiracy to defraud.

Offences in relation to public revenue

- 8 (1) An offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (fraudulent evasion of duty etc.) so far as not falling within paragraph 1(2)(c) or 3(1)(b) above.
- (2) An offence under section 72 of the Value Added Tax Act 1994 (c. 23) (fraudulent evasion of VAT etc.).
- (3) An offence under section 144 of the Finance Act 2000 (c. 17) (fraudulent evasion of income tax).
- (4) An offence under section 35 of the Tax Credits Act 2002 (c. 21) (tax credit fraud).
- (5) An offence at common law of cheating in relation to the public revenue.

Corruption and bribery

- 9 (1) An offence under section 1 of the Public Bodies Corrupt Practices Act 1889 (c. 69) (corruption in public office).
- (2) An offence which is the first or second offence under section 1(1) of the Prevention of Corruption Act 1906 (c. 34) (corrupt transactions with agents other than those of giving or using false etc. documents which intended to mislead principal).
- (3) An offence at common law of bribery.

Counterfeiting

- 10 An offence under any of the following provisions of the Forgery and Counterfeiting Act 1981 (c. 45)—
- (a) section 14 (making counterfeit notes or coins);
 - (b) section 15 (passing etc. counterfeit notes or coins);
 - (c) section 16 (having custody or control of counterfeit notes or coins);
 - (d) section 17 (making or having custody or control of counterfeiting materials or implements).

Blackmail

- 11 (1) An offence under section 21 of the Theft Act 1968 (c. 60) (blackmail).

Status: This is the original version (as it was originally enacted).

- (2) An offence under section 12(1) or (2) of the Gangmasters (Licensing) Act 2004 (c. 11) (acting as a gangmaster other than under the authority of a licence, possession of false documents, etc.).

Intellectual property

- 12 (1) An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48)—
- (a) section 107(1)(a), (b), (d)(iv) or (e) (making, importing or distributing an article which infringes copyright);
 - (b) section 198(1)(a), (b) or (d)(iii) (making, importing or distributing an illicit recording);
 - (c) section 297A (making or dealing etc. in unauthorised decoders).
- (2) An offence under section 92(1), (2) or (3) of the Trade Marks Act 1994 (c. 26) (unauthorised use of trade mark etc.).

Environment

- 13 (1) An offence under section 1 of the Salmon and Freshwater Fisheries Act 1975 (c. 51) (fishing for salmon, trout or freshwater fish with prohibited implements etc.).
- (2) An offence under section 14 of the Wildlife and Countryside Act 1981 (c. 69) (introduction of new species etc.).
- (3) An offence under section 33 of the Environmental Protection Act 1990 (c. 43) (prohibition on unauthorised or harmful deposit, treatment or disposal etc. of waste).
- (4) An offence under regulation 8 of the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (S.I. 1997/1372) (purchase and sale etc. of endangered species and provision of false statements and certificates).

Inchoate offences

- 14 (1) An offence of attempting or conspiring the commission of an offence specified or described in this Part of this Schedule.
- (2) An offence under Part 2 of this Act (encouraging or assisting) where the offence (or one of the offences) which the person in question intends or believes would be committed is an offence specified or described in this Part of this Schedule.
- (3) An offence of aiding, abetting, counselling or procuring the commission of an offence specified or described in this Part of this Schedule.
- (4) The references in sub-paragraphs (1) to (3) to offences specified or described in this Part of this Schedule do not include the offence at common law of conspiracy to defraud.

Earlier offences

- 15 (1) This Part of this Schedule (apart from paragraph 14(2)) has effect, in its application to conduct before the passing of this Act, as if the offences specified or described in this Part included any corresponding offences under the law in force at the time of the conduct.

- (2) Paragraph 14(2) has effect, in its application to conduct before the passing of this Act or before the coming into force of section 59 of this Act, as if the offence specified or described in that provision were an offence of inciting the commission of an offence specified or described in this Part of this Schedule.

Scope of offences

- 16 Where this Part of this Schedule refers to offences which are offences under the law of England and Wales and another country, the reference is to be read as limited to the offences so far as they are offences under the law of England and Wales.

PART 2

SERIOUS OFFENCES IN NORTHERN IRELAND

Drug trafficking

- 17 (1) An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38)—
- (a) section 4(2) or (3) (unlawful production or supply of controlled drugs);
 - (b) section 5(3) (possession of controlled drug with intent to supply);
 - (c) section 8 (permitting etc. certain activities relating to controlled drugs);
 - (d) section 20 (assisting in or inducing the commission outside the United Kingdom of an offence punishable under a corresponding law).
- (2) An offence under any of the following provisions of the Customs and Excise Management Act 1979 (c. 2) if it is committed in connection with a prohibition or restriction on importation or exportation which has effect by virtue of section 3 of the Misuse of Drugs Act 1971—
- (a) section 50(2) or (3) (improper importation of goods);
 - (b) section 68(2) (exportation of prohibited or restricted goods);
 - (c) section 170 (fraudulent evasion of duty etc.).
- (3) An offence under either of the following provisions of the Criminal Justice (International Co-operation) Act 1990 (c. 5)—
- (a) section 12 (manufacture or supply of a substance for the time being specified in Schedule 2 to that Act);
 - (b) section 19 (using a ship for illicit traffic in controlled drugs).

People trafficking

- 18 (1) An offence under section 25, 25A or 25B of the Immigration Act 1971 (c. 77) (assisting unlawful immigration etc.).
- (2) An offence under any of sections 57 to 59 of the Sexual Offences Act 2003 (c. 42) (trafficking for sexual exploitation).
- (3) An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19) (trafficking people for exploitation).

Status: This is the original version (as it was originally enacted).

Arms trafficking

- 19 (1) An offence under either of the following provisions of the Customs and Excise Management Act 1979 (c. 2) if it is committed in connection with a firearm or ammunition—
- (a) section 68(2) (exportation of prohibited or restricted goods);
 - (b) section 170 (fraudulent evasion of duty etc.).
- (2) An offence under Article 24 of the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I.3)) (dealing etc. in firearms or ammunition by way of trade or business without being registered).
- (3) In this paragraph “firearm” and “ammunition” have the same meanings as in Article 2(2) of the Firearms (Northern Ireland) Order 2004.

Prostitution and child sex

- 20 (1) An offence under section 13(1) of the Criminal Law Amendment Act 1885 (c. 69) (keeping a brothel used for prostitution).
- (2) An offence under any of the following provisions of the Sexual Offences Act 2003—
- (a) section 48 (causing or inciting child prostitution or pornography);
 - (b) section 49 (controlling a child prostitute or a child involved in pornography);
 - (c) section 50 (arranging or facilitating child prostitution or pornography);
 - (d) section 52 (causing or inciting prostitution for gain);
 - (e) section 53 (controlling prostitution for gain).

Armed robbery etc.

- 21 (1) An offence under section 8(1) of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.)) (robbery) where the use or threat of force involves a firearm, an imitation firearm or an offensive weapon.
- (2) An offence at common law of an assault with intent to rob where the assault involves a firearm, imitation firearm or an offensive weapon.
- (3) In this paragraph—
- “firearm” and “imitation firearm” have the meaning given by Article 2(2) of the Firearms (Northern Ireland) Order 2004;
 - “offensive weapon” means any weapon to which section 141 of the Criminal Justice Act 1988 (c. 33) (offensive weapons) applies.

Money laundering

- 22 An offence under any of the following provisions of the Proceeds of Crime Act 2002 (c. 29)—
- (a) section 327 (concealing etc. criminal property);
 - (b) section 328 (facilitating the acquisition etc. of criminal property by or on behalf of another);
 - (c) section 329 (acquisition, use and possession of criminal property).

Fraud

- 23 (1) An offence under section 17 of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.)) (false accounting).
- (2) An offence under any of the following provisions of the Fraud Act 2006 (c. 35)—
- (a) section 1 (fraud by false representation, failing to disclose information or abuse of position);
 - (b) section 6 (possession etc. of articles for use in frauds);
 - (c) section 7 (making or supplying articles for use in frauds);
 - (d) section 9 (participating in fraudulent business carried on by sole trader etc.);
 - (e) section 11 (obtaining services dishonestly).
- (3) An offence at common law of conspiracy to defraud.

Offences in relation to public revenue

- 24 (1) An offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (fraudulent evasion of duty etc.) so far as not falling within paragraph 17(2) (c) or 19(1)(b) above.
- (2) An offence under section 72 of the Value Added Tax Act 1994 (c. 23) (fraudulent evasion of VAT etc.).
- (3) An offence under section 144 of the Finance Act 2000 (c. 17) (fraudulent evasion of income tax).
- (4) An offence under section 35 of the Tax Credits Act 2002 (c. 21) (tax credit fraud).
- (5) An offence at common law of cheating in relation to the public revenue.

Corruption and bribery

- 25 (1) An offence under section 1 of the Public Bodies Corrupt Practices Act 1889 (c. 69) (corruption in public office).
- (2) An offence which is the first or second offence under section 1(1) of the Prevention of Corruption Act 1906 (c. 34) (corrupt transactions with agents other than those of giving or using false etc. documents which intended to mislead principal).
- (3) An offence at common law of bribery.

Counterfeiting

- 26 An offence under any of the following provisions of the Forgery and Counterfeiting Act 1981 (c. 45)—
- (a) section 14 (making counterfeit notes or coins);
 - (b) section 15 (passing etc. counterfeit notes or coins);
 - (c) section 16 (having custody or control of counterfeit notes or coins);
 - (d) section 17 (making or having custody or control of counterfeiting materials or implements).

Status: This is the original version (as it was originally enacted).

Blackmail

- 27 (1) An offence under section 20 of the Theft Act (Northern Ireland) 1969 (c. 16) (blackmail).
- (2) An offence under section 12(1) or (2) of the Gangmasters (Licensing) Act 2004 (c. 11) (acting as a gangmaster other than under the authority of a licence, possession of false documents, etc.).

Intellectual property

- 28 (1) An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48)—
- (a) section 107(1)(a), (b), (d)(iv) or (e) (making, importing or distributing an article which infringes copyright);
 - (b) section 198(1)(a), (b) or (d)(iii) (making, importing or distributing an illicit recording);
 - (c) section 297A (making or dealing etc. in unauthorised decoders).
- (2) An offence under section 92(1), (2) or (3) of the Trade Marks Act 1994 (c. 26) (unauthorised use of trade mark etc.).

Environment

- 29 (1) An offence under section 62 or 63 of the Fisheries Act (Northern Ireland) 1966 (c. 17 (N.I.)) (prohibition of certain methods of fishing).
- (2) An offence under Article 15 of the Wildlife (Northern Ireland) Order 1985 (S.I. 1985/171 (N.I.2)) (introduction of new species, etc.).
- (3) An offence under Article 4 of the Waste and Contaminated Land (Northern Ireland) Order 1997 (S.I. 1997/2778 (N.I.19)) (prohibition on unauthorised or harmful deposit, treatment or disposal, etc. of waste).
- (4) An offence under regulation 8 of the Control of Trade in Endangered Species (Enforcement) Regulations 1997 (S.I. 1997/1372) (purchase and sale etc. of endangered species and provision of false statements and certificates).

Inchoate offences

- 30 (1) An offence of attempting or conspiring the commission of an offence specified or described in this Part of this Schedule.
- (2) An offence under Part 2 of this Act (encouraging or assisting) where the offence (or one of the offences) which the person in question intends or believes would be committed is an offence specified or described in this Part of this Schedule.
- (3) An offence of aiding, abetting, counselling or procuring the commission of an offence specified or described in this Part of this Schedule.
- (4) The references in sub-paragraphs (1) to (3) to offences specified or described in this Part of this Schedule do not include the offence at common law of conspiracy to defraud.

Earlier offences

- 31 (1) This Part of this Schedule (apart from paragraph 30(2)) has effect, in its application to conduct before the passing of this Act, as if the offences specified or described in this Part included any corresponding offences under the law in force at the time of the conduct.
- (2) Paragraph 30(2) has effect, in its application to conduct before the passing of this Act or before the coming into force of section 59 of this Act, as if the offence specified or described in that provision were an offence of inciting the commission of an offence specified or described in this Part of this Schedule.

Scope of offences

- 32 Where this Part of this Schedule refers to offences which are offences under the law of Northern Ireland and another country, the reference is to be read as limited to the offences so far as they are offences under the law of Northern Ireland.

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—

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- (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 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;
 - (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).

Status: This is the original version (as it was originally enacted).

- 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
 - (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.

SCHEDULE 3

Section 49(5)

LISTED OFFENCES

PART 1

OFFENCES COMMON TO ENGLAND AND WALES AND NORTHERN IRELAND

Offences against the Person Act 1861 (c. 100)

- 1 An offence under section 4 of the Offences against the Person Act 1861 (solicitation etc. of murder).
- 2 An offence under section 21 of that Act (attempting to choke etc. in order to commit or assist in the committing of any indictable offence) so far as it may be committed with the intention of enabling any other person to commit, or assisting any other person in the commission of, an indictable offence.
- 3 An offence under section 22 of that Act (using chloroform etc. to commit or assist in the committing of any indictable offence) so far as it may be committed with the

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intention of enabling any other person to commit, or assisting any other person in the commission of, an indictable offence.

- 4 But references in paragraphs 2 and 3 to any other person do not include reference to the person whose act is capable of encouraging or assisting the commission of the offence under section 21 or, as the case may be, section 22 of that Act.

Aliens Restriction (Amendment) Act 1919 (c. 92)

- 5 An offence under section 3(1) of the Aliens Restriction (Amendment) Act 1919 (acts calculated or likely to cause sedition or disaffection amongst HM forces etc.) consisting in attempting an act calculated or likely to cause sedition or disaffection in contravention of that subsection.
- 6 An offence under section 3(2) of that Act (promoting or attempting to promote industrial unrest) consisting in attempting to promote industrial unrest in contravention of that subsection.

Official Secrets Act 1920 (c. 75)

- 7 An offence under section 7 of the Official Secrets Act 1920 (soliciting etc. commission of an offence under that Act or the Official Secrets Act 1911 (c. 28)).

Incitement to Disaffection Act 1934 (c. 56)

- 8 An offence under section 1 of the Incitement to Disaffection Act 1934 (endeavouring to seduce members of HM forces from their duty or allegiance).

Misuse of Drugs Act 1971 (c. 38)

- 9 An offence under section 19 of the Misuse of Drugs Act 1971 (inciting any other offence under that Act).
- 10 An offence under section 20 of that Act (assisting or inducing commission outside United Kingdom of offence punishable under corresponding law).

Immigration Act 1971 (c. 77)

- 11 An offence under section 25 of the Immigration Act 1971 (assisting unlawful immigration to a member State).
- 12 An offence under section 25B of that Act (assisting entry to the United Kingdom in breach of deportation or exclusion order).

Representation of the People Act 1983 (c. 2)

- 13 An offence under section 97(1) of the Representation of the People Act 1983 (public meetings) consisting in the incitement of others to act in a disorderly manner for the purpose of preventing at a lawful public meeting to which that section applies the transaction of the business for which the meeting was called.

Status: This is the original version (as it was originally enacted).

Computer Misuse Act 1990 (c. 18)

- 14 An offence under section 3A(1) of the Computer Misuse Act 1990 (making etc. article intending it to be used to commit, or to assist in the commission of, an offence under section 1 or 3 of that Act).
- 15 An offence under section 3A(2) of that Act (supply or offer to supply article believing it is likely to be used to commit, or to assist in the commission of, an offence under section 1 or 3 of that Act).
- 16 An offence under section 3A(3) of that Act (obtaining an article with a view to its being supplied for use to commit, or to assist in the commission of, an offence under section 1 or 3 of that Act).

Criminal Justice Act 1993 (c. 36)

- 17 An offence under section 52(2)(a) of the Criminal Justice Act 1993 (encouraging insider dealing).

Reserve Forces Act 1996 (c. 14)

- 18 An offence under section 101 of the Reserve Forces Act 1996 (inducing a person to desert or absent himself).

Landmines Act 1998 (c. 33)

- 19 An offence under section 2(2) of the Landmines Act 1998 (encouraging, assisting or inducing an offence under section 2(1) of that Act).

Terrorism Act 2006 (c. 11)

- 20 An offence under section 1(2) of the Terrorism Act 2006 (encouraging terrorism).
- 21 An offence under section 2(1) of that Act (disseminating terrorist publications).
- 22 An offence under section 5 of that Act (engaging in conduct in preparation for giving effect to intention to commit or assisting another to commit acts of terrorism).
- 23 An offence under section 6(1) of that Act (provision of instruction or training knowing that a person trained or instructed intends to use the skills obtained for or in connection with the commission of acts of terrorism or for assisting the commission or preparation of such acts by others).
- 24 An offence under section 6(2) of that Act as a result of paragraph (b)(ii) of that subsection (receipt of instruction or training intending to use the skills obtained for assisting the commission or preparation of acts of terrorism by others).

PART 2

OFFENCES UNDER PARTICULAR ENACTMENTS: ENGLAND AND WALES

Public Meeting Act 1908 (c. 66)

- 25 An offence under section 1(2) of the Public Meeting Act 1908 (inciting others to commit offences under that section).

Perjury Act 1911 (c. 6)

- 26 An offence under section 7(2) of the Perjury Act 1911 (inciting a person to commit an offence under that Act).

Prison Act 1952 (c. 52)

- 27 An offence under section 39(1) of the Prison Act 1952 (assisting a prisoner to escape).

Criminal Law Act 1967 (c. 58)

- 28 An offence under section 4(1) of the Criminal Law Act 1967 (assisting persons who have committed an offence).
- 29 An offence under section 5(1) of that Act (accepting or agreeing to accept consideration for not disclosing information about an offence).

Greater London Council (General Powers) Act 1973 (c. xxx)

- 30 An offence under section 13 of the Greater London Council (General Powers) Act 1973 (assaults etc. on officers) consisting in the aiding or inciting of any person to assault, resist or obstruct an officer of the Thames Water Authority duly exercising or performing any power or duty under a section or bylaw mentioned in that section.

Greater London Council (General Powers) Act 1974 (c. xxiv)

- 31 An offence under section 21(6) of the Greater London Council (General Powers) Act 1974 (assaults etc. on officers of a borough council) consisting in the aiding or inciting of any person to assault, resist or obstruct an officer of a borough council duly exercising or performing any power or duty under section 21 of that Act.

Criminal Law Act 1977 (c. 45)

- 32 An offence under section 1(1) of the Criminal Law Act 1977 (conspiracy).

Criminal Attempts Act 1981 (c. 47)

- 33 An offence under section 1(1) of the Criminal Attempts Act 1981 (attempting to commit an offence).

Public Order Act 1986 (c. 64)

- 34 An offence under section 12(6) of the Public Order Act 1986 (inciting commission of offences under section 12(5) of that Act).
- 35 An offence under section 13(9) of that Act (inciting commission of offences under section 13(8) of that Act).
- 36 An offence under section 14(6) of that Act (inciting commission of offences under section 14(5) of that Act).
- 37 An offence under section 14B(3) of that Act (inciting commission of offences under section 14B(2) of that Act).

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Terrorism Act 2000 (c. 11)

- 38 An offence under section 59 of the Terrorism Act 2000 (inciting in England and Wales the commission of acts of terrorism outside the United Kingdom).

PART 3

OTHER OFFENCES: ENGLAND AND WALES

- 39 An offence of conspiracy falling within section 5(2) or (3) of the Criminal Law Act 1977 (c. 45) (forms of conspiracy not affected by abolition of offence of conspiracy at common law).
- 40 (1) An attempt under a special statutory provision.
(2) Sub-paragraph (1) is to be read with section 3 of the Criminal Attempts Act 1981 (c. 47).

PART 4

OFFENCES UNDER PARTICULAR ENACTMENTS: NORTHERN IRELAND

Prison Act (Northern Ireland) 1953 (c. 18)

- 41 An offence under section 29(a) of the Prison Act (Northern Ireland) 1953 (rescuing or assisting a person sentenced to imprisonment for life, or in lawful custody for an offence carrying that sentence, to escape or attempt to escape) so far as it consists in assisting a person.
- 42 An offence under section 30(a) of that Act (rescuing or assisting a person sentenced to imprisonment for a term less than life, or in lawful custody for an offence carrying such a sentence, to escape or attempt to escape) so far as it consists in assisting a person.

Criminal Law Act (Northern Ireland) 1967 (c. 18)

- 43 An offence under section 4(1) of the Criminal Law Act (Northern Ireland) 1967 (assisting persons who have committed an offence).

Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I.19))

- 44 An offence under Article 12(2) of the Perjury (Northern Ireland) Order 1979 (inciting a person to commit an offence under that Order).

Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (S.I. 1983/1120 (N.I.13))

- 45 An offence under Article 3(1) of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (attempting to commit an offence).
- 46 An offence under Article 9(1) of that Order (conspiracy).

Public Processions (Northern Ireland) Act 1998 (c. 2)

- 47 An offence under section 8(8) of the Public Processions (Northern Ireland) Act 1998 (inciting commission of offences under section 8(7) of that Act).
- 48 An offence under section 9A(8) of that Act (inciting commission of offences under section 9A of that Act).

Terrorism Act 2000 (c. 11)

- 49 An offence under section 60 of the Terrorism Act 2000 (inciting in Northern Ireland the commission of acts of terrorism outside the United Kingdom).

PART 5

OTHER OFFENCES: NORTHERN IRELAND

- 50 An offence of conspiracy falling within Article 13(2) or (3) of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (S.I. 1983/1120 (N.I.13)) (forms of conspiracy not affected by abolition of offence of conspiracy at common law).

SCHEDULE 4

Section 52(2)

EXTRA-TERRITORIALITY

- 1 (1) This paragraph applies if—
- (a) any relevant behaviour of D’s takes place wholly or partly in England or Wales;
 - (b) D knows or believes that what he anticipates might take place wholly or partly in a place outside England and Wales; and
 - (c) either—
 - (i) the anticipated offence is one that would be triable under the law of England and Wales if it were committed in that place; or
 - (ii) if there are relevant conditions, it would be so triable if it were committed there by a person who satisfies the conditions.
- (2) “Relevant condition” means a condition that—
- (a) determines (wholly or in part) whether an offence committed outside England and Wales is nonetheless triable under the law of England and Wales; and
 - (b) relates to the citizenship, nationality or residence of the person who commits it.
- 2 (1) This paragraph applies if—
- (a) paragraph 1 does not apply;
 - (b) any relevant behaviour of D’s takes place wholly or partly in England or Wales;
 - (c) D knows or believes that what he anticipates might take place wholly or partly in a place outside England and Wales; and

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- (d) what D anticipates would amount to an offence under the law in force in that place.
- (2) The condition in sub-paragraph (1)(d) is to be taken to be satisfied unless, not later than rules of court may provide, the defence serve on the prosecution a notice—
 - (a) stating that on the facts as alleged the condition is not in their opinion satisfied;
 - (b) showing their grounds for that opinion; and
 - (c) requiring the prosecution to show that it is satisfied.
- (3) The court, if it thinks fit, may permit the defence to require the prosecution to show that the condition is satisfied without prior service of a notice under sub-paragraph (2).
- (4) In the Crown Court, the question whether the condition is satisfied is to be decided by the judge alone.
- (5) An act punishable under the law in force in any place outside England and Wales constitutes an offence under that law for the purposes of this paragraph, however it is described in that law.
- 3 (1) This paragraph applies if—
 - (a) any relevant behaviour of D’s takes place wholly outside England and Wales;
 - (b) D knows or believes that what he anticipates might take place wholly or partly in a place outside England and Wales; and
 - (c) D could be tried under the law of England and Wales if he committed the anticipated offence in that place.
- (2) For the purposes of sub-paragraph (1)(c), D is to be assumed to be able to commit the anticipated offence.
- 4 In relation to an offence under section 46, a reference in this Schedule to the anticipated offence is to be read as a reference to any of the offences specified in the indictment.

SCHEDULE 5

Section 60

AMENDMENTS RELATING TO SERVICE LAW

Criminal Justice Act 1982 (c. 48)

- 1 In section 32 of the Criminal Justice Act 1982 (early release of prisoners), in subsection (2A) for “incitement” substitute “encouragement and assistance”.

Sexual Offences (Amendment) Act 1992 (c. 34)

- 2 In section 6 of the Sexual Offences (Amendment) Act 1992 (interpretation), in subsection (1A) for “incitement” substitute “encouragement and assistance”.

Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)

- 3 In section 114 of the Powers of Criminal Courts (Sentencing) Act 2000 (offences under service law), in subsection (3) for “incitement” substitute “encouragement and assistance”.

Sexual Offences Act 2003 (c. 42)

- 4 (1) The Sexual Offences Act 2003 is amended as follows.
- (2) In paragraph 93A of Schedule 3 (sexual offences for purposes of Part 2), in subparagraph (3) for “incitement” substitute “encouragement and assistance”.
- (3) In paragraph 172A of Schedule 5 (other offences for purposes of Part 2), in subparagraph (2) for “incitement” substitute “encouragement and assistance”.

Criminal Justice Act 2003 (c. 44)

- 5 In section 233 of the Criminal Justice Act 2003 (offences under service law), in subsection (2) for “incitement” substitute “encouragement and assistance”.

Gambling Act 2005 (c. 19)

- 6 In Part 1 of Schedule 7 to the Gambling Act 2005 (relevant offences), in paragraph 22A for “incitement” substitute “encouragement and assistance”.

Armed Forces Act 2006 (c. 52)

- 7 The Armed Forces Act 2006 is amended as follows.
- 8 In section 39 (attempts), in subsection (4)(b) for “inciting another person to commit” substitute “encouraging or assisting the commission of”.
- 9 For section 40 (incitement) substitute—

“40 Encouraging and assisting

- (1) A person subject to service law commits an offence if he encourages or assists the commission of a service offence (other than an offence under section 42).
- (2) A civilian subject to service discipline commits an offence if he encourages or assists the commission of an offence mentioned in section 39(4).
- (3) Reference in this section to encouraging or assisting the commission of an offence is to the doing of an act that would have constituted an offence under Part 2 of the Serious Crime Act 2007 if the offence encouraged or assisted had been an offence under the law of England and Wales.
- (4) In determining whether an act would have constituted an offence under that Part, section 49(4) of that Act has effect as if for “offences under this Part and listed offences” it read “offences under sections 39 and 40 of the Armed Forces Act 2006”.

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- (5) Any requirement in that Part to specify matters in an indictment applies for the purposes of this section as it applies for the purposes of that Part, but with references to the indictment being read as references to the charge sheet.
- (6) A person guilty of an offence under this section is liable to the same punishment as he would be liable to if guilty of—
 - (a) the service offence encouraged or assisted; or
 - (b) if convicted of the offence under this section by reference to more than one such service offence, any one of those service offences.”

10 Accordingly, in the heading immediately before section 39 for “incitement” substitute “encouragement and assistance”.

11 For section 46 (inciting criminal conduct) substitute—

“46 Encouraging or assisting criminal conduct

- (1) Subsection (2) applies if a person subject to service law, or a civilian subject to service discipline, encourages or assists the doing of an act (or one or more of a number of acts) that, if done in England or Wales, would be punishable by the law of England and Wales.
- (2) Regardless of where that act (or those acts) might be done and of his state of mind with respect to that question, his encouragement or assistance shall be treated for the purposes of section 42(1) as an act that is punishable by the law of England and Wales (so far as it is not such an act in any event).
- (3) Reference in this section to encouraging or assisting is to an act that would constitute an offence under Part 2 of the Serious Crime Act 2007 disregarding any provision in that Part about the place where the act (or acts) being encouraged or assisted might be done or the accused’s state of mind with respect to that question.”

12 In section 48 (provision supplementary to sections 43 to 47), in subsection (1)(a) for “incitement” substitute “encouragement or assistance”.

13 In Schedule 2 (list of serious offences)—

- (a) in paragraph 11 for “inciting another person to commit” substitute “encouraging or assisting the commission of”;
- (b) in paragraph 13 for “of incitement to commit” substitute “under Part 2 of the Serious Crime Act 2007 of encouraging or assisting the commission of”.

SCHEDULE 6

Section 63(1) and (2)

MINOR AND CONSEQUENTIAL AMENDMENTS: PART 2

PART 1

REFERENCES TO COMMON LAW OFFENCE OF INCITEMENT

- 1 Section 30(4) of the Theft Act 1968 (c. 60) (restriction of proceedings against spouses and civil partners).
- 2 Section 1B(2) of the Biological Weapons Act 1974 (c. 6) (Revenue and Customs prosecutions).
- 3 Section 17(1) of the Industry Act 1975 (c. 68) (no criminal proceedings to lie in respect of contravention of a prohibition order).
- 4 Section 7(2)(ix) of the Sexual Offences (Amendment) Act 1976 (c. 82) (meaning of “rape offence” in relation to court martial proceedings).
- 5 In the Magistrates' Courts Act 1980 (c. 43)—
 - (a) section 22(11)(b) (aggregation of value in relation to charges involving two or more scheduled offences);
 - (b) section 103(2)(d) (written statement of child admissible in committal proceedings for certain offences);
 - (c) paragraph 2 of Schedule 2 (offences for which the value involved is relevant to the mode of trial).
- 6 Article 8(1A) of the Criminal Justice (Northern Ireland) Order 1980 (S.I. 1980/704 (N.I.6)) (driving disqualification where vehicle used for the purposes of crime).
- 7 In the Betting and Gaming Duties Act 1981 (c. 63)—
 - (a) section 9(5) (prohibitions for protection of revenue);
 - (b) section 9A(4) (prohibitions for protection of revenue: overseas brokers).
- 8 In section 32(1) of the Criminal Justice Act 1982 (c. 48) (early release of prisoners)—
 - (a) paragraph (b)(iv) (imprisonment for excluded offence etc.);
 - (b) paragraph (c)(iv) (imprisonment for service offence corresponding to excluded offence etc.), inserted by paragraph 94(2) of Schedule 16 to the Armed Forces Act 2006 (c. 52).
- 9 Section 80(3)(c) of the Police and Criminal Evidence Act 1984 (c. 60) (compellability of accused’s spouse or civil partner).
- 10 Section 49(4) of the Airports Act 1986 (c. 31) (no criminal proceedings to lie in respect of contravention of compliance order).
- 11 Section 12(6)(a) of the Outer Space Act 1986 (c. 38) (offences).
- 12 Section 30(4) of the Gas Act 1986 (c. 44) (no criminal proceedings to lie in respect of contravention of final or provisional order).
- 13 Section 7(1) of the Public Order Act 1986 (c. 64) (consent of DPP to prosecution).
- 14 Section 2(3)(ba) of the Ministry of Defence Police Act 1987 (c. 4) (jurisdiction of members of MoD police).

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- 15 In the Road Traffic Offenders Act 1988 (c. 53)—
- (a) section 28(2) (penalty points to be attributed to an offence);
 - (b) section 34(5) (disqualification for certain offences);
 - (c) section 35(5A) (disqualification for repeated offences).
- 16 Paragraph 2(a) of Schedule 1 to the Football Spectators Act 1989 (c. 37) (offences).
- 17 Article 79(3)(c) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I.12)) (compellability of accused’s spouse or civil partner).
- 18 In the Aviation and Maritime Security Act 1990 (c. 31)—
- (a) section 11(3)(b) (destroying ships or fixed platforms or endangering their safety);
 - (b) section 15(2)(c) (master’s power of delivery).
- 19 In the Criminal Justice Act 1991 (c. 53)—
- (a) section 53(7) (cases involving children in which notice of transfer may be given);
 - (b) section 86A(4) (offences in respect of which prisoner custody officers have powers in relation to persons other than prisoners).
- 20 In the Sexual Offences (Amendment) Act 1992 (c. 34)—
- (a) subsections (1)(g) and (3)(k) of section 2 (offences to which Act applies);
 - (b) section 6(2A) (person who is to be treated as person against whom inchoate offences are committed).
- 21 In the Criminal Justice Act 1993 (c. 36)—
- (a) section 1(3)(d) (Group B offences);
 - (b) section 5(4) (incitement to commit Group A offence).
- 22 Section 12(7) of the Finance Act 1994 (c. 9) (offences of fraud and dishonesty).
- 23 Section 27 of the Antarctic Act 1994 (c. 15) (references to offences under the Act).
- 24 Section 9A(4) of the Criminal Justice and Public Order Act 1994 (c. 33) (offences in respect of which custody officers at contracted out secure training centres have powers in relation to persons other than those detained in the centre).
- 25 Paragraph (b) of the definition of “specified offence” in section 60(6) of the Drug Trafficking Act 1994 (c. 37) (Revenue and Customs prosecutions).
- 26 Article 40(4) of the Airports (Northern Ireland) Order 1994 (S.I. 1994/426 (N.I.1)) (no criminal proceedings to lie in respect of contravention of compliance order).
- 27 Article 4(1A) and (7) of the Children’s Evidence (Northern Ireland) Order 1995 (S.I. 1995/757 (N.I.3)) (cases involving children in which notice of transfer may be given).
- 28 Section 30A(2) of the Chemical Weapons Act 1996 (c. 6) (Revenue and Customs prosecutions).
- 29 Section 29(6)(i) of the Criminal Procedure and Investigations Act 1996 (c. 25) (meaning of “terrorism offence” for purpose of requirement to hold preparatory hearing).
- 30 In the Sexual Offences (Conspiracy and Incitement) Act 1996 (c. 29)—
- (a) section 2(1) and (2) (incitement to commit certain sexual acts outside the United Kingdom);

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- (b) section 3(8) (extended meaning of offence of incitement to commit a listed sexual offence).
- 31 In the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996/1299 (N.I.9))—
- (a) paragraph (h) of the definition of “drug trafficking offence” in Article 2(2) (interpretation);
 - (b) paragraph (b) of the definition of “specified offence” in Article 55 (Revenue and Customs prosecutions).
- 32 In the Road Traffic Offenders (Northern Ireland) Order 1996 (S.I. 1996/1320 (N.I.10))—
- (a) Article 30(2) (penalty points to be attributed to an offence);
 - (b) Article 35(6) (disqualification for certain offences);
 - (c) Article 40(7) (disqualification for repeated offences).
- 33 In the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I.24)) —
- (a) Article 38(3)(d) (Group B offences);
 - (b) Article 42(2) (incitement to commit Group A offence).
- 34 Paragraph 8 of the Schedule to the Sexual Offences (Protected Material) Act 1997 (c. 39) (sexual offences for the purposes of that Act).
- 35 Section 14(2)(d) of the Northern Ireland (Sentences) Act 1998 (c. 35) (inadmissibility).
- 36 Section 51C(3)(e) of the Crime and Disorder Act 1998 (c. 37) (notices in certain cases involving children).
- 37 Section 62(2) of the Youth Justice and Criminal Evidence Act 1999 (c. 23) (meaning of “sexual offence” and other references to offences).
- 38 Article 3(2) of the Criminal Evidence (Northern Ireland) Order 1999 (S.I. 1999/2789 (N.I.8)) (meaning of “sexual offence” and other references to offences).
- 39 Section 147(2) of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) (driving disqualification where vehicle used for purposes of crime).
- 40 Paragraph 3(t)(i) of Schedule 4 to the Criminal Justice and Court Services Act 2000 (c. 43) (meaning of “offence against a child”).
- 41 Section 34(1)(g) of the Criminal Justice and Police Act 2001 (c. 16) (meaning of “drug trafficking offence”).
- 42 Sections 55(1)(b) and 62(1)(b) of the International Criminal Court Act 2001 (c. 17) (meaning of “ancillary offence”).
- 43 Section 53(2) of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (Revenue and Customs prosecutions).
- 44 In the Proceeds of Crime Act 2002 (c. 29)—
- (a) section 340(11)(b) (interpretation of Part 7: money laundering);
 - (b) section 415(2)(a) (money laundering offences for purposes of Part 8: investigations);
 - (c) section 447(9)(b) (interpretation of Part 11: national and international co-operation);
 - (d) section 451(6)(c) (Revenue and Customs prosecutions).

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- 45 Section 4 of the Dealing in Cultural Objects (Offences) Act 2003 (c. 27) (Revenue and Customs prosecutions).
- 46 Section 142(7)(a) of the Extradition Act 2003 (c. 41) (extradition from category 1 territory to the United Kingdom).
- 47 Paragraph 3(a) of Schedule 2 to the Sexual Offences Act 2003 (c. 42) (sexual offences to which section 72 of that Act applies).
- 48 In the Criminal Justice Act 2003 (c. 44)—
- (a) in Schedule 15 (specified violent and sexual offences for the purposes of Chapter 5 of Part 12 of that Act), paragraphs 64(a) and 153(a);
 - (b) in Schedule 17 (Northern Ireland violent and sexual offences specified for the purposes of section 229(4) of that Act), paragraphs 61(a) and 110(a).
- 49 Paragraph 3(i)(i) of the Schedule to the Protection of Children and Vulnerable Adults (Northern Ireland) Order 2003 (S.I. 2003/417 (N.I.4)) (meaning of “offence against a child”).
- 50 Section 14 of the Gangmasters (Licensing) Act 2004 (c. 11) (enforcement officer’s power of arrest).
- 51 Section 76(3)(p) of the Serious Organised Crime and Police Act 2005 (c. 15) (offences giving rise to financial reporting order).
- 52 In the Terrorism Act 2006 (c. 11)—
- (a) section 17(2)(f) (commission of offences abroad);
 - (b) paragraph 12(b) of Schedule 1 (Convention offences).

PART 2

OTHER MINOR AND CONSEQUENTIAL AMENDMENTS

Misuse of Drugs Act 1971 (c. 38)

- 53 In section 19 of the Misuse of Drugs Act 1971 for “such an offence” substitute “an offence under any other provision of this Act”.

Criminal Law Act 1977 (c. 45)

- 54 In section 5 of the Criminal Law Act 1977 (effects of creation of statutory offence of conspiracy) omit subsection (7).

Magistrates' Courts Act 1980 (c. 43)

- 55 (1) The Magistrates' Courts Act 1980 is amended as follows.
- (2) In section 32(1) (penalties for offences triable either way as a result of Schedule 1 to that Act) omit paragraph (b).
 - (3) Omit section 45.
 - (4) In Schedule 1 (offences triable either way) omit paragraph 35.

Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I.26))

56 Omit Article 60(1) of the Magistrates' Courts (Northern Ireland) Order 1981.

Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (S.I. 1983/1120 (N.I.13))

57 In Article 13 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (effects of creation of statutory offence of conspiracy) omit paragraph (8).

Public Order Act 1986 (c. 64)

- 58 (1) The Public Order Act 1986 is amended as follows.
- (2) In each of the provisions mentioned in sub-paragraph (3) omit the words from “notwithstanding” to the end.
- (3) The provisions are—
- (a) section 12(10);
 - (b) section 13(13);
 - (c) section 14(10);
 - (d) section 14B(7).

Computer Misuse Act 1990 (c. 18)

- 59 (1) The Computer Misuse Act 1990 is amended as follows.
- (2) In section 6 (incitement) omit subsection (3).
- (3) In section 7 (territorial scope of inchoate offences related to offences under external law corresponding to offences under the Act) omit subsection (4).
- (4) In section 8(3) (relevance of external law) omit “or by virtue of section 7(4) above”.
- (5) In section 9(2) (offences in relation to which British citizenship is immaterial) omit paragraph (d).
- (6) In section 16(4) (application to Northern Ireland) omit the words from “and any reference” to the end.

Sexual Offences (Conspiracy and Incitement) Act 1996 (c. 29)

60 In section 2(3) of the Sexual Offences (Conspiracy and Incitement) Act 1996 for “of incitement” substitute “done”.

International Criminal Court Act 2001 (c. 17)

- 61 (1) The International Criminal Court Act 2001 is amended as follows.
- (2) In section 55 (meaning of ancillary offence: England and Wales) omit subsection (3).
- (3) In section 62 (meaning of ancillary offence: Northern Ireland) omit subsection (3).

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Proceeds of Crime Act 2002 (c. 29)

62 After sub-paragraph (1) in each of paragraph 10 of Schedule 2 to the Proceeds of Crime Act 2002 and paragraph 10 of Schedule 5 to that Act (inchoate offences which are lifestyle offences) insert the following sub-paragraph—

“(1A) An offence under section 44 of the Serious Crime Act 2007 of doing an act capable of encouraging or assisting the commission of an offence specified in this Schedule.”

Sexual Offences Act 2003 (c. 42)

63 (1) The Sexual Offences Act 2003 is amended as follows.

(2) In Schedule 3 (sexual offences for the purposes of Part 2 of that Act), after paragraph 94, insert—

“94A A reference in a preceding paragraph to an offence (“offence A”) includes a reference to an offence under Part 2 of the Serious Crime Act 2007 in relation to which offence A is the offence (or one of the offences) which the person intended or believed would be committed.”

(3) In Schedule 5 (other offences which are relevant for the purposes of Part 2 of the Act), after paragraph 173, insert—

“173A A reference in a preceding paragraph to an offence (“offence A”) includes a reference to an offence under Part 2 of the Serious Crime Act 2007 in relation to which offence A is the offence (or one of the offences) which the person intended or believed would be committed.”

Serious Organised Crime and Police Act 2005 (c. 15)

64 (1) The Serious Organised Crime and Police Act 2005 is amended as follows.

(2) In section 136 (penalties in relation to demonstrations in the vicinity of Parliament) for subsection (4) substitute—

“(4) A person who is guilty of an offence under section 44 or 45 of the Serious Crime Act 2007 in relation to which an offence mentioned in subsection (1), (2) or (3) is the anticipated offence (as defined by section 47(9) of that Act) is liable on summary conviction to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding level 4 on the standard scale or to both.

(4A) If a person is guilty of an offence under section 46 of that Act by reference to an offence mentioned in subsection (1), (2) or (3), the maximum term of imprisonment applicable for the purposes of section 58(6) of that Act to the offence so mentioned is a term not exceeding 51 weeks.”

(3) In section 175(3) (transitional modification of penalties for summary offences in England and Wales) in the table, for the entry relating to section 136(4) substitute—

“section 136(4)	3 months
section 136(4A)	3 months”.

SCHEDULE 7

Section 73

DATA MATCHING

PART 1

DATA MATCHING: ENGLAND

- 1 The Audit Commission Act 1998 (c. 18) is amended as follows.
- 2 After Part 2 insert—

“PART 2A

DATA MATCHING

32A Power to conduct data matching exercises

- (1) The Commission may conduct data matching exercises or arrange for them to be conducted on its behalf.
- (2) A data matching exercise is an exercise involving the comparison of sets of data to determine how far they match (including the identification of any patterns and trends).
- (3) The power in subsection (1) is exercisable for the purpose of assisting in the prevention and detection of fraud.
- (4) That assistance may, but need not, form part of an audit.
- (5) A data matching exercise may not be used to identify patterns and trends in an individual’s characteristics or behaviour which suggest nothing more than his potential to commit fraud in the future.
- (6) In the following provisions of this Part, reference to a data matching exercise is to an exercise conducted or arranged to be conducted under this section.

32B Mandatory provision of data

- (1) The Commission may require—
 - (a) any body mentioned in subsection (2), and
 - (b) any officer or member of such a body,to provide the Commission or a person acting on its behalf with such data (and in such form) as the Commission or that person may reasonably require for the purpose of conducting data matching exercises.
- (2) The bodies are—
 - (a) a body subject to audit,
 - (b) an English best value authority which is not a body subject to audit.
- (3) A person who without reasonable excuse fails to comply with a requirement of the Commission under subsection (1)(b) is guilty of an offence and liable on summary conviction—

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- (a) to a fine not exceeding level 3 on the standard scale, and
 - (b) to an additional fine not exceeding £20 for each day on which the offence continues after conviction for that offence.
- (4) Any expenses incurred by the Commission in connection with proceedings for an offence under subsection (3) alleged to have been committed by an officer or member of a body, so far as not recovered from any other source, are recoverable from that body.
- (5) “English best value authority” means a best value authority other than—
- (a) a county council, county borough council or community council in Wales,
 - (b) a National Park authority for a National Park in Wales,
 - (c) a police authority for a police area in Wales,
 - (d) a fire and rescue authority in Wales constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 (c. 21) or a scheme to which section 4 of that Act applies.

32C Voluntary provision of data

- (1) If the Commission thinks it appropriate to conduct a data matching exercise using data held by or on behalf of a body or person not subject to section 32B, the data may be disclosed to the Commission or a person acting on its behalf.
- (2) A disclosure under subsection (1) does not breach—
- (a) any obligation of confidence owed by a person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (3) But nothing in this section authorises a disclosure which—
- (a) contravenes the Data Protection Act 1998 (c. 29), or
 - (b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23).
- (4) Data may not be disclosed under subsection (1) if the data comprise or include patient data.
- (5) “Patient data” means data relating to an individual which are held for medical purposes (within the meaning of section 251 of the National Health Service Act 2006 (c. 41)) and from which the individual can be identified.
- (6) This section does not limit the circumstances in which data may be disclosed apart from this section.
- (7) Data matching exercises may include data provided by a body or person outside England and Wales.

32D Disclosure of results of data matching etc

- (1) This section applies to the following information—
- (a) information relating to a particular body or person obtained by or on behalf of the Commission for the purpose of conducting a data matching exercise,

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- (b) the results of any such exercise.
- (2) Information to which this section applies may be disclosed by or on behalf of the Commission if the disclosure is—
- (a) for or in connection with a purpose for which the data matching exercise is conducted,
 - (b) to a body mentioned in subsection (3) (or a related party) for or in connection with a function of that body corresponding or similar to the functions of an auditor under Part 2 or the functions of the Commission under this Part, or
 - (c) in pursuance of a duty imposed by or under a statutory provision.
- (3) The bodies are—
- (a) the Auditor General for Wales,
 - (b) the Auditor General for Scotland,
 - (c) the Accounts Commission for Scotland,
 - (d) Audit Scotland,
 - (e) the Comptroller and Auditor General for Northern Ireland,
 - (f) a person designated as a local government auditor under Article 4 of the Local Government (Northern Ireland) Order 2005 ([S.I. 2005/1968 \(N.I.18\)](#)).
- (4) “Related party”, in relation to a body mentioned in subsection (3), means—
- (a) a body or person acting on its behalf,
 - (b) a body whose accounts are required to be audited by it or by a person appointed by it,
 - (c) a person appointed by it to audit those accounts.
- (5) If the data used for a data matching exercise include patient data—
- (a) subsection (2)(a) applies only so far as the purpose for which the disclosure is made relates to a relevant NHS body,
 - (b) subsection (2)(b) applies only so far as the function for or in connection with which the disclosure is made relates to such a body.
- (6) In subsection (5)—
- (a) “patient data” has the same meaning as in section 32C,
 - (b) “relevant NHS body” means—
 - (i) a health service body,
 - (ii) a Welsh NHS body,
 - (iii) an NHS body as defined in section 22(1) of the Community Care and Health (Scotland) Act 2002 ([asp 5](#)),
 - (iv) a body to which Article 90 of the Health and Personal Social Services (Northern Ireland) Order 1972 ([S.I. 1972/1265 \(N.I.14\)](#)) applies.
- (7) Information disclosed under subsection (2) may not be further disclosed except—
- (a) for or in connection with the purpose for which it was disclosed under paragraph (a) or the function for which it was disclosed under paragraph (b) of that subsection,

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- (b) for the investigation or prosecution of an offence (so far as the disclosure does not fall within paragraph (a)), or
 - (c) in pursuance of a duty imposed by or under a statutory provision.
- (8) Except as authorised by subsections (2) and (7), a person who discloses information to which this section applies is guilty of an offence and liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both.
- (9) Section 49 does not apply to information to which this section applies.
- (10) In this section, “body” includes office.

32E Publication

- (1) Nothing in section 32D prevents the Commission from publishing a report on a data matching exercise (including on the results of the exercise).
- (2) But the report may not include information relating to a particular body or person if—
 - (a) the body or person is the subject of any data included in the data matching exercise,
 - (b) the body or person can be identified from the information, and
 - (c) the information is not otherwise in the public domain.
- (3) A report published under this section may be published in such manner as the Commission considers appropriate for bringing it to the attention of those members of the public who may be interested.
- (4) Section 51 does not apply to information to which section 32D applies.
- (5) This section does not affect any powers of an auditor where the data matching exercise in question forms part of an audit under Part 2.

32F Fees for data matching

- (1) The Commission must prescribe a scale or scales of fees in respect of data matching exercises.
- (2) A body required under section 32B(1) to provide data for a data matching exercise must pay to the Commission the fee applicable to that exercise in accordance with the appropriate scale.
- (3) But if it appears to the Commission that the work involved in the exercise was substantially more or less than that envisaged by the appropriate scale, the Commission may charge the body a fee which is larger or smaller than that referred to in subsection (2).
- (4) Before prescribing a scale of fees under this section, the Commission must consult—
 - (a) the bodies mentioned in section 32B(2), and
 - (b) such other bodies or persons as the Commission thinks fit.

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- (5) If the Secretary of State considers it necessary or desirable to do so, he may by regulations prescribe a scale or scales of fees to have effect, for such period as is specified in the regulations, in place of any scale or scales of fees prescribed by the Commission and, if he does so, references in this section to the appropriate scale are to be read as respects that period as references to the appropriate scale prescribed by the Secretary of State.
- (6) Before making any regulations under subsection (5), the Secretary of State must consult—
 - (a) the Commission, and
 - (b) such other bodies or persons as he thinks fit.
- (7) In addition to the power under subsection (2), the Commission may charge a fee to any other body or person providing data for or receiving the results of a data matching exercise, such fee to be payable in accordance with terms agreed between the Commission and that body or person.

32G Code of data matching practice

- (1) The Commission must prepare, and keep under review, a code of practice with respect to data matching exercises.
- (2) Regard must be had to the code in conducting and participating in any such exercise.
- (3) Before preparing or altering the code, the Commission must consult the bodies mentioned in section 32B(2), the Information Commissioner and such other bodies or persons as the Commission thinks fit.
- (4) The Commission must—
 - (a) send a copy of the code, and of any alterations made to the code, to the Secretary of State, who must lay the copy before Parliament, and
 - (b) from time to time publish the code as for the time being in force.

32H Powers of Secretary of State

- (1) The Secretary of State may by order amend this Part—
 - (a) to add any purpose mentioned in subsection (2) to the purposes for which data matching exercises may be conducted,
 - (b) to modify the application of this Part in relation to a purpose so added.
- (2) The purposes which may be added are—
 - (a) to assist in the prevention and detection of crime (other than fraud),
 - (b) to assist in the apprehension and prosecution of offenders,
 - (c) to assist in the recovery of debt owing to public bodies.
- (3) The Secretary of State may by order amend this Part—
 - (a) to add a public body to the list of bodies in section 32B(2),
 - (b) to modify the application of this Part in relation to a body so added,
 - (c) to remove a body from that list.

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(4) An order under this section may include such incidental, consequential, supplemental or transitional provision as the Secretary of State thinks fit.

(5) In this section, “public body” means a body or person whose functions—

- (a) are functions of a public nature, or
- (b) include functions of that nature,

but, in the latter case, the body or person is a public body to the extent only of those functions.”

3 In section 52 (orders and regulations), after subsection (1) insert—

“(1A) No order shall be made under section 32H unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.”

PART 2

DATA MATCHING: WALES

4 After Part 3 of the Public Audit (Wales) Act 2004 (c. 23) insert—

“PART 3A

DATA MATCHING

64A Power to conduct data matching exercises

- (1) The Auditor General for Wales may conduct data matching exercises or arrange for them to be conducted on his behalf.
- (2) A data matching exercise is an exercise involving the comparison of sets of data to determine how far they match (including the identification of any patterns and trends).
- (3) The power in subsection (1) is exercisable for the purpose of assisting in the prevention and detection of fraud in or with respect to Wales.
- (4) That assistance may, but need not, form part of an audit.
- (5) A data matching exercise may not be used to identify patterns and trends in an individual’s characteristics or behaviour which suggest nothing more than his potential to commit fraud in the future.
- (6) In the following provisions of this Part, reference to a data matching exercise is to an exercise conducted or arranged to be conducted under this section.

64B Mandatory provision of data

- (1) The Auditor General for Wales may require—
 - (a) any body mentioned in subsection (2), and
 - (b) any officer or member of such a body,

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to provide the Auditor General or a person acting on his behalf with such data (and in such form) as the Auditor General or that person may reasonably require for the purpose of conducting data matching exercises.

- (2) The bodies are—
 - (a) a local government body in Wales (as defined in section 12(1));
 - (b) a Welsh NHS body (as defined in section 60).
- (3) A person who without reasonable excuse fails to comply with a requirement of the Auditor General under subsection (1)(b) is guilty of an offence and liable on summary conviction—
 - (a) to a fine not exceeding level 3 on the standard scale, and
 - (b) to an additional fine not exceeding £20 for each day on which the offence continues after conviction for that offence.
- (4) If an officer or member of a body is convicted of an offence under subsection (3), any expenses incurred by the Auditor General in connection with proceedings for the offence, so far as not recovered from any other source, are recoverable from that body.

64C Voluntary provision of data

- (1) If the Auditor General for Wales thinks it appropriate to conduct a data matching exercise using data held by or on behalf of a body or person not subject to section 64B, the data may be disclosed to the Auditor General or a person acting on his behalf.
- (2) A disclosure under subsection (1) does not breach—
 - (a) any obligation of confidence owed by a person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (3) But nothing in this section authorises a disclosure which—
 - (a) contravenes the Data Protection Act 1998 (c. 29), or
 - (b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23).
- (4) Data may not be disclosed under subsection (1) if the data comprise or include patient data.
- (5) “Patient data” means data relating to an individual which are held for medical purposes (within the meaning of section 251 of the National Health Service Act 2006 (c. 41)) and from which the individual can be identified.
- (6) This section does not limit the circumstances in which data may be disclosed apart from this section.
- (7) Data matching exercises may include data provided by a body or person outside England and Wales.

64D Disclosure of results of data matching etc

- (1) This section applies to the following information—

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- (a) information relating to a particular body or person obtained by or on behalf of the Auditor General for Wales for the purpose of conducting a data matching exercise,
 - (b) the results of any such exercise.
- (2) Information to which this section applies may be disclosed by or on behalf of the Auditor General for Wales if the disclosure is—
- (a) for or in connection with a purpose for which the data matching exercise is conducted,
 - (b) to a body mentioned in subsection (3) (or a related party) for or in connection with a function of that body corresponding or similar to the functions of an auditor under Chapter 1 of Part 2 or the functions of the Auditor General under Part 3 or this Part, or
 - (c) in pursuance of a duty imposed by or under a statutory provision.
- (3) The bodies are—
- (a) the Audit Commission,
 - (b) the Auditor General for Scotland,
 - (c) the Accounts Commission for Scotland,
 - (d) Audit Scotland,
 - (e) the Comptroller and Auditor General for Northern Ireland,
 - (f) a person designated as a local government auditor under Article 4 of the Local Government (Northern Ireland) Order 2005 ([S.I. 2005/1968 \(N.I.18\)](#)).
- (4) “Related party”, in relation to a body mentioned in subsection (3), means—
- (a) a body or person acting on its behalf,
 - (b) a body whose accounts are required to be audited by it or by a person appointed by it,
 - (c) a person appointed by it to audit those accounts.
- (5) If the data used for a data matching exercise include patient data—
- (a) subsection (2)(a) applies only so far as the purpose for which the disclosure is made relates to a relevant NHS body,
 - (b) subsection (2)(b) applies only so far as the function for or in connection with which the disclosure is made relates to such a body.
- (6) In subsection (5)—
- (a) “patient data” has the same meaning as in section 64C,
 - (b) “relevant NHS body” means—
 - (i) a Welsh NHS body as defined in section 60,
 - (ii) a health service body as defined in section 53(1) of the Audit Commission Act 1998 ([c. 18](#)),
 - (iii) an NHS body as defined in section 22(1) of the Community Care and Health (Scotland) Act 2002 ([asp 5](#)),
 - (iv) a body to which Article 90 of the Health and Personal Social Services (Northern Ireland) Order 1972 ([S.I. 1972/1265 \(N.I.14\)](#)) applies.
- (7) Information disclosed under subsection (2) may not be further disclosed except—

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- (a) for or in connection with the purpose for which it was disclosed under paragraph (a) or the function for which it was disclosed under paragraph (b) of that subsection,
 - (b) for the investigation or prosecution of an offence (so far as the disclosure does not fall within paragraph (a)), or
 - (c) in pursuance of a duty imposed by or under a statutory provision.
- (8) Except as authorised by subsections (2) and (7), a person who discloses information to which this section applies is guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, to a fine not exceeding the statutory maximum or to both.
- (9) Section 54 does not apply to information to which this section applies.
- (10) In this section “statutory provision” has the meaning given in section 59(8).

64E Publication

- (1) Nothing in section 64D prevents the Auditor General for Wales from publishing a report on a data matching exercise (including on the results of the exercise).
- (2) But the report may not include information relating to a particular body or person if—
 - (a) the body or person is the subject of any data included in the data matching exercise,
 - (b) the body or person can be identified from the information, and
 - (c) the information is not otherwise in the public domain.
- (3) A report published under this section may be published in any manner which the Auditor General considers appropriate for bringing it to the attention of those members of the public who may be interested.
- (4) This section does not affect any powers of an auditor or the Auditor General where the data matching exercise in question forms part of an audit under Part 2 or 3.

64F Fees for data matching

- (1) The Auditor General for Wales must prescribe a scale or scales of fees in respect of data matching exercises.
- (2) A body required under section 64B(1) to provide data for a data matching exercise must pay to the Auditor General the fee applicable to that exercise in accordance with the appropriate scale.
- (3) But if it appears to the Auditor General that the work involved in the exercise was substantially more or less than that envisaged by the appropriate scale, the Auditor General may charge the body a fee which is larger or smaller than that referred to in subsection (2).

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- (4) Before prescribing a scale of fees under this section, the Auditor General must consult—
 - (a) the bodies mentioned in section 64B(2), and
 - (b) such other bodies or persons as the Auditor General thinks fit.
- (5) If the Welsh Ministers consider it necessary or desirable to do so, they may by regulations prescribe a scale or scales of fees to have effect, for such period as is specified in the regulations, in place of any scale or scales of fees prescribed by the Auditor General and, if they do so, references in this section to the appropriate scale are to be read as respects that period as references to the appropriate scale prescribed by the Welsh Ministers.
- (6) Before making any regulations under subsection (5), the Welsh Ministers must consult—
 - (a) the Auditor General for Wales, and
 - (b) such other bodies or persons as they think fit.
- (7) The power under subsection (5) is exercisable by statutory instrument subject to annulment in pursuance of a resolution of the Assembly.
- (8) In addition to the power under subsection (2), the Auditor General may charge a fee to any other body or person providing data for or receiving the results of a data matching exercise, such fee to be payable in accordance with terms agreed between the Auditor General and that body or person.

64G Code of data matching practice

- (1) The Auditor General for Wales must prepare, and keep under review, a code of practice with respect to data matching exercises.
- (2) Regard must be had to the code in conducting and participating in any such exercise.
- (3) Before preparing or altering the code, the Auditor General must consult the bodies mentioned in section 64B(2), the Information Commissioner and such other bodies or persons as the Auditor General thinks fit.
- (4) The Auditor General must—
 - (a) lay a copy of the code, and of any alterations made to the code, before the Assembly, and
 - (b) from time to time publish the code as for the time being in force.

64H Powers of Secretary of State

- (1) The Secretary of State may by order amend this Part—
 - (a) to add any purpose mentioned in subsection (2) to the purposes for which data matching exercises may be conducted,
 - (b) to modify the application of this Part in relation to a purpose so added.
- (2) The purposes which may be added are—
 - (a) to assist in the prevention and detection of crime (other than fraud) in or with respect to Wales,

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- (b) to assist in the apprehension and prosecution of offenders in or with respect to Wales,
 - (c) to assist in the recovery of debt owing to Welsh public bodies.
 - (3) The Secretary of State may by order amend this Part—
 - (a) to add a Welsh public body to the list of bodies in section 64B(2),
 - (b) to modify the application of this Part in relation to a body so added,
 - (c) to remove a body from that list.
 - (4) Before making an order under this section, the Secretary of State must consult the Auditor General for Wales.
 - (5) An order under this section—
 - (a) is to be made by statutory instrument, and
 - (b) may include such incidental, consequential, supplemental or transitional provision as the Secretary of State thinks fit.
 - (6) No order under this section may be made unless a draft of the statutory instrument has been laid before, and approved by a resolution of, each House of Parliament.
 - (7) In this section “Welsh public body” means a public body (as defined in section 12(3)) whose functions relate exclusively to Wales or an area of Wales.”
- 5 (1) Paragraph 9 of Schedule 8 to the Government of Wales Act 2006 (c. 32) (special finance provisions) is amended as follows.
 - (2) In sub-paragraph (3)(b) after “government audit” insert “or, so far as the functions relate to local government bodies in Wales, Part 3A of that Act (data matching)”.
 - (3) In sub-paragraph (4)(c) for the words from “Part 2” to the end substitute
 - “the following provisions of the Public Audit (Wales) Act 2004 (c. 23)—
 - (i) Part 2 (including those charged as a result of paragraph 11(3)(c)),
 - (ii) Part 3A (but only those charged to a local government body in Wales).”
 - (4) After sub-paragraph (4) insert—
 - “(5) “Local government body in Wales” has the meaning given in section 12(1) of the Public Audit (Wales) Act 2004.”

PART 3

DATA MATCHING: NORTHERN IRELAND

- 6 After Article 4 of the Audit and Accountability (Northern Ireland) Order 2003 (S.I. 2003/418 (N.I.5)) insert—

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“Data matching

Power to conduct data matching exercises

- 4A (1) The Comptroller and Auditor General may conduct data matching exercises or arrange for them to be conducted on his behalf.
- (2) A data matching exercise is an exercise involving the comparison of sets of data to determine how far they match (including the identification of any patterns and trends).
- (3) The power in paragraph (1) is exercisable for the purpose of assisting in the prevention and detection of fraud.
- (4) That assistance may, but need not, form part of an audit.
- (5) A data matching exercise may not be used to identify patterns and trends in an individual’s characteristics or behaviour which suggest nothing more than his potential to commit fraud in the future.
- (6) In Articles 4B to 4H, reference to a data matching exercise is to an exercise conducted or arranged to be conducted under this Article.

Mandatory provision of data

- 4B (1) The Comptroller and Auditor General may require—
- (a) any body mentioned in paragraph (2); and
 - (b) any officer or member of such a body,
- to provide the Comptroller and Auditor General or a person acting on his behalf with such data (and in such form) as the Comptroller and Auditor General or that person may reasonably require for the purpose of conducting data matching exercises.
- (2) The bodies are—
- (a) any body (including a holder of a statutory office) whose accounts are required to be audited by the Comptroller and Auditor General, other than a body whose accounts are required to be so audited by virtue of section 55 of the Northern Ireland Act 1998 (c. 47);
 - (b) any body whose accounts are required to be audited by a local government auditor.
- (3) A person who without reasonable excuse fails to comply with a requirement of the Comptroller and Auditor General under paragraph (1)(b) is guilty of an offence and liable on summary conviction—
- (a) to a fine not exceeding level 3 on the standard scale; and
 - (b) to an additional fine not exceeding £20 for each day on which the offence continues after conviction for that offence.
- (4) If an officer or member of a body is convicted of an offence under paragraph (3), any expenses incurred by the Comptroller and Auditor General in connection with proceedings for the offence, so far as not recovered from any other source, are recoverable from that body.

Voluntary provision of data

- 4C (1) If the Comptroller and Auditor General thinks it appropriate to conduct a data matching exercise using data held by or on behalf of a body or person not subject to Article 4B, the data may be disclosed to the Comptroller and Auditor General or a person acting on his behalf.
- (2) A disclosure under paragraph (1) does not breach—
- (a) any obligation of confidence owed by a person making the disclosure; or
 - (b) any other restriction on the disclosure of information (however imposed).
- (3) But nothing in this Article authorises a disclosure which—
- (a) contravenes the Data Protection Act 1998 (c. 29); or
 - (b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23).
- (4) Data may not be disclosed under paragraph (1) if the data comprise or include patient data.
- (5) “Patient data” means data relating to an individual which are held for any of the following purposes and from which the individual can be identified—
- (a) preventative medicine, medical diagnosis, medical research, the provision of care and treatment and the management of health and social care services;
 - (b) informing individuals about their physical or mental health or condition, the diagnosis of their condition or their care and treatment.
- (6) This Article does not limit the circumstances in which data may be disclosed apart from this Article.
- (7) Data matching exercises may include data provided by a body or person outside Northern Ireland.

Disclosure of results of data matching etc

- 4D (1) This Article applies to the following information—
- (a) information relating to a particular body or person obtained by or on behalf of the Comptroller and Auditor General for the purpose of conducting a data matching exercise;
 - (b) the results of any such exercise.
- (2) Information to which this Article applies may be disclosed by or on behalf of the Comptroller and Auditor General if the disclosure is—
- (a) for or in connection with a purpose for which the data matching exercise is conducted;
 - (b) to a body mentioned in paragraph (3) (or a related party) for or in connection with a function of that body corresponding or similar to the audit functions of the Comptroller and Auditor General or a local government auditor under any statutory provision or the data

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- matching functions of the Comptroller and Auditor General under Article 4A; or
- (c) in pursuance of a duty imposed by or under a statutory provision.
- (3) The bodies are—
- (a) the Audit Commission for Local Authorities and the National Health Service in England;
 - (b) the Auditor General for Wales;
 - (c) the Auditor General for Scotland;
 - (d) the Accounts Commission for Scotland;
 - (e) Audit Scotland.
- (4) “Related party”, in relation to a body mentioned in paragraph (3), means—
- (a) a body or person acting on its behalf;
 - (b) a body whose accounts are required to be audited by it or by a person appointed by it;
 - (c) a person appointed by it to audit those accounts.
- (5) If the data used for a data matching exercise include patient data—
- (a) paragraph (2)(a) applies only so far as the purpose for which the disclosure is made relates to a relevant NHS body;
 - (b) paragraph (2)(b) applies only so far as the function for or in connection with which the disclosure is made relates to such a body.
- (6) In paragraph (5)—
- (a) “patient data” has the same meaning as in Article 4C;
 - (b) “relevant NHS body” means—
 - (i) a body to which Article 90 of the [Health and Personal Social Services \(Northern Ireland\) Order 1972 \(NI 14\)](#) applies;
 - (ii) a health service body as defined in section 53(1) of the [Audit Commission Act 1998 \(c. 18\)](#);
 - (iii) a Welsh NHS body as defined in section 60 of the [Public Audit \(Wales\) Act 2004 \(c. 23\)](#);
 - (iv) an NHS body as defined in section 22(1) of the [Community Care and Health \(Scotland\) Act 2002 \(asp 5\)](#).
- (7) Information disclosed under paragraph (2) may not be further disclosed except—
- (a) for or in connection with the purpose for which it was disclosed under sub-paragraph (a) or the function for which it was disclosed under sub-paragraph (b) of that paragraph;
 - (b) for the investigation or prosecution of an offence (so far as the disclosure does not fall within sub-paragraph (a)); or
 - (c) in pursuance of a duty imposed by or under a statutory provision.
- (8) Except as authorised by paragraphs (2) and (7), a person who discloses information to which this Article applies is guilty of an offence and liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years, to a fine or to both; or
 - (b) on summary conviction, to imprisonment for a term not exceeding 6 months, to a fine not exceeding the statutory maximum or to both.

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- (9) Article 27 of the [Local Government \(Northern Ireland\) Order 2005 \(NI 18\)](#) does not apply to information to which this Article applies.
- (10) In this Article “body” includes office.

Publication

- 4E (1) Nothing in Article 4D prevents the Comptroller and Auditor General from publishing a report on a data matching exercise (including on the results of the exercise).
- (2) But the report may not include information relating to a particular body or person if—
- (a) the body or person is the subject of any data included in the data matching exercise;
 - (b) the body or person can be identified from the information; and
 - (c) the information is not otherwise in the public domain.
- (3) A report published under this Article may be published in such manner as the Comptroller and Auditor General considers appropriate for bringing it to the attention of those members of the public who may be interested.
- (4) This Article does not affect any powers of the Comptroller and Auditor General or a local government auditor where the data matching exercise in question forms part of an audit carried out by either of them.

Fees for data matching

- 4F (1) The Comptroller and Auditor General may charge a fee to any body required under Article 4B(1) to provide data for a data matching exercise.
- (2) But a body whose functions are discharged on behalf of the Crown may not be charged a fee under paragraph (1) except with the consent of the Department.
- (3) In addition to the power under paragraph (1), the Comptroller and Auditor General may charge a fee to any other body or person providing data for or receiving the results of a data matching exercise, such fee to be payable in accordance with terms agreed between the Comptroller and Auditor General and that body or person.
- (4) Any fee received by the Comptroller and Auditor General by virtue of this Article is to be paid by him into the Consolidated Fund.

Code of data matching practice

- 4G (1) The Comptroller and Auditor General must prepare, and keep under review, a code of practice with respect to data matching exercises.
- (2) Regard must be had to the code in conducting and participating in any such exercise.
- (3) Before preparing or altering the code, the Comptroller and Auditor General must consult the bodies mentioned in Article 4B(2), the Information Commissioner and such other bodies or persons as he thinks fit.

Status: This is the original version (as it was originally enacted).

- (4) The Comptroller and Auditor General must—
- (a) send a copy of the code, and of any alterations made to the code, to the Department and the Department must lay the copy before the Assembly; and
 - (b) from time to time publish the code as for the time being in force.

Powers of the Department

- 4H (1) The Department may by order amend Articles 4A to 4G—
- (a) to add any purpose mentioned in paragraph (2) to the purposes for which data matching exercises may be conducted;
 - (b) to modify the application of those Articles in relation to a purpose so added.
- (2) The purposes which may be added are—
- (a) to assist in the prevention and detection of crime (other than fraud);
 - (b) to assist in the apprehension and prosecution of offenders;
 - (c) to assist in the recovery of debt owing to public bodies.
- (3) The Department may by order amend Articles 4A to 4G—
- (a) to add a public body to the list of bodies in Article 4B(2);
 - (b) to modify the application of those Articles in relation to a body so added;
 - (c) to remove a body from that list.
- (4) An order under this Article may include such incidental, consequential, supplemental or transitional provision as the Department thinks fit.
- (5) An order under this Article is subject to affirmative resolution.
- (6) In this Article “public body” means a body or person whose functions—
- (a) are functions of a public nature; or
 - (b) include functions of that nature,
- but, in the latter case, the body or person is a public body to the extent only of those functions.”

- 7 In Article 6 of the Audit (Northern Ireland) Order 1987 ([S.I. 1987/460 \(N.I.5\)](#)) (expenses and accounts of Northern Ireland Audit Office), in paragraph (5) after “examination” insert “or in respect of data matching”.

SCHEDULE 8

Section 74(2)

ABOLITION OF ASSETS RECOVERY AGENCY AND ITS DIRECTOR

PART 1

ABOLITION OF CONFISCATION FUNCTIONS

- 1 The Proceeds of Crime Act 2002 (c. 29) is amended as follows.

- 2 In section 6(3)(a) (making of confiscation orders in England and Wales) omit “or the Director”.
- 3 In section 11(7) (time for payment of order) omit paragraph (b) and the word “or” before it.
- 4 In section 14(7)(b) (postponement of proceedings) omit “or the Director (as the case may be)”.
- 5 (1) Section 16 (statement of information) is amended as follows.
(2) In subsection (1) omit “or the Director (as the case may be)”.
(3) In subsection (3) omit—
(a) “or the Director (as the case may be)”; and
(b) “or the Director”.
(4) In subsection (4) omit “or Director”.
(5) In subsection (5) omit—
(a) “or the Director (as the case may be)”; and
(b) “or the Director”.
(6) In subsection (6) omit “or the Director”.
- 6 In section 17(1) (defendant’s response to statement of information) omit “or the Director”.
- 7 In section 18(6) (provision of information by defendant) omit “or the Director (as the case may be)”.
- 8 In section 19(1)(c) (no order made: reconsideration of case) omit “or the Director”.
- 9 (1) Section 20 (no order made: reconsideration of benefit) is amended as follows.
(2) Omit subsection (3).
(3) In subsection (4)—
(a) omit the words from “If the court” to “to do so,”; and
(b) in paragraph (b) omit “or the Director”.
- 10 In section 21(1) (order made: reconsideration of benefit), in paragraphs (b), (c) and (d), omit “or the Director”.
- 11 In section 22(2) (order made: reconsideration of available amount)—
(a) omit paragraph (b); and
(b) in paragraph (c) omit “or 52”.
- 12 In section 23(1)(b) (inadequacy of available amount: variation of order) omit “or 52”.
- 13 (1) Section 26 (information) is amended as follows.
(2) In subsection (1)(b) omit “or the Director”.
(3) In subsection (2)—
(a) in paragraph (a) omit “or the Director (as the case may be)”; and
(b) in paragraph (b) omit “or the Director”.
- 14 (1) Section 27 (defendant convicted or committed) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In subsection (3)(a) omit “or the Director”.
- (3) In subsection (5)(b) omit “or the Director (as the case may be)”.
- (4) In subsection (7) omit “or the Director”.
- 15 (1) Section 28 (defendant neither convicted nor acquitted) is amended as follows.
 - (2) In subsection (3)(a) omit “or the Director”.
 - (3) In subsection (5)(b) omit “or the Director (as the case may be)”.
- 16 (1) Section 31 (appeal by prosecutor or Director) is amended as follows.
 - (2) In the heading omit “or Director”.
 - (3) In subsection (1) omit “or the Director”.
 - (4) In subsection (2) omit “or the Director”.
- 17 In section 33(2) (appeal to the House of Lords)—
 - (a) in paragraph (a) omit “(if the prosecutor appealed under section 31)”; and
 - (b) omit paragraph (b).
- 18 Omit section 34 (Director as enforcement authority).
- 19 (1) Section 35 (Director not appointed as enforcement authority) is amended as follows.
 - (2) For the heading substitute “Enforcement as fines”.
 - (3) In subsection (1) omit paragraph (b) and the word “and” before it.
- 20 Omit sections 36 and 37 (Director appointed as enforcement authority and Director’s application for enforcement).
- 21 (1) Section 39 (reconsideration etc: variation of prison term) is amended as follows.
 - (2) In subsection (5) for “appropriate person” substitute “prosecutor”.
 - (3) Omit subsection (6).
- 22 (1) Section 40 (conditions for exercise of powers) is amended as follows.
 - (2) In subsection (4)(a) omit “or the Director”.
 - (3) In subsection (5)(a) omit “or the Director”.
 - (4) In subsection (6)(a) omit “or the Director”.
 - (5) In subsection (8)(b) omit “or the Director (as the case may be)”.
- 23 In section 42(2) (application, discharge and variation) omit paragraph (b).
- 24 Omit sections 52 and 53 (Director’s receivers).
- 25 Omit sections 56 and 57 (Director’s receivers and sums received by Director).
- 26 In section 58(6)(b) (restraint orders: restrictions) for “, 50 or 52” substitute “or 50”.
- 27 Omit section 60 (Director’s receivers).
- 28 In section 61 (protection) for “, 50 or 52” substitute “or 50”.
- 29 In section 62(1) (further applications) for “, 50 or 52” substitute “or 50”.

Status: This is the original version (as it was originally enacted).

- 30 In section 63(1) (discharge and variation)—
 (a) for “to 53” substitute “to 51”; and
 (b) in paragraph (b) omit the words from “or”, where it first appears, to “Director”.
- 31 (1) Section 64 (management receivers: discharge) is amended as follows.
 (2) In subsection (1)(b) omit the words from “or” to “section 52”.
 (3) Omit subsection (3).
- 32 (1) Section 65 (appeal to Court of Appeal) is amended as follows.
 (2) In subsection (1) omit “or section 53”.
 (3) In subsection (2) omit “or section 53”.
 (4) In subsection (5)(a) omit the words from “or”, where it first appears, to “Director”.
- 33 In section 67(4) (seized money) omit paragraph (c).
- 34 In section 69(1) (powers of court and receiver)—
 (a) in paragraph (a) for “60” substitute “59”; and
 (b) in paragraph (b) for “, 50 or 52” substitute “or 50”.
- 35 In section 74(1) (enforcement abroad)—
 (a) in paragraph (b) omit “or the Director”; and
 (b) in paragraph (c) omit “or the Director (as the case may be)”.
- 36 In section 156(3)(a) (making of confiscation orders in Northern Ireland) omit “or the Director”.
- 37 In section 161(7) (time for payment of order) omit paragraph (b) and the word “or” before it.
- 38 In section 164(7)(b) (postponement of proceedings) omit “or the Director (as the case may be)”.
- 39 (1) Section 166 (statement of information) is amended as follows.
 (2) In subsection (1) omit “or the Director (as the case may be)”.
 (3) In subsection (3) omit—
 (a) “or the Director (as the case may be)”; and
 (b) “or the Director”.
 (4) In subsection (4) omit “or Director”.
 (5) In subsection (5) omit—
 (a) “or the Director (as the case may be)”; and
 (b) “or the Director”.
 (6) In subsection (6) omit “or the Director”.
- 40 In section 167(1) (defendant’s response to statement of information) omit “or the Director”.
- 41 In section 168(6) (provision of information by defendant) omit “or the Director (as the case may be)”.

Status: This is the original version (as it was originally enacted).

- 42 In section 169(1)(c) (no order made: reconsideration of case) omit “or the Director”.
- 43 (1) Section 170 (no order made: reconsideration of benefit) is amended as follows.
- (2) Omit subsection (3).
- (3) In subsection (4)—
- (a) omit the words from “If the court” to “to do so.”; and
- (b) in paragraph (b) omit “or the Director”.
- 44 In section 171(1) (order made: reconsideration of benefit), in paragraphs (b), (c) and (d), omit “or the Director”.
- 45 In section 172(2) (order made: reconsideration of available amount)—
- (a) omit paragraph (b); and
- (b) in paragraph (c) omit “or 200”.
- 46 In section 173(1)(b) (inadequacy of available amount: variation of order) omit “or 200”.
- 47 (1) Section 176 (information) is amended as follows.
- (2) In subsection (1)(b) omit “or the Director”.
- (3) In subsection (2)—
- (a) in paragraph (a) omit “or the Director (as the case may be)”; and
- (b) in paragraph (b) omit “or the Director”.
- 48 (1) Section 177 (defendant convicted or committed) is amended as follows.
- (2) In subsection (3)(a) omit “or the Director”.
- (3) In subsection (5)(b) omit “or the Director (as the case may be)”.
- (4) In subsection (7) omit “or the Director”.
- 49 (1) Section 178 (defendant neither convicted nor acquitted) is amended as follows.
- (2) In subsection (3)(a) omit “or the Director”.
- (3) In subsection (5)(b) omit “or the Director (as the case may be)”.
- 50 (1) Section 181 (appeal by prosecutor or Director) is amended as follows.
- (2) In the heading omit “or Director”.
- (3) In subsection (1) omit “or the Director”.
- (4) In subsection (2) omit “or the Director”.
- 51 In section 183(2) (appeal to the House of Lords)—
- (a) in paragraph (a) omit “(if the prosecutor appealed under section 181)”; and
- (b) omit paragraph (b).
- 52 Omit section 184 (Director as enforcement authority).
- 53 Omit section 186 (Director’s application for enforcement).
- 54 (1) Section 188 (reconsideration etc: variation of prison term) is amended as follows.
- (2) In subsection (5) for “appropriate person” substitute “prosecutor”.

- (3) Omit subsection (6).
- 55 (1) Section 189 (conditions for exercise of powers) is amended as follows.
- (2) In subsection (4)(a) omit “or the Director”.
- (3) In subsection (5)(a) omit “or the Director”.
- (4) In subsection (6)(a) omit “or the Director”.
- (5) In subsection (8)(b) omit “or the Director (as the case may be)”.
- 56 In section 191(2) (application, discharge and variation) omit paragraph (b).
- 57 Omit sections 200 and 201 (Director’s receivers).
- 58 Omit sections 204 and 205 (Director’s receivers and sums received by Director).
- 59 In section 206(5)(b) (restraint orders) for “, 198 or 200” substitute “or 198”.
- 60 Omit section 208 (Director’s receivers).
- 61 In section 209 (protection) for “, 198 or 200” substitute “or 198”.
- 62 (1) Section 210 (further applications) is amended as follows.
- (2) In subsection (1) for “, 198 or 200” substitute “or 198”.
- (3) In subsection (2)(b) omit “or 200”.
- (4) In subsection (3) omit “or 200”.
- 63 In section 211(1) (discharge and variation)—
- (a) for “any of sections 198 to 201” substitute “section 198 or 199”; and
- (b) in paragraph (b) omit the words from “or”, where it first appears, to “Director”.
- 64 (1) Section 212 (management receivers: discharge) is amended as follows.
- (2) In subsection (1)(b) omit the words from “or” to “section 200”.
- (3) Omit subsection (3).
- 65 (1) Section 213 (appeal to Court of Appeal) is amended as follows.
- (2) In subsection (1) omit “or section 201”.
- (3) In subsection (2) omit “or section 201”.
- (4) In subsection (5)(a) omit the words from “or”, where it first appears, to “Director”.
- 66 In section 215(4) (seized money) omit paragraph (d).
- 67 In section 217(1) (powers of court and receiver)—
- (a) in paragraph (a) for “208” substitute “207”; and
- (b) in paragraph (b) for “, 198 or 200” substitute “or 198”.
- 68 In section 222(1) (enforcement abroad)—
- (a) in paragraph (b) omit “or the Director”; and
- (b) in paragraph (c) omit “or the Director (as the case may be)”.
- 69 In section 417(2) (insolvency etc: modifications of the 1986 Act)—

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- (a) in paragraph (b) omit “or 52”; and
 - (b) in paragraph (d) omit “or 200”.
- 70 (1) Section 418 (restriction of powers) is amended as follows.
 - (2) In subsection (2)—
 - (a) in paragraph (a) for “, 50 or 52” substitute “or 50”; and
 - (b) in paragraph (c) for “, 198 or 200” substitute “or 198”.
 - (3) In subsection (3)(d) for “, 52, 198 or 200” substitute “or 198”.
- 71 In section 419(2)(b) (tainted gifts)—
 - (a) omit “52,”; and
 - (b) for “, 198 or 200” substitute “or 198”.
- 72 In section 420(2) (modifications of the 1985 Act)—
 - (a) in paragraph (b) omit “or 52”; and
 - (b) in paragraph (d) omit “or 200”.
- 73 (1) Section 421 (restriction of powers) is amended as follows.
 - (2) In subsection (2)—
 - (a) in paragraph (a) for “, 50 or 52” substitute “or 50”; and
 - (b) in paragraph (c) for “, 198 or 200” substitute “or 198”.
 - (3) In subsection (3)(d) for “, 52, 198 or 200” substitute “or 198”.
- 74 In section 422(2)(b) (tainted gifts)—
 - (a) omit “52,”; and
 - (b) for “, 198 or 200” substitute “or 198”.
- 75 In section 423(2) (modifications of the 1989 Order)—
 - (a) in paragraph (b) omit “or 52”; and
 - (b) in paragraph (d) omit “or 200”.
- 76 (1) Section 424 (restriction of powers) is amended as follows.
 - (2) In subsection (2)—
 - (a) in paragraph (a) for “, 50 or 52” substitute “or 50”; and
 - (b) in paragraph (c) for “, 198 or 200” substitute “or 198”.
 - (3) In subsection (3)(d) for “, 52, 198 or 200” substitute “or 198”.
- 77 In section 425(2)(b) (tainted gifts)—
 - (a) omit “52,”; and
 - (b) for “, 198 or 200” substitute “or 198”.
- 78 (1) Section 426 (winding up under the 1986 Act) is amended as follows.
 - (2) In subsection (2)—
 - (a) in paragraph (b) omit “or 52”; and
 - (b) in paragraph (d) omit “or 200”.
 - (3) In subsection (5)—
 - (a) in paragraph (a) for “, 50 or 52” substitute “or 50”; and
 - (b) in paragraph (c) for “, 198 or 200” substitute “or 198”.

Status: This is the original version (as it was originally enacted).

- 79 In section 427(3)(b) (tainted gifts)—
 (a) omit “52,”; and
 (b) for “, 198 or 200” substitute “or 198”.
- 80 (1) Section 428 (winding up under the 1989 Order) is amended as follows.
 (2) In subsection (2)—
 (a) in paragraph (b) omit “or 52”; and
 (b) in paragraph (d) omit “or 200”.
 (3) In subsection (5)—
 (a) in paragraph (a) for “, 50 or 52” substitute “or 50”; and
 (b) in paragraph (c) for “, 198 or 200” substitute “or 198”.
- 81 In section 429(3)(b) (tainted gifts)—
 (a) omit “52,”; and
 (b) for “, 198 or 200” substitute “or 198”.
- 82 (1) Section 430 (floating charges) is amended as follows.
 (2) In subsection (2)—
 (a) in paragraph (b) omit “or 52”; and
 (b) in paragraph (d) omit “or 200”.
 (3) In subsection (5)—
 (a) in paragraph (a) for “, 50 or 52” substitute “or 50”; and
 (b) in paragraph (c) for “, 198 or 200” substitute “or 198”.
- 83 In section 432(7) (insolvency practitioners)—
 (a) in paragraph (a) for “, 55(3), 56(2) or 57(3)” substitute “or 55(3)”; and
 (b) in paragraph (c) for “, 203(3), 204(2) or 205(3)” substitute “or 203(3)”.
- 84 In Schedule 10 (tax), in paragraph 1—
 (a) in paragraph (a) for “, 50 or 52” substitute “or 50”; and
 (b) in paragraph (c) for “, 198 or 200” substitute “or 198”.

PART 2

TRANSFER OF CIVIL RECOVERY FUNCTIONS

- 85 The Proceeds of Crime Act 2002 (c. 29) is amended as follows.
- 86 In section 246(7) (application for interim receiving order) for “Agency” substitute “enforcement authority”.
- 87 After section 272(6) (compensation for loss in relation to associated and joint property) insert—
 “(7) In subsection (5) the reference to the enforcement authority is, in the case of an enforcement authority in relation to England and Wales or Northern Ireland, a reference to the enforcement authority which obtained the property freezing order or interim receiving order concerned.”
- 88 (1) Section 280 (applying realised proceeds) is amended as follows.
 (2) In subsection (3)—

Status: This is the original version (as it was originally enacted).

- (a) for “Director” substitute “enforcement authority (unless it is the Scottish Ministers)”; and
 - (b) for “him” substitute “it”.
- (3) In subsection (4) for “Agency” substitute “enforcement authority concerned”.
- 89 After section 283(9) (compensation) insert—
- “(10) In the case of an enforcement authority in relation to England and Wales or Northern Ireland—
- (a) the reference in subsection (5) to the enforcement authority is a reference to the enforcement authority which obtained the property freezing order or interim receiving order concerned, and
 - (b) the reference in subsection (8) to the enforcement authority is a reference to the enforcement authority which obtained the recovery order concerned.”
- 90 Omit section 313 (restriction on performance of Director’s functions by police).
- 91 (1) Section 316 (general interpretation: Part 5) is amended as follows.
- (2) In subsection (1), in the definition of “enforcement authority”—
- (a) for paragraph (a) substitute—
 - “(a) in relation to England and Wales, means SOCA, the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions or the Director of the Serious Fraud Office,”; and
 - (b) after paragraph (b) insert—
 - “(c) in relation to Northern Ireland, means SOCA, the Director of the Serious Fraud Office or the Director of Public Prosecutions for Northern Ireland,”.
- (3) After subsection (8) insert—
- “(8A) In relation to an order in England and Wales or Northern Ireland which is a recovery order, a property freezing order, an interim receiving order or an order under section 276, references to the enforcement authority are, unless the context otherwise requires, references to the enforcement authority which is seeking, or (as the case may be) has obtained, the order.”

PART 3

TRANSFER OR ABOLITION OF REVENUE FUNCTIONS

- 92 The Proceeds of Crime Act 2002 (c. 29) is amended in accordance with paragraphs 93 to 101.
- 93 (1) Section 317 (Director’s general Revenue functions) is amended as follows.
- (2) In the heading for “Director’s” substitute “SOCA’s”.
 - (3) In subsection (1) for “the Director” substitute “SOCA”.
 - (4) In subsection (2) for “the Director”, in both places where it appears, substitute “SOCA”.

Status: This is the original version (as it was originally enacted).

- (5) In subsection (3) for “the Director” substitute “SOCA”.
 - (6) In subsection (4) for “The Director” substitute “SOCA”.
 - (7) In subsection (6) for “the Director” substitute “SOCA”.
 - (8) In subsection (7) for “the Director” substitute “SOCA”.
 - (9) In subsection (8)(b) for “the Director” substitute “SOCA”.
- 94 (1) Section 318 (Revenue functions regarding employment) is amended as follows.
- (2) In subsection (1)(a) for “the Director” substitute “SOCA”.
 - (3) In subsection (2) for “the Director” substitute “SOCA”.
 - (4) In subsection (3)(a) for “the Director” substitute “SOCA”.
 - (5) In subsection (4) for “the Director” substitute “SOCA”.
- 95 (1) Section 319 (source of income) is amended as follows.
- (2) In subsection (1)—
 - (a) for “the Director” substitute “SOCA”;
 - (b) for “him” substitute “it”; and
 - (c) for “he” substitute “SOCA”.
 - (3) In subsection (2) for “the Director” substitute “SOCA”.
 - (4) In subsection (3)—
 - (a) for “the Director” substitute “SOCA”; and
 - (b) for “him” substitute “SOCA”.
- 96 (1) Section 320 (appeals) is amended as follows.
- (2) In subsection (1) for “the Director” substitute “SOCA”.
 - (3) In subsection (2)—
 - (a) for “the Director” substitute “SOCA”; and
 - (b) for “his” substitute “its”.
- 97 (1) Section 321 (Director’s functions: transfers of value) is amended as follows.
- (2) In the heading for “Director's” substitute “SOCA's”.
 - (3) In subsection (1)—
 - (a) for “the Director” substitute “SOCA”; and
 - (b) in paragraph (b) for “it” substitute “the transfer of value”.
 - (4) In subsection (2) for “the Director”, in both places where it appears, substitute “SOCA”.
 - (5) In subsection (3) for “the Director” substitute “SOCA”.
 - (6) In subsection (4) for “The Director” substitute “SOCA”.
 - (7) In subsection (5) for “the Director” substitute “SOCA”.
 - (8) In subsection (6) for “the Director” substitute “SOCA”.

Status: This is the original version (as it was originally enacted).

- 98 (1) Section 322 (Director’s functions: certain settlements) is amended as follows.
- (2) In the heading for “Director’s” substitute “SOCA’s”.
- (3) In subsection (1) for “the Director” substitute “SOCA”.
- (4) In subsection (2)—
- (a) for “the Director”, in both places where it appears, substitute “SOCA”; and
- (b) in paragraph (c) for “he” substitute “SOCA”.
- (5) In subsection (3) for “the Director” substitute “SOCA”.
- (6) In subsection (4) for “The Director” substitute “SOCA”.
- (7) In subsection (5) for “the Director” substitute “SOCA”.
- (8) In subsection (6) for “the Director” substitute “SOCA”.
- 99 (1) Section 324 (exercise of Revenue functions) is amended as follows.
- (2) In subsection (1) for “the Director” substitute “SOCA”.
- (3) In subsection (2) for “Paragraph (b) of section 1(6)” substitute “Section 2B(2)”.
- (4) In subsection (3) for “The Director” substitute “SOCA”.
- (5) In subsection (4) for “The Director” substitute “SOCA”.
- (6) In subsection (5)—
- (a) for “The Director” substitute “SOCA”; and
- (b) for “they” substitute “the Board”.
- 100 (1) Section 325 (declarations) is amended as follows.
- (2) Omit subsection (1).
- (3) For subsection (2) substitute—
- “(2) Every member of SOCA’s staff who is assigned to carry out any of SOCA’s functions under this Part must, as soon as practicable after being so assigned, make a declaration in the form set out in Schedule 8 before a person nominated by the Director General of SOCA for the purpose.”
- 101 (1) Schedule 8 (forms of declarations) is amended as follows.
- (2) Omit the words from “The Director”, where it first appears, to “by law.””, where it first appears.
- (3) For “The Staff Of The Agency” substitute “SOCA’s Staff”.
- (4) For “authorised by the Director of the Assets Recovery Agency” substitute “assigned by SOCA”.
- (5) For “to the Director” substitute “to SOCA”.
- (6) For “his” substitute “its”.
- 102 The Secretary of State may by order—
- (a) repeal Part 6 of the Proceeds of Crime Act 2002 (c. 29); and

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- (b) make such amendment, repeal or revocation of any provision made by or under any enactment (including this Schedule to this Act) as appears to the Secretary of State to be appropriate in consequence of the repeal of Part 6 of the Act of 2002.

PART 4

TRANSFER OF INVESTIGATION FUNCTIONS

- 103 The Proceeds of Crime Act 2002 (c. 29) is amended as follows.
- 104 In section 351(5) (supplementary)—
- (a) after “investigator,” where it first appears, insert “a member of SOCA’s staff”; and
 - (b) after “investigator,” where it appears for the second time, insert “member of SOCA’s staff”.
- 105 (1) Section 352 (search and seizure warrants) is amended as follows.
- (2) In subsection (5)(b) for “named member of the staff of the Agency” substitute “member of SOCA’s staff or of the staff of the relevant Director”.
 - (3) After subsection (5) insert—
 - “(5A) In this Part “relevant Director”—
 - (a) in relation to England and Wales, means the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions or the Director of the Serious Fraud Office; and
 - (b) in relation to Northern Ireland, means the Director of the Serious Fraud Office or the Director of Public Prosecutions for Northern Ireland.”
- 106 In section 353(10)(b) (requirements where production order not available) for “the staff of the Agency” substitute “SOCA’s staff or of the staff of the relevant Director”.
- 107 (1) Section 356 (further provisions: civil recovery) is amended as follows.
- (2) Omit subsection (6).
 - (3) In subsection (11)(a) (as inserted by Schedule 10) for “the Director” substitute “an appropriate officer”.
- 108 (1) Section 357 (disclosure orders) is amended as follows.
- (2) In subsection (1) for “the Director” substitute “the relevant authority”.
 - (3) After subsection (2) insert—
 - “(2A) The relevant authority may only make an application for a disclosure order in relation to a confiscation investigation if the relevant authority is in receipt of a request to do so from an appropriate officer.”
 - (4) In subsection (3)(a) for “the Director” substitute “an appropriate officer”.
 - (5) In subsection (4)—

Status: This is the original version (as it was originally enacted).

- (a) for “the Director”, where it first appears, substitute “an appropriate officer”; and
 - (b) for “the Director”, where it appears for the second time, substitute “the appropriate officer”.
- (6) In subsection (5) for “the Director” substitute “the appropriate officer concerned”.
- (7) After subsection (6) insert—
- “(7) In this Part “relevant authority” means—
- (a) in relation to a confiscation investigation, a prosecutor; and
 - (b) in relation to a civil recovery investigation, a member of SOCA’s staff or the relevant Director.
- (8) For the purposes of subsection (7)(a) a prosecutor is—
- (a) in relation to a confiscation investigation carried out by a member of SOCA’s staff, the relevant Director or any specified person;
 - (b) in relation to a confiscation investigation carried out by an accredited financial investigator, the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland or any specified person;
 - (c) in relation to a confiscation investigation carried out by a constable, the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland, the Director of the Serious Fraud Office or any specified person; and
 - (d) in relation to a confiscation investigation carried out by an officer of Revenue and Customs, the Director of Revenue and Customs Prosecutions, the Director of Public Prosecutions for Northern Ireland or any specified person.
- (9) In subsection (8) “specified person” means any person specified, or falling within a description specified, by an order of the Secretary of State.”
- 109 (1) Section 361 (further provisions) is amended as follows.
- (2) In subsection (7) for “The Director” substitute “An appropriate officer”.
 - (3) In subsection (9) for “the Director” substitute “an appropriate officer”.
- 110 (1) Section 362 (supplementary) is amended as follows.
- (2) In subsection (3)(a) for “Director” substitute “person who applied for the order”.
 - (3) After subsection (4) insert—
 - “(4A) If a member of SOCA’s staff or a person falling within a description of persons specified by virtue of section 357(9) applies for a disclosure order, an application to discharge or vary the order need not be by the same member of SOCA’s staff or (as the case may be) the same person falling within that description.
 - (4B) References to a person who applied for a disclosure order must be construed accordingly.”
 - (4) In subsection (5) for “(4)” substitute “(4B)”.
- 111 (1) Section 369 (supplementary) is amended as follows.

- (2) In subsection (5)—
- (a) after “investigator,”, where it first appears, insert “a member of SOCA’s staff,”; and
 - (b) after “investigator,”, where it appears for the second time, insert “member of SOCA’s staff,”.
- (3) In subsection (7) after “investigator,” insert “a member of SOCA’s staff,”.
- 112 In section 375(4) (supplementary)—
- (a) after “investigator,”, where it first appears, insert “a member of SOCA’s staff,”; and
 - (b) after “investigator,”, where it appears for the second time, insert “member of SOCA’s staff,”.
- 113 Omit section 376 (evidence overseas).
- 114 (1) Section 377 (code of practice) is amended as follows.
- (2) In the heading after “practice” insert “of Secretary of State etc.”.
- (3) In subsection (1)—
- (a) in paragraph (a) for “the Director” substitute “the Director General of SOCA”; and
 - (b) in paragraph (b) for “members of the staff of the Agency” substitute “other members of SOCA’s staff”.
- (4) In subsection (9)—
- (a) after “officer” insert “or the relevant authority”; and
 - (b) for “he” substitute “either”.
- 115 After section 377 (code of practice of Secretary of State etc.) insert—

“377A Code of practice of Attorney General or Advocate General for Northern Ireland

- (1) The Attorney General must prepare a code of practice as to—
- (a) the exercise by the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions and the Director of the Serious Fraud Office of functions they have under this Chapter; and
 - (b) the exercise by any other person, who is the relevant authority by virtue of section 357(9) in relation to a confiscation investigation, of functions he has under this Chapter in relation to England and Wales as the relevant authority.
- (2) The Advocate General for Northern Ireland must prepare a code of practice as to—
- (a) the exercise by the Director of Public Prosecutions for Northern Ireland of functions he has under this Chapter; and
 - (b) the exercise by any other person, who is the relevant authority by virtue of section 357(9) in relation to a confiscation investigation, of functions he has under this Chapter in relation to Northern Ireland as the relevant authority.

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- (3) After preparing a draft of the code the Attorney General or (as the case may be) the Advocate General for Northern Ireland—
 - (a) must publish the draft;
 - (b) must consider any representations made to him about the draft;
 - (c) may amend the draft accordingly.
- (4) After the Attorney General or the Advocate General for Northern Ireland has proceeded under subsection (3) he must lay the code before Parliament.
- (5) When the code has been so laid the Attorney General or (as the case may be) the Advocate General for Northern Ireland may bring the code into operation on such day as he may appoint by order.
- (6) A person specified in subsection (1)(a) or (b) or (2)(a) or (b) must comply with a code of practice which is in operation under this section in the exercise of any function he has under this Chapter to which the code relates.
- (7) If such a person fails to comply with any provision of such a code of practice the person is not by reason only of that failure liable in any criminal or civil proceedings.
- (8) But the code of practice is admissible in evidence in such proceedings and a court may take account of any failure to comply with its provisions in determining any question in the proceedings.
- (9) The Attorney General or (as the case may be) the Advocate General for Northern Ireland may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section apply to a revised code as they apply to the code as first prepared.
- (10) In this section references to the Advocate General for Northern Ireland are to be read, before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002 (c. 26), as references to the Attorney General for Northern Ireland.”

116 (1) Section 378 (officers) is amended as follows.

- (2) In subsection (1)(a) for “the Director” substitute “a member of SOCA’s staff”.
- (3) In subsection (2)(a) for “the Director” substitute “a senior member of SOCA’s staff”.
- (4) In subsection (3) for the words from “the Director”, where it first appears, to the end of the subsection substitute “—
 - (a) a member of SOCA’s staff or the relevant Director is an appropriate officer;
 - (b) a senior member of SOCA’s staff is a senior appropriate officer.”
- (5) In subsection (5) for “the Serious Organised Crime Agency” substitute “SOCA”.
- (6) Omit subsection (7).
- (7) After subsection (7) insert—
 - “(8) For the purposes of this Part a senior member of SOCA’s staff is—
 - (a) the Director General of SOCA; or

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- (b) any member of SOCA’s staff authorised by the Director General (whether generally or specifically) for this purpose.”
- 117 In section 416(2) (other interpretative provisions)—
- (a) after the entry for production order insert—
“relevant authority: section 357(7) to (9)
relevant Director: section 352(5A)”; and
- (b) at the end insert—
“senior member of SOCA’s staff: section 378(8).”
- 118 After section 449 (pseudonyms) insert—

“449A Staff of relevant Directors: pseudonyms

- (1) This section applies to a member of the staff of the relevant Director if—
- (a) the member is to exercise a function as a member of that staff under, or in relation to, Part 5 or 8; and
- (b) it is necessary or expedient for the purpose of exercising that function for the member of staff to identify himself by name.
- (2) The relevant Director may direct that such a member of staff may for that purpose identify himself by means of a pseudonym.
- (3) For the purposes of any proceedings or application under this Act, a certificate signed by the relevant Director which sufficiently identifies the member of staff by reference to the pseudonym is conclusive evidence that that member of staff is authorised to use the pseudonym.
- (4) In any proceedings or application under this Act a member of the staff of the relevant Director in respect of whom a direction under this section is in force must not be asked (and if asked is not required to answer) any question which is likely to reveal his true identity.
- (5) The relevant Director may not delegate the exercise of his functions under this section or otherwise authorise another person to exercise those functions on his behalf.
- (6) In this section “relevant Director” has the meaning given by section 352(5A).”
- 119 (1) Section 459 (orders and regulations) is amended as follows.
- (2) In subsection (3) after “instrument” insert “(other than the power of the Advocate General for Northern Ireland to make an order under section 377A(5) which is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I.12)))”.
- (3) In subsection (4)(a) after “377(4)” insert “, 377A(5)”.
- (4) After subsection (6)(a) insert—
“(aa) by the Attorney General or the Advocate General for Northern Ireland under section 377A(5) unless a draft of the order has been laid before Parliament and approved by a resolution of each House;”.
- (5) After subsection (7) insert—

Status: This is the original version (as it was originally enacted).

“(8) In this section references to the Advocate General for Northern Ireland are to be read, before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002 (c. 26), as references to the Attorney General for Northern Ireland.”

PART 5

TRANSFER OF ACCREDITATION AND TRAINING FUNCTIONS

- 120 (1) Section 3 of the Proceeds of Crime Act 2002 (c. 29) (accreditation and training) is amended as follows.
- (2) In subsection (1)—
- (a) for “Director” substitute “National Policing Improvement Agency”; and
 - (b) for “establish” substitute “provide”.
- (3) Omit subsection (6).
- (4) In subsection (7) for “Director” substitute “National Policing Improvement Agency”.
- (5) Omit subsection (8).

PART 6

OTHER AMENDMENTS TO 2002 ACT

- 121 The Proceeds of Crime Act 2002 is amended as follows.
- 122 In the heading for Part 1 for “Assets Recovery Agency” substitute “Introductory”.
- 123 Omit sections 1 and 2 (the Assets Recovery Agency, its Director and the Director’s general functions).
- 124 After section 2 insert—

“2A Contribution to the reduction of crime

- (1) A relevant authority must exercise its functions under this Act in the way which it considers is best calculated to contribute to the reduction of crime.
- (2) In this section “a relevant authority” means—
 - (a) SOCA,
 - (b) the Director of Public Prosecutions,
 - (c) the Director of Public Prosecutions for Northern Ireland,
 - (d) the Director of Revenue and Customs Prosecutions, or
 - (e) the Director of the Serious Fraud Office.
- (3) In considering under subsection (1) the way which is best calculated to contribute to the reduction of crime a relevant authority must have regard to any guidance given to it by—
 - (a) in the case of SOCA, the Secretary of State,

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- (b) in the case of the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions or the Director of the Serious Fraud Office, the Attorney General, and
 - (c) in the case of the Director of Public Prosecutions for Northern Ireland, the Advocate General for Northern Ireland.
- (4) The guidance must indicate that the reduction of crime is in general best secured by means of criminal investigations and criminal proceedings.
- (5) The reference in this section to the Advocate General for Northern Ireland is to be read, before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002 (c. 26), as a reference to the Attorney General for Northern Ireland.

2B SOCA and members of SOCA's staff

- (1) For the purposes of this Act SOCA is the Serious Organised Crime Agency.
- (2) Anything which SOCA is authorised or required to do under this Act (whether directly or through its staff) may be done by a person providing services under arrangements made by SOCA if the person is authorised by SOCA (whether generally or specifically) for that purpose.
- (3) References in this Act to members of SOCA's staff are to be read in accordance with paragraph 8(4) of Schedule 1 to the Serious Organised Crime and Police Act 2005 (c. 15) (employees of SOCA or persons seconded to SOCA to serve as members of its staff).

2C Prosecuting authorities

- (1) Anything which the Director of Public Prosecutions is authorised or required to do under, or in relation to, Part 5 or 8 of this Act may be done by a member of his staff if the member of staff is authorised by the Director (generally or specifically) for that purpose.
- (2) Anything which the Director of Revenue and Customs Prosecutions or the Director of the Serious Fraud Office is authorised or required to do under, or in relation to, Part 5 or 8 of this Act may be done by a member of his staff if the member of staff is authorised by the Director concerned (generally or specifically) for that purpose.
- (3) Anything which a relevant Director or a member of his staff is authorised or required to do under, or in relation to, Part 5 or 8 of this Act may be done by a person providing services under arrangements made by the relevant Director if the person is authorised by the relevant Director (whether generally or specifically) for that purpose.
- (4) In this section “relevant Director” means—
- (a) the Director of Public Prosecutions,
 - (b) the Director of Public Prosecutions for Northern Ireland,
 - (c) the Director of Revenue and Customs Prosecutions, or
 - (d) the Director of the Serious Fraud Office.”

Status: This is the original version (as it was originally enacted).

- 126 In section 330(4)(b) (failure to disclose: regulated sector) for “the Serious Organised Crime Agency” substitute “SOCA”.
- 127 In section 331(4) (failure to disclose: nominated officers in the regulated sector) for “the Serious Organised Crime Agency” substitute “SOCA”.
- 128 In section 332(4) (failure to disclose: other nominated officers) for “the Serious Organised Crime Agency” substitute “SOCA”.
- 129 In section 336(2)(a), (3)(a) and (4)(a) (nominated officer: consent) for “the Serious Organised Crime Agency” substitute “SOCA”.
- 130 In section 340(13) (interpretation: Part 7) for “the Serious Organised Crime Agency” substitute “SOCA”.
- 131 For section 435 (use of information by Director) substitute—

“435 Use of information by certain Directors

- (1) Information obtained by or on behalf of the Director in connection with the exercise of any of his functions under, or in relation to, Part 5 or 8 may be used by him in connection with his exercise of any of his other functions (whether under, or in relation to, either Part, another Part of this Act or otherwise).
- (2) Information obtained by or on behalf of the Director in connection with the exercise of any of his functions (whether under, or in relation to, this Act or otherwise) which are not functions under, or in relation to, Part 5 or 8 may be used by him in connection with his exercise of any of his functions under, or in relation to, Part 5 or 8.
- (3) This section applies to information obtained before the coming into force of the section as well as to information obtained after the coming into force of the section.
- (4) In this section “the Director” means—
- (a) the Director of Public Prosecutions;
 - (b) the Director of the Serious Fraud Office; or
 - (c) the Director of Public Prosecutions for Northern Ireland.”
- 132 (1) Section 436 (disclosure of information to Director) is amended as follows.
- (2) In the heading for “Director” substitute “certain Directors”.
- (3) In subsection (1)—
- (a) for “this section” substitute “subsection (10)”; and
 - (b) after “functions” insert “under, or in relation to, Part 5 or 8”.
- (4) In subsection (5), omit paragraph (b) and (ga).
- (5) After subsection (9) insert—
- “(10) In this section “the Director” has the same meaning as in section 435.”
- 133 (1) Section 437 (further disclosure) is amended as follows.
- (2) In subsection (2)(a) after “functions” insert “under, or in relation to, Part 5 or 8”.
- (3) After subsection (6) insert—

Status: This is the original version (as it was originally enacted).

- “(7) In this section “the Director” has the same meaning as in section 435.”
- 134 (1) Section 438 (disclosure of information by Director) is amended as follows.
- (2) In the heading for “Director” substitute “certain Directors”.
- (3) In subsection (1)—
- (a) after “functions”, where it first appears, insert “under, or in relation to, Part 5 or 8”;
- (b) in paragraph (c) after “functions” insert “under, or in relation to, Part 5 or 8”; and
- (c) after paragraph (f) insert—
- “(fa) the exercise of any functions of SOCA, another Director or the Director of Revenue and Customs Prosecutions under, or in relation to, Part 5 or 8;”.
- (4) Omit subsections (2) to (4).
- (5) After subsection (8) insert—
- “(8A) This section does not affect a power to disclose which exists apart from this section.
- (8B) This section applies to information obtained before the coming into force of subsection (10) as well as to information obtained after the coming into force of that subsection.”
- (6) After subsection (9) insert—
- “(10) In this section “the Director” has the same meaning as in section 435.”
- 135 In section 439(5) (disclosure of information to Lord Advocate and to Scottish Ministers)—
- (a) in paragraph (b) for “the Director General of the Serious Organised Crime Agency” substitute “SOCA but only so far as the information is held by it or on its behalf otherwise than in connection with its functions under this Act”; and
- (b) after paragraph (f) insert—
- “(fa) the Director of Revenue and Customs Prosecutions;”.
- 136 In section 441(2) (disclosure of information by Lord Advocate and by Scottish Ministers) for paragraph (f) substitute—
- “(fa) the exercise of the functions of the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions, the Director of the Serious Fraud Office or the Director of Public Prosecutions for Northern Ireland under, or in relation to, Part 5 or 8;”.
- 137 (1) Section 443 (enforcement in different parts of the United Kingdom) is amended as follows.
- (2) In subsection (3)(a) for “and the Director” substitute “, SOCA and the relevant Director”.
- (3) After subsection (4) insert—

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- “(5) In this section “relevant Director” has the meaning given by section 352(5A).”
- 138 In section 444(4)(d) (external requests and orders) for “the Director” substitute “SOCA”.
- 139 In section 445(2)(b) (external investigations) for the words from “the Director”, where it first appears, to “Agency” substitute “SOCA, the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland, the Director of Revenue and Customs Prosecutions”.
- 140 (1) Section 449 (agency staff: pseudonyms) is amended as follows.
- (2) In the heading for “Agency” substitute “SOCA's”.
- (3) In subsection (1)—
- (a) for “the staff of the Agency”, in both places where it appears, substitute “SOCA’s staff”; and
- (b) for “authorised (generally or specifically) by the Director” substitute “assigned by SOCA”.
- (4) In subsection (2)—
- (a) for “The Director” substitute “An authorised person”; and
- (b) for “the staff of the Agency” substitute “SOCA’s staff”.
- (5) In subsection (3)—
- (a) for “the Director” substitute “an authorised person”; and
- (b) for “the staff of the Agency”, in both places where it appears, substitute “SOCA’s staff”.
- (6) In subsection (4) for “the staff of the Agency” substitute “SOCA’s staff”.
- (7) Omit subsection (5).
- (8) After subsection (5) insert—
- “(6) In this section “authorised person” means a member of SOCA’s staff authorised by SOCA for the purposes of this section.”
- 141 After section 460(2) (finance) insert—
- “(3) Subject to anything in this Act—
- (a) any sums received by the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions or the Director of the Serious Fraud Office in consequence of this Act are to be paid into the Consolidated Fund; and
- (b) any sums received by the Director of Public Prosecutions for Northern Ireland in consequence of this Act are to be paid to the Secretary of State.”
- 142 Omit Schedule 1 (the Assets Recovery Agency).

PART 7

AMENDMENTS TO OTHER ENACTMENTS

Parliamentary Commissioner Act 1967 (c. 13)

- 143 (1) Schedule 2 to the Parliamentary Commissioner Act 1967 (departments etc. subject to investigation) is amended as follows.
- (2) Omit the entry for “The Director of the Assets Recovery Agency.”.
- (3) After the entry for “Sentencing Guidelines Council” insert “The Serious Organised Crime Agency.”.
- (4) Omit the paragraph in the Notes headed “Assets Recovery Agency”.
- (5) After the paragraph in the Notes headed “Ministry of Justice” insert—

“Serious Organised Crime Agency

In the case of the Serious Organised Crime Agency, an investigation may be conducted only in respect of the exercise of functions vested in it by virtue of a notice served on the Commissioners for Her Majesty’s Revenue and Customs under section 317(2), 321(2) or 322(2) of the Proceeds of Crime Act 2002 (c. 29) (Revenue functions).”

Criminal Appeal Act 1968 (c. 19)

- 144 In section 33 of the Criminal Appeal Act 1968 (right of appeal to House of Lords) omit subsection (1A).
- 145 In section 51(1A) of that Act (interpretation) omit “, subject to section 33(1A) of this Act,”.

Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

- 146 (1) Section 31 of the Criminal Appeal (Northern Ireland) Act 1980 (right of appeal to House of Lords) is amended as follows.
- (2) Omit subsection (1A).
- (3) In subsection (3) omit “, subject to subsection (1A) above,”.

Limitation Act 1980 (c. 58)

- 147 (1) Section 27A of the Limitation Act 1980 (actions for recovery of property obtained through unlawful conduct etc.) is amended as follows.
- (2) In subsection (2) for “Director's” substitute “relevant person's”.
- (3) In subsection (4) for “Director's” substitute “relevant person's”.
- (4) After subsection (7) insert—
- “(8) In this section “relevant person” means—
- (a) the Serious Organised Crime Agency,
- (b) the Director of Public Prosecutions,

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- (c) the Director of Revenue and Customs Prosecutions, or
- (d) the Director of the Serious Fraud Office.”

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I.8))

- 148 (1) Paragraph 2A of Part 1 of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (Crown Court proceedings under the Proceeds of Crime Act 2002 (c. 29)) for which legal aid may be given under Part 2 of the Order) is amended as follows.
- (2) In sub-paragraph (1)(a) omit “or 204(3)”.
 - (3) In sub-paragraph (1)(c) for “to 201” substitute “to 199”.

Prosecution of Offences Act 1985 (c. 23)

- 149 In section 3(2) of the Prosecution of Offences Act 1985 (functions of the Director of Public Prosecutions), after paragraph (fe), insert—
- “(ff) to discharge such duties as are conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29) (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations);”.

Bankruptcy (Scotland) Act 1985 (c. 66)

- 150 In section 31A(1)(b) of the Bankruptcy (Scotland) Act 1985 (property subject to restraint order)—
- (a) omit “52,”; and
 - (b) for “, 198 or 200” substitute “or 198”.

Insolvency Act 1986 (c. 45)

- 151 In section 306A(1)(b) of the Insolvency Act 1986 (property subject to restraint order)—
- (a) omit “52,”; and
 - (b) for “, 198 or 200” substitute “or 198”.

Criminal Justice Act 1987 (c. 38)

- 152 After section 1(6) of the Criminal Justice Act 1987 (functions of the Director of the Serious Fraud Office) insert—
- “(6A) The Director has the functions conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29) (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations).”

Limitation (Northern Ireland) Order 1989 (SI 1989/1339 (N.I.11))

- 153 (1) Article 72A of the Limitation (Northern Ireland) Order 1989 (actions for recovery of property obtained through unlawful conduct etc.) is amended as follows.

- (2) In paragraph (2) for “Director's” substitute “relevant person's”.
- (3) In paragraph (4) for “Director's” substitute “relevant person's”.
- (4) After paragraph (7) insert—
 - “(8) In this Article “relevant person” means—
 - (a) the Serious Organised Crime Agency,
 - (b) the Director of the Serious Fraud Office, or
 - (c) the Director of Public Prosecutions for Northern Ireland.”

Insolvency (Northern Ireland) Order 1989 (SI 1989/2405 (N.I.19))

- 154 In Article 279A(1)(b) of the Insolvency (Northern Ireland) Order 1989 (property subject to restraint order)—
 - (a) omit “52,”; and
 - (b) for “, 198 or 200” substitute “or 198”.

Police Act 1996 (c. 16)

- 155 (1) Section 97 of the Police Act 1996 (police officers engaged on service outside their force) is amended as follows.
 - (2) In subsection (1) omit paragraph (ce).
 - (3) In subsection (6)(a) omit “(ce),”.
 - (4) In subsection (8) omit “(ce),”.

Police (Northern Ireland) Act 1998 (c. 32)

- 156 (1) Section 27 of the Police (Northern Ireland) Act 1998 (members of the Police Service of Northern Ireland engaged on other police service) is amended as follows.
 - (2) In subsection (1) omit paragraph (ca).
 - (3) In subsection (5)(b) omit “(ca),”.
 - (4) In subsection (7) omit “(ca),”.

157 After section 60ZA(6) of that Act (SOCA) insert—

“(7) An agreement or order under this section must not provide for procedures in relation to so much of any complaint or matter as relates to any functions of the Agency mentioned in section 2A of the Serious Organised Crime and Police Act 2005 (c. 15) (functions as to the recovery of assets).”

Northern Ireland Act 1998 (c. 47)

- 158 (1) In section 75(4A) of the Northern Ireland Act 1998 (statutory duty on public authorities) after “offences” insert “or any of the functions conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29) (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations)”.

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(2) After section 76(10) of that Act (discrimination by public authorities) insert—

“(11) The reference in subsection (1) to the functions of the Director of Public Prosecutions for Northern Ireland does not include any of the functions conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29) (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations).”

Access to Justice Act 1999 (c. 22)

159 (1) Paragraph 3 of Schedule 2 to the Access to Justice Act 1999 (advocacy in Crown Court proceedings under the Proceeds of Crime Act 2002 (c. 29) which may be funded as part of the Community Legal Service) is amended as follows.

(2) In sub-paragraph (1)(b) omit “or 56(3)”.

(3) In sub-paragraph (1)(d) for “to 53” substitute “to 51”.

Police Reform Act 2002 (c. 30)

160 After section 10(8) of the Police Reform Act 2002 (general functions of the Independent Police Complaints Commission) insert—

“(9) Nothing in this Part shall confer any function on the Commission in relation to so much of any complaint, conduct matter or DSI matter as relates to—

- (a) any functions of the Serious Organised Crime Agency mentioned in section 2A of the Serious Organised Crime and Police Act 2005 (c. 15) (functions as to the recovery of assets); or
- (b) the functions of the National Policing Improvement Agency under section 3 of the Proceeds of Crime Act 2002 (c. 29) (accreditation and training of financial investigators).”

161 After section 26A(4) of that Act (SOCA) insert—

“(4A) An agreement under this section must not provide for procedures in relation to so much of any complaint, conduct matter or DSI matter as relates to any functions of the Agency mentioned in section 2A of the Serious Organised Crime and Police Act 2005 (c. 15) (functions as to the recovery of assets).”

162 After section 26B(4) of that Act (National Policing Improvement Agency) insert—

“(4A) An agreement under this section must not provide for procedures in relation to so much of any complaint, conduct matter or DSI matter as relates to the functions of the Agency under section 3 of the Proceeds of Crime Act 2002 (c. 29) (accreditation and training of financial investigators).”

Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I.10))

163 (1) Paragraph 3 of Schedule 2 to the Access to Justice (Northern Ireland) Order 2003 (representation in Crown Court proceedings under the Proceeds of Crime Act 2002 (c. 29) which may be funded by the Northern Ireland Legal Services Commission) is amended as follows.

(2) In sub-paragraph (1)(a) omit “or 204(3)”.

Status: This is the original version (as it was originally enacted).

(3) In sub-paragraph (1)(c) for “to 201” substitute “to 199”.

Commissioners for Revenue and Customs Act 2005 (c. 11)

164 In section 21(1)(b) of the Commissioners for Revenue and Customs Act 2005 (disclosure to prosecuting authority)—

- (a) omit “or” at the end of sub-paragraph (i); and
- (b) after sub-paragraph (ii) insert “, or
(iii) in the case of the Director of Revenue and Customs Prosecutions, to exercise his functions under, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29).”

165 After section 35(4) of that Act (functions of the Director of Revenue and Customs Prosecutions) insert—

“(4A) The Director has the functions conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29) (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations).”

166 In section 37(1) of that Act (prosecutors) after “section 35” insert “(excluding any function mentioned in subsection (4A) of that section)”.

167 (1) Section 40 of that Act (confidentiality) is amended as follows.

(2) In subsection (2) (exceptions to confidentiality restrictions), after paragraph (c), insert—

- “(ca) does not apply to a disclosure made for the purposes of—
 - (i) the exercise of any functions of the prosecutor under Parts 2, 3 and 4 of the Proceeds of Crime Act 2002 (c. 29),
 - (ii) the exercise of any functions of the Serious Organised Crime Agency under that Act,
 - (iii) the exercise of any functions of the Director of Public Prosecutions, the Director of the Serious Fraud Office, the Director of Public Prosecutions for Northern Ireland or the Scottish Ministers under, or in relation to, Part 5 or 8 of that Act,
 - (iv) the exercise of any functions of an officer of Revenue and Customs or a constable under Chapter 3 of Part 5 of that Act, or
 - (v) investigations or proceedings outside the United Kingdom which have led or may lead to the making of an external order within the meaning of section 447 of that Act,
- (cb) does not apply to a disclosure of information obtained in the exercise of functions under the Proceeds of Crime Act 2002 (c. 29) if the disclosure is made for the purposes of the exercise of a function which the Secretary of State thinks is a public function and which he designates by order.”

(3) After subsection (10) insert—

“(10A) An order under subsection (2)(cb)—

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- (a) may include transitional or incidental provision,
- (b) shall be made by statutory instrument, and
- (c) shall not be made unless a draft has been laid before, and approved by a resolution of, each House of Parliament.”

168 In section 41(1) of that Act (disclosure of information to Director of Revenue and Customs Prosecutions) after “prosecution” insert “or for the purpose of the exercise by the Director of his functions under the Proceeds of Crime Act 2002 (c. 29)”.

Serious Organised Crime and Police Act 2005 (c. 15)

169 After section 2 of the Serious Organised Crime and Police Act 2005 (functions of SOCA as to serious organised crime) insert—

“2A Functions of SOCA as to the recovery of assets

SOCA has the functions conferred on it (whether directly or through its staff) by the Proceeds of Crime Act 2002 (c. 29) (functions relating to the recovery of assets).”

170 (1) Section 5 of that Act (SOCA’s general powers) is amended as follows.

- (2) In subsection (2)(d) after “or 3” insert “or mentioned in section 2A,”.
- (3) In subsection (3) after “3” insert “or mentioned in section 2A”.
- (4) In subsection (4) after “section” insert “2A or”.

171 After section 19(4) of that Act (charges by SOCA and other receipts) insert—

“(4A) Subsection (3) is subject to any provision made by the Proceeds of Crime Act 2002 (c. 29).”

172 (1) Section 33 (disclosure of information by SOCA) of that Act is amended as follows.

(2) In subsection (2) after paragraph (c) insert—

- “(ca) the exercise of any function of SOCA mentioned in section 2A (functions relating to the recovery of assets);
- (cb) the exercise of any functions of the prosecutor under Parts 2, 3 and 4 of the Proceeds of Crime Act 2002 (c. 29);
- (cc) the exercise of any functions of the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions, the Director of the Serious Fraud Office, the Director of Public Prosecutions for Northern Ireland or the Scottish Ministers under, or in relation to, Part 5 or 8 of that Act;
- (cd) the exercise of any functions of an officer of Revenue and Customs or a constable under Chapter 3 of Part 5 of that Act;
- (ce) investigations or proceedings outside the United Kingdom which have led or may lead to the making of an external order within the meaning of section 447 of that Act;”.

(3) After subsection (2) insert—

“(2A) Subsections (1) and (2) do not apply to information obtained by SOCA in connection with the exercise of its functions under Part 6 of the Proceeds of Crime Act 2002 (c. 29) (Revenue functions).

Status: This is the original version (as it was originally enacted).

- (2B) But such information may be disclosed by SOCA—
- (a) to the Commissioners;
 - (b) to the Lord Advocate for the purpose of the exercise by the Lord Advocate of his functions under Part 3 of that Act (confiscation: Scotland).
- (2C) Information disclosed to the Lord Advocate under subsection (2B)(b) may be further disclosed by him only to the Scottish Ministers for the purpose of the exercise by them of their functions under Part 5 of that Act (civil recovery of the proceeds etc. of unlawful conduct).
- (2D) Subsections (1) and (2), so far as relating to disclosure for the purposes of the exercise of any functions of the Lord Advocate under Part 3 of the Proceeds of Crime Act 2002 (c. 29) or of the Scottish Ministers under, or in relation to, Part 5 of that Act, do not apply to information obtained by SOCA in connection with the exercise of any of its functions other than its functions under that Act.”

173 After section 35(1) of that Act (restrictions on further disclosure) insert—

- “(1A) Subsection (1) does not apply to—
- (a) information disclosed by SOCA under section 33 to the Lord Advocate for the purpose of the exercise of any of his functions under Part 3 of the Proceeds of Crime Act 2002; or
 - (b) information disclosed by SOCA under section 33 to the Scottish Ministers for the purposes of the exercise of any of their functions under, or in relation to, Part 5 of that Act;
- but see instead section 441 of the Proceeds of Crime Act 2002.”

174 In paragraph 8 of Schedule 1 to that Act (SOCA’s staff) after sub-paragraph (1), insert—

- “(1A) SOCA must appoint one of its employees as a person with responsibilities in relation to the exercise of SOCA’s functions in Northern Ireland under the Proceeds of Crime Act 2002 (c. 29).”

175 In paragraph 21(1) and (2) of Schedule 5 to that Act (persons specified for the purposes of protection) omit “is or”.

Gambling Act 2005 (c. 19)

176 In Part 2 of Schedule 6 to the Gambling Act 2005 (exchange of information: enforcement and regulatory bodies)—

- (a) omit the entries relating to the Director and staff of the Assets Recovery Agency, the Director General and staff of the National Crime Squad and the Director General and staff of the National Criminal Intelligence Service; and
- (b) after the entry for the Serious Fraud Office insert—
“The Serious Organised Crime Agency”.

Police and Justice Act 2006 (c. 48)

177 (1) Schedule 1 to the Police and Justice Act 2006 (National Policing Improvement Agency) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In paragraph 1 (the objects of the Agency)—
- (a) after paragraph (e), insert—
- “(ea) the carrying out of its functions under section 3 of the Proceeds of Crime Act 2002 (c. 29) (accreditation and training of financial investigators);” and
- (b) in paragraph (f) for “(e)” substitute “(ea)”.
- (3) After paragraph 4(5) (consultation: Scotland or Northern Ireland) insert—
- “(6) This paragraph does not apply to any exercise of the Agency’s power under paragraph 2(1) which is for the purposes of attaining the object mentioned in paragraph 1(ea) (accreditation and training of financial investigators).”
- (4) After paragraph 6(4) (strategic priorities) insert—
- “(4A) Before determining strategic priorities for the Agency in relation to its functions under section 3 of the Proceeds of Crime Act 2002 (c. 29) (accreditation and training of financial investigators), the Secretary of State must (in addition to those required above) consult such other persons as the Secretary of State considers appropriate.”
- (5) In paragraph 35 (payments by Agency to police authorities) after “objects” insert “(other than the object mentioned in paragraph 1(ea): accreditation and training of financial investigators)”.

Corporate Manslaughter and Corporate Homicide Act 2007 (c. 19)

- 178 In Schedule 1 to the Corporate Manslaughter and Corporate Homicide Act 2007 (list of government departments etc.) omit “Assets Recovery Agency”.

SCHEDULE 9

Section 74(3)

TRANSFERS TO SOCA OR NPIA

Interpretation

- 1 In this Schedule—
- “the Agency” means the Assets Recovery Agency;
- “the Director” means the Director of the Assets Recovery Agency;
- “NPIA” means the National Policing Improvement Agency; and
- “transfer scheme” means a scheme made by the Secretary of State under this Schedule.

Director and staff of Agency

- 2 (1) A transfer scheme may provide for a person who is the Director or a member of staff of the Agency to become an employee of SOCA or NPIA.
- (2) If the person had a contract of employment before becoming an employee of SOCA or NPIA, the scheme may provide for that contract to have effect (subject to any

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necessary modifications) as if originally made between him and SOCA or (as the case may be) NPIA.

- (3) If the person did not have a contract of employment, the scheme may provide for the terms and conditions of his appointment or service to have effect (subject to any necessary modifications) as the terms and conditions of his contract of employment with SOCA or (as the case may be) NPIA.
- 3
- (1) A transfer scheme may provide—
 - (a) for any secondment by virtue of which a person serves as the Director or a member of staff of the Agency to have effect as a secondment to SOCA or NPIA; and
 - (b) for him to serve as a member of the staff of SOCA or (as the case may be) NPIA.
 - (2) The scheme may make provision as to the terms and conditions which are to have effect as the terms and conditions of his secondment to SOCA or (as the case may be) NPIA.
- 4
- (1) A transfer scheme may provide—
 - (a) for the transfer to SOCA or (as the case may be) NPIA of the rights, powers, duties and liabilities of the employer under or in connection with the contract of employment of a person who becomes a member of the staff of SOCA or NPIA by virtue of the scheme;
 - (b) for anything done before that transfer by, or in relation to, the employer in respect of such a contract or the employee to be treated as having been done by, or in relation to, SOCA or (as the case may be) NPIA.
 - (2) Sub-paragraph (1) applies with the necessary modifications in relation to a person who before becoming a member of the staff of SOCA or NPIA—
 - (a) did not have a contract of employment; or
 - (b) held an appointment by virtue of a secondment.
 - (3) A transfer scheme may make provision for periods before a person became an employee of SOCA or NPIA to count as periods of employment with SOCA or (as the case may be) NPIA (and for the operation of the scheme not to be treated as having interrupted the continuity of that employment).
- 5
- (1) A transfer scheme may provide for a person who—
 - (a) is the Director or a member of staff of the Agency; and
 - (b) would otherwise become a member of the staff of SOCA or NPIA by the operation of the scheme;not to become a member of the staff of SOCA or (as the case may be) NPIA if he gives notice objecting to the operation of the scheme in relation to him.
 - (2) A transfer scheme may provide for any person who would be treated (whether by an enactment or otherwise) as being dismissed by the operation of the scheme not to be so treated.
- 6
- (1) A transfer scheme may provide for the termination of an appointment as the Director or a member of staff of the Agency.
 - (2) The Secretary of State may make a payment of such amount (if any) as he may determine to the person who held the appointment.

Status: This is the original version (as it was originally enacted).

Property, rights and liabilities etc.

- 7 (1) A transfer scheme may provide for the transfer to SOCA or NPIA of property, rights and liabilities of the Director or the Agency.
- (2) The scheme may create rights, or impose liabilities, in relation to property, rights and liabilities transferred by virtue of the scheme.
- (3) The scheme may provide for things done by or in relation to persons to whom sub-paragraph (4) applies to be—
- (a) treated as done by or in relation to SOCA or members of the staff of SOCA or (as the case may be) NPIA or members of the staff of NPIA;
 - (b) continued by or in relation to SOCA or members of the staff of SOCA or (as the case may be) NPIA or members of the staff of NPIA.
- (4) This sub-paragraph applies to—
- (a) the Director;
 - (b) members of staff of the Agency.
- (5) The scheme may, in particular, make provision about the continuation of legal proceedings.
- 8 A transfer scheme may provide for SOCA or NPIA to make any payment which—
- (a) before a day specified in the scheme could have been made by the Director or a member of staff of the Agency; but
 - (b) is not a liability which can be transferred by virtue of paragraph 7.

Supplementary

- 9 (1) A transfer scheme may contain—
- (a) further provision in connection with any of the matters to which paragraphs 2 to 8 relate;
 - (b) the provision mentioned in sub-paragraph (3).
- (2) The provision which may be made under sub-paragraph (1)(a) includes provision as to the consequences of the termination of a person's appointment or employment by or by virtue of the scheme.
- (3) The provision mentioned in this sub-paragraph is provision—
- (a) for the Secretary of State, or any other person nominated by or in accordance with the scheme, to determine any matter requiring determination under or in consequence of the scheme; and
 - (b) as to the payment of fees charged, or expenses incurred, by any person nominated to determine any matter by virtue of paragraph (a).
- 10 Before making a transfer scheme which contains any provision relating to the Director or the members of staff of the Agency, the Secretary of State must consult such bodies appearing to represent the interests of the persons concerned as he considers appropriate.
- 11 A transfer scheme is not an order of the Secretary of State for the purposes of section 89.

SCHEDULE 10

Section 77

DETAINED CASH INVESTIGATIONS: FURTHER PROVISION

Amendments to the Proceeds of Crime Act 2002

- 1 The Proceeds of Crime Act 2002 (c. 29) (investigations) is amended as follows.
- 2 In section 342(1) (offences of prejudicing investigation) after “a civil recovery investigation” insert “, a detained cash investigation”.
- 3 In section 343(3) (judges) after “a civil recovery investigation” insert “or a detained cash investigation”.
- 4 In section 344(b) (courts) after “a civil recovery investigation” insert “or a detained cash investigation”.
- 5 In section 350(5)(b) (government departments) after “a civil recovery investigation” insert “or a detained cash investigation”.
- 6 In section 351(8) (supplementary) after “a civil recovery investigation” insert “or a detained cash investigation”.
- 7 (1) Section 352 (search and seizure warrants) is amended as follows.
 - (2) In subsection (3)(c) after “(7)” insert “, (7A), (7B)”.
 - (3) After subsection (5)(b) insert—
 - “(c) a constable or an officer of Revenue and Customs, if the warrant is sought for the purposes of a detained cash investigation.”
- 8 (1) Section 353 (requirements where production order not available) is amended as follows.
 - (2) In subsection (5)(a) after “(7)” insert “, (7A), (7B)”.
 - (3) After subsection (10)(b) insert—
 - “(c) a constable or an officer of Revenue and Customs, if the warrant is sought for the purposes of a detained cash investigation.”
- 9 (1) Section 356 (further provisions: civil recovery) is amended as follows.
 - (2) In the heading after “civil recovery” insert “and detained cash”.
 - (3) In subsection (1) after “civil recovery investigations” insert “or detained cash investigations”.
 - (4) In subsection (6) after “If” insert “, in the case of civil recovery investigations,”.
 - (5) In subsection (10) for the words from “if” to “reasonable” substitute “if the appropriate person has reasonable”.
 - (6) After subsection (10) insert—
 - “(11) The appropriate person is—
 - (a) the Director, if the warrant was issued for the purposes of a civil recovery investigation;
 - (b) a constable or an officer of Revenue and Customs, if the warrant was issued for the purposes of a detained cash investigation.”

Status: This is the original version (as it was originally enacted).

- 10 In section 357(2) (investigations to which disclosure orders do not apply) after “to a” insert “detained cash investigation or a”.
- 11 In section 363 (customer information orders) after subsection (1) insert—
 “(1A) No application for a customer information order may be made in relation to a detained cash investigation.”
- 12 In section 370 (account monitoring orders) after subsection (1) insert—
 “(1A) No application for an account monitoring order may be made in relation to a detained cash investigation.”
- 13 In section 378 (officers) after subsection (3) insert—
 “(3A) In relation to a detained cash investigation these are appropriate officers—
 (a) a constable;
 (b) an officer of Revenue and Customs.”
- 14 In section 380(2) (sheriff in Scotland to act in exercise of civil jurisdiction in making production orders in certain cases) after “a civil recovery investigation” insert “or a detained cash investigation”.
- 15 In section 385(4)(b) (government departments: Scotland) after “a civil recovery investigation” insert “or a detained cash investigation”.
- 16 In section 386(3)(b) (rules of court in connection with production orders and orders to grant entry: Scotland) after “a civil recovery investigation” insert “or a detained cash investigation”.
- 17 In section 387(2) (sheriff in Scotland to act in exercise of civil jurisdiction in issuing search warrants in certain cases) after “a civil recovery investigation” insert “or a detained cash investigation”.
- 18 In section 388(5)(a) (requirements where production order not available: Scotland) after “(7)” insert “, (7A), (7B)”.
- 19 (1) Section 390 (further provisions: confiscation, civil recovery and money laundering: Scotland) is amended as follows.
 (2) In the heading after “civil recovery” insert “, detained cash”.
 (3) In subsection (1) after “civil recovery investigations” insert “, detained cash investigations”.
 (4) In subsection (5) after “a civil recovery investigation” insert “or a detained cash investigation”.
 (5) In subsection (6) after “a civil recovery investigation” insert “or a detained cash investigation”.
 (6) In subsection (7) after “a civil recovery investigation” insert “or a detained cash investigation”.
- 20 In section 391(2) (investigations to which disclosure orders do not apply: Scotland) after “to a” insert “detained cash investigation or a”.
- 21 In section 397 (customer information orders: Scotland) after subsection (1) insert—
 “(1A) No application for a customer information order may be made in relation to a detained cash investigation.”

Status: This is the original version (as it was originally enacted).

- 22 In section 404 (account monitoring orders: Scotland) after subsection (1) insert—
“(1A) No application for an account monitoring order may be made in relation to a detained cash investigation.”
- 23 (1) Section 412 (interpretation: Scotland) is amended as follows.
(2) In the definition of “appropriate person”, in paragraph (b), after “a civil recovery investigation” insert “or a detained cash investigation”.
(3) In the definition of “proper person”, in paragraph (b), after “a civil recovery investigation” insert “or a detained cash investigation”.
- 24 (1) Section 416 (other interpretative provisions) is amended as follows.
(2) In subsection (1) after “confiscation investigation: section 341(1)” insert—
“detained cash investigation: section 341(3A)”.
(3) After subsection (7) insert—
“(7A) “Unlawful conduct” has the meaning given by section 241.”
- 25 In section 450(1)(a) (pseudonyms: Scotland) after “a civil recovery investigation” insert “or a detained cash investigation”.

Other amendments

- 26 In section 18(2)(f) of the Civil Jurisdiction and Judgments Act 1982 (c. 27)—
(a) after “a civil recovery investigation” insert “or a detained cash investigation”; and
(b) for “meaning” substitute “meanings”.
- 27 In section 64(3)(aa) of the Criminal Justice and Police Act 2001 (c. 16) after “a civil recovery investigation” insert “or a detained cash investigation”.
- 28 In Schedule 2 to the Commissioners for Revenue and Customs Act 2005 (c. 11) (functions of Commissioners and officers: restrictions etc.), after paragraph 13, insert—
“13A The powers conferred on an officer of Revenue and Customs by virtue of section 352(5)(c), 353(10)(c), 356(11)(b) or 378(3A)(b) of the Act of 2002 (powers in relation to search and seizure warrants and production orders) are exercisable only in relation to cash seized in accordance with paragraph 13 above by an officer of Revenue and Customs under section 294 of that Act.”

SCHEDULE 11

Section 79

POWERS TO RECOVER CASH: FINANCIAL INVESTIGATORS

Amendments to Chapter 3 of Part 5 of 2002 Act

- 1 Chapter 3 of Part 5 of the Proceeds of Crime Act 2002 (c. 29) (recovery of cash in summary proceedings) is amended in accordance with paragraphs 2 to 13.
- 2 (1) Section 289 (powers to search for cash) is amended as follows.

Status: This is the original version (as it was originally enacted).

- (2) In subsection (1)—
- (a) for “or constable who” substitute “, a constable or an accredited financial investigator”; and
 - (b) after “premises”, where it first appears, insert “and”.
- (3) In subsection (2) for “or constable” substitute “, a constable or an accredited financial investigator”.
- (4) In subsections (3) and (4) for “or constable” substitute “, constable or accredited financial investigator”.
- (5) In subsection (5), after paragraph (b), insert—
- “(c) are exercisable by an accredited financial investigator only in relation to premises or (as the case may be) suspects in England, Wales or Northern Ireland.”
- 3 (1) Section 290 (prior approval by senior officer) is amended as follows.
- (2) In subsection (4), after paragraph (b), insert—
- “(c) in relation to the exercise of the power by an accredited financial investigator, an accredited financial investigator who falls within a description specified in an order made for this purpose by the Secretary of State under section 453.”
- (3) In subsection (6) for “or constable” substitute “, constable or accredited financial investigator”.
- 4 In section 291(2) (report on exercise of powers) for “or constable” substitute “, constable or accredited financial investigator”.
- 5 (1) Section 292 (code of practice) is amended as follows.
- (2) In subsection (1) after “constables” insert “and accredited financial investigators”.
 - (3) In subsection (6) for “or constable” substitute “, a constable or an accredited financial investigator”.
- 6 (1) Section 294 (seizure of cash) is amended as follows.
- (2) In subsections (1) and (2) for “or constable” substitute “, a constable or an accredited financial investigator”.
 - (3) After subsection (3) insert—
- “(4) This section does not authorise the seizure by an accredited financial investigator of cash found in Scotland.”
- 7 (1) Section 295 (detention of seized cash) is amended as follows.
- (2) In subsection (1) for “or constable” substitute “, constable or accredited financial investigator”.
 - (3) In subsection (4)(a) for “or a constable” substitute “, a constable or an accredited financial investigator”.
- 8 In section 296(2) (release of part of cash seized) for “or constable” substitute “, constable or accredited financial investigator”.

- 9 In section 297(4) (release of detained cash) after “constable” insert “or accredited financial investigator”.
- 10 In section 298(1)(a) (power to apply for forfeiture) before “or” insert “, an accredited financial investigator”.
- 11 After section 302(7) insert—
- “(7A) If the cash was seized by an accredited financial investigator who was not an officer of Revenue and Customs or a constable, the compensation is to be paid as follows—
- (a) in the case of an investigator—
- (i) who was employed by a police authority in England and Wales under section 15 of the Police Act 1996 (c. 16) and was under the direction and control of the chief officer of police of the police force maintained by the authority, or
- (ii) who was a member of staff of the City of London police force,
- it is to be paid out of the police fund from which the expenses of the police force are met,
- (b) in the case of an investigator who was a member of staff of the Police Service of Northern Ireland, it is to be paid out of money provided by the Chief Constable,
- (c) in the case of an investigator who was a member of staff of a department of the Government of the United Kingdom, it is to be paid by the Minister of the Crown in charge of the department or by the department,
- (d) in the case of an investigator who was a member of staff of a Northern Ireland department, it is to be paid by the department,
- (e) in any other case, it is to be paid by the employer of the investigator.
- (7B) The Secretary of State may by order amend subsection (7A).”
- 12 (1) Section 302A (powers for prosecutors to appear in proceedings) (as inserted by section 84(1) above) is amended as follows.
- (2) In subsection (1)—
- (a) after “constable”, in the first place where it appears, insert “or an accredited financial investigator”; and
- (b) after “constable”, in the second place where it appears, insert “or (as the case may be) an accredited financial investigator”.
- (3) After subsection (3) insert—
- “(4) The references in subsection (1) to an accredited financial investigator do not include an accredited financial investigator who is an officer of Revenue and Customs but the references in subsection (2) to an officer of Revenue and Customs do include an accredited financial investigator who is an officer of Revenue and Customs.”
- 13 After section 303 insert—

Status: This is the original version (as it was originally enacted).

“303A Financial investigators

- (1) In this Chapter (apart from this section) any reference in a provision to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that provision by the Secretary of State under section 453.
- (2) Subsection (1) does not apply to the second reference to an accredited financial investigator in section 290(4)(c).
- (3) Where an accredited financial investigator of a particular description—
 - (a) applies for an order under section 295,
 - (b) applies for forfeiture under section 298, or
 - (c) brings an appeal under, or relating to, this Chapter,
 any subsequent step in the application or appeal, or any further application or appeal relating to the same matter, may be taken, made or brought by a different accredited financial investigator of the same description.”

Other amendments to 2002 Act

- 14 In section 438(1)(f) of the Proceeds of Crime Act 2002 (c. 29) (disclosure of information by the Director of the Assets Recovery Agency) before “or” insert “, an accredited financial investigator”.
- 15 (1) Section 459 of that Act (orders and regulations) is amended as follows.
 - (2) In subsection (4)(a) (exceptions to negative procedure) after “292(4),” insert “302(7B),”.
 - (3) In subsection (6)(a) (powers subject to affirmative procedure) after “292(4),” insert “302(7B),”.
 - (4) After subsection (6) insert—
 - “(6A) If a draft of an order under section 302(7B) would, apart from this subsection, be treated as a hybrid instrument for the purposes of the standing orders of either House of Parliament, it shall proceed in that House as if it were not a hybrid instrument.”

Amendments to other enactments

- 16 In section 40(2)(ca)(iv) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (confidentiality) (as inserted by Schedule 8) after “Customs” insert “, an accredited financial investigator”.
- 17 In section 33(2)(cd) of the Serious Organised Crime and Police Act 2005 (c. 15) (disclosure of information by SOCA) (as inserted by Schedule 8) after “Customs” insert “, an accredited financial investigator”.

SCHEDULE 12

Section 88

REVENUE AND CUSTOMS: REGULATION OF INVESTIGATORY POWERS

Police Act 1997 (c. 50)

- 1 In section 93 of the Police Act 1997 (authorisations to interfere with property, &c.)—
- (a) in subsection (1B) for “customs officer” substitute “an officer of Revenue and Customs”;
 - (b) in subsection (3)(d) for “a customs officer” substitute “an officer of Revenue and Customs”; and
 - (c) for subsection (5)(h) substitute—
 - “(h) an officer of Revenue and Customs who is a senior official within the meaning of the Regulation of Investigatory Powers Act 2000 and who is designated for the purposes of this paragraph by the Commissioners for Her Majesty’s Revenue and Customs;”.
- 2 In section 94(2)(f) of that Act (urgency) for “by a customs officer designated by the Commissioners of Customs and Excise” substitute “by an officer of Revenue and Customs who is a senior official within the meaning of the Regulation of Investigatory Powers Act 2000 and who is designated by the Commissioners for Her Majesty’s Revenue and Customs”.
- 3 In section 107(4)(c) of that Act (supplementary) for “the Commissioners of Customs and Excise.” substitute “the Commissioners for Her Majesty’s Revenue and Customs.”
- 4 In section 108(1) of that Act (interpretation) omit the definition of “customs officer”.

Regulation of Investigatory Powers Act 2000 (c. 23)

- 5 The Regulation of Investigatory Powers Act 2000 is amended as follows.
- 6 In section 6(2)(h) (application for issue of interception warrant) for “the Commissioners of Customs and Excise” substitute “the Commissioners for Her Majesty’s Revenue and Customs”.
- 7 In section 21(5)(c) (acquisition of data, &c.) for “customs officers.” substitute “officers of Revenue and Customs.”
- 8 In the definition of “relevant public authority” in section 25(1) (communications data: interpretation) for paragraphs (d) and (e) substitute—
 - “(d) Her Majesty’s Revenue and Customs;”.
- 9 In section 27(4)(c) (lawful surveillance, &c.) for “customs officers.” substitute “officers of Revenue and Customs.”
- 10 For section 32(6)(m) (authorisation of intrusive surveillance) substitute—
 - “(m) an officer of Revenue and Customs who is a senior official and who is designated for the purposes of this paragraph by the Commissioners for Her Majesty’s Revenue and Customs;”.
- 11 In section 33 (surveillance: authorisation)—
 - (a) for subsection (2) substitute—

Status: This is the original version (as it was originally enacted).

- “(2) A person who is a designated person for the purposes of section 28 or 29 by reference to office, rank or position in Her Majesty’s Revenue and Customs shall not grant an authorisation under that section except on an application made by an officer of Revenue and Customs.”;
- (b) for subsection (4) substitute—
- “(4) A person who is a senior authorising officer by virtue of a designation by the Commissioners for Her Majesty’s Revenue and Customs shall not grant an authorisation for the carrying out of intrusive surveillance except on an application made by an officer of Revenue and Customs.”; and
- (c) in subsection (5)(a) for “a customs officer” substitute “an officer of Revenue and Customs”;
- (and in the italic cross-heading before section 33 for “customs” substitute “Revenue and Customs”).
- 12 In section 34 (grant of authorisation in senior officer’s absence)—
- (a) in subsection (1) for “a customs officer;” substitute “an officer of Revenue and Customs;”;
- (b) in subsection (2)(a) for “the Commissioners of Customs and Excise,” substitute “the Commissioners for Her Majesty’s Revenue and Customs;” and
- (c) in subsection (4)(l)—
- (i) for “the Commissioners of Customs and Excise,” substitute “the Commissioners for Her Majesty’s Revenue and Customs, and
- (ii) after “if he is” insert “a senior official”.
- 13 In section 35 (intrusive surveillance authorisation: notification)—
- (a) in subsection (1) for “customs” substitute “Revenue and Customs”;
- (b) in subsection (10) for “customs” substitute “Revenue and Customs”; and
- (c) in subsection (10)(b) for “the Commissioners of Customs and Excise;” substitute “the Commissioners for Her Majesty’s Revenue and Customs;”.
- 14 In section 36 (approval required for authorisation of intrusive surveillance to take effect)—
- (a) for subsection (1)(d) substitute—
- “(d) an officer of Revenue and Customs;” and
- (b) for subsection (6)(g) substitute—
- “(g) where the authorisation was granted by an officer of Revenue and Customs, the officer of Revenue and Customs for the time being designated for the purposes of this paragraph by a written notice given to the Chief Surveillance Commissioner by the Commissioners for Her Majesty’s Revenue and Customs;”.
- 15 For section 37(1)(d) (quashing authorisations) substitute—
- “(d) an officer of Revenue and Customs;”
- 16 For section 40(d) (information) substitute—
- “(d) every officer of Revenue and Customs;”.
- 17 In section 46(3) (Scotland: restrictions) for paragraph (e) substitute—

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- “(e) the Commissioners for Her Majesty’s Revenue and Customs;”.
- 18 In section 48(3)(c)(ii) (interpretation) for “customs officers.” substitute “officers of Revenue and Customs.”
- 19 In section 49(1)(e) (encrypted data: disclosure: permission) for “the customs and excise” substitute (in each place) “Her Majesty’s Revenue and Customs”.
- 20 In section 51 (cases where key required)—
- (a) for “the customs and excise” (in each place) substitute “Her Majesty’s Revenue and Customs”; and
 - (b) for “the Commissioners of Customs and Excise” (in each place) substitute “the Commissioners for Her Majesty’s Revenue and Customs”.
- 21 In section 54(3) (secrecy) for “the customs and excise” substitute (in each place) “Her Majesty’s Revenue and Customs”.
- 22 For section 55(1)(c) (general duty in relation to encrypted data) substitute—
- “(c) the Commissioners for Her Majesty’s Revenue and Customs;”.
- 23 In section 56(1) (interpretation) omit the definition of “the customs and excise”.
- 24 For section 65(6)(f) (the Tribunal) substitute—
- “(f) the Commissioners for Her Majesty’s Revenue and Customs;”.
- 25 In section 71(2)(c) (codes of practice) for “customs and excise” substitute “Her Majesty’s Revenue and Customs”.
- 26 In section 76A(11) (foreign surveillance operations) for paragraph (d) of the definition of “United Kingdom officer” substitute—
- “(d) an officer of Revenue and Customs.”
- 27 In section 81(1) (interpretation) omit the definition of “customs officer”.
- 28 In Schedule 1 (surveillance authorisation: relevant authorities) for paragraphs 7 and 8 substitute—

“Revenue and Customs

7 Her Majesty’s Revenue and Customs.”

- 29 (1) In paragraphs 2(3) and (5), 4(2) and 5(3)(b) of Schedule 2 (encrypted data: disclosure: permission) for “customs and excise” or “the customs and excise” (in each place) substitute “Her Majesty’s Revenue and Customs”.
- (2) In paragraph 6(4) of that Schedule—
- (a) for “A person commissioned by the Commissioners of Customs and Excise” substitute “An officer of Revenue and Customs”;
 - (b) for “those Commissioners themselves” substitute “the Commissioners for Her Majesty’s Revenue and Customs”;
 - (c) for “their department” substitute “Revenue and Customs”; and
 - (d) for “they” substitute “the Commissioners”.

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Commissioners for Revenue and Customs Act 2005 (c. 11)

- 30 The following paragraphs of Schedule 2 to the Commissioners for Revenue and Customs Act 2005 (which restrict the class of functions in connection with which certain powers may be used) shall cease to have effect—
- (a) paragraph 1 (Wireless Telegraphy Act 2006 (c. 36), s. 48); and
 - (b) paragraph 11 (Regulation of Investigatory Powers Act 2000 (c. 23), ss. 6(2)(h), 32(6)(m), 49(1)(e) and 54 and Sched. 2, paras. 2(3) and 4(2)).
- 31 Nothing in section 6 or 7 of the Commissioners for Revenue and Customs Act 2005 (initial functions) restricts the functions in connection with which Her Majesty's Revenue and Customs may exercise a power under an enactment amended by this Schedule.

SCHEDULE 13

Section 91(1)

TRANSITIONAL AND TRANSITORY PROVISIONS AND SAVINGS

Serious crime prevention orders

- 1 In deciding for the purposes of paragraph (a) of section 1(1) or (2) whether a person has been involved in serious crime, the court may take account of conduct before the coming into force of that provision as well as conduct after the coming into force of that provision.
- 2 (1) Section 19, 20 or 21 does not apply to a person who is being dealt with on or after the coming into force of the section in relation to an offence of which the person was convicted before the coming into force of the section.
- (2) Sub-paragraph (1) does not prevent an application to the High Court for a serious crime prevention order in connection with the offence concerned.
- 3 In the application of section 23(2) or 24(5) before the commencement of paragraph 1(1) of Part 1 of Schedule 11 to the Constitutional Reform Act 2005 (c. 4) (citation of acts and rules), the reference to the Senior Courts Act 1981 (c. 54) is to be read as a reference to the Supreme Court Act 1981 (c. 54).
- 4 In the application of section 25(2)(a)—
- (a) in England and Wales, in relation to an offence committed before the commencement of section 282(1) of the Criminal Justice Act 2003 (c. 44) (increase in sentencing powers of magistrates' court from 6 to 12 months for certain offences triable either way); and
 - (b) in Scotland, until the commencement of section 45(1) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6) (increase in sentencing powers from 6 to 12 months);
- the reference to 12 months is to be read as a reference to 6 months.

Encouraging or assisting crime

- 5 (1) Nothing in any provision of Part 2 affects the operation of—
- (a) any rule of the common law; or
 - (b) any provision made by or under an Act or Northern Ireland legislation;

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in relation to offences committed wholly or partly before the commencement of the provision in Part 2 concerned.

- (2) For the purposes of sub-paragraph (1), an offence is partly committed before commencement if—
 - (a) a relevant event occurs before commencement; and
 - (b) another relevant event occurs on or after commencement.
 - (3) In this paragraph “relevant event”, in relation to an offence, means any act or other event (including any consequence of an act) proof of which is required for conviction of the offence.
- 6 (1) This paragraph applies where, in any proceedings—
 - (a) a person (“D”) is charged in respect of the same act both with an offence under section 44 and with the common law offence of inciting the commission of another offence;
 - (b) the only thing preventing D from being found guilty of the offence under section 44 is the fact that it has not been proved beyond reasonable doubt that the time when the act took place was after the coming into force of that section; and
 - (c) the only thing preventing D from being found guilty of the common law offence is that it has not been proved beyond reasonable doubt that that time was before the coming into force of section 59.
- (2) For the purpose of determining D’s guilt it shall be conclusively presumed that the time when the act took place was before the coming into force of section 44.
- 7 In relation to any time before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002 (c. 26), the reference in section 53(b) to the Advocate General for Northern Ireland is to be read as a reference to the Attorney General for Northern Ireland.

Data-sharing

- 8 In the application of section 70(1)(a)—
 - (a) in England and Wales, in relation to an offence committed before the commencement of section 282(1) of the Criminal Justice Act 2003 (increase in sentencing powers of magistrates’ court from 6 to 12 months for certain offences triable either way); and
 - (b) in Scotland, until the commencement of section 45(1) of the Criminal Proceedings etc. (Reform) (Scotland) Act 2007 (asp 6) (increase in sentencing powers from 6 to 12 months);the reference to 12 months is to be read as a reference to 6 months.

Data matching

- 9 In relation to an offence committed before the commencement of section 282(1) of the Criminal Justice Act 2003 (c. 44) (increase in sentencing powers of magistrates’ court from 6 to 12 months for certain offences triable either way), the reference to 12 months in each of the following provisions is to be read as a reference to 6 months—
 - (a) section 32D(8)(b) of the Audit Commission Act 1998 (c. 18) (as inserted by paragraph 2 of Schedule 7 to this Act);

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- (b) section 64D(8)(b) of the Public Audit (Wales) Act 2004 (c. 23) (as inserted by paragraph 4 of that Schedule).

SCHEDULE 14

Section 92

REPEALS AND REVOCATIONS

<i>Title</i>	<i>Extent of repeal or revocation</i>
Parliamentary Commissioner Act 1967 (c. 13)	In Schedule 2— (a) the entry for “The Director of the Assets Recovery Agency.”; (b) the paragraph in the Notes headed “Assets Recovery Agency”.
Criminal Appeal Act 1968 (c. 19)	Section 33(1A). In section 51(1A), the words “, subject to section 33(1A) of this Act,”.
Criminal Law Act 1977 (c. 45)	Section 5(7).
Magistrates' Courts Act 1980 (c. 43)	Section 32(1)(b). Section 45. In Schedule 1, paragraph 35.
Criminal Appeal (Northern Ireland) Act 1980 (c. 47)	In section 31— (a) subsection (1A); (b) in subsection (3), the words “, subject to subsection (1A) above,”.
Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I.8))	In paragraph 2A(1)(a) of Part 1 of Schedule 1, the words “or 204(3)”.
Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I.26))	Article 60(1).
Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 (S.I. 1983/1120 (N.I.13))	Article 13(8).
Bankruptcy (Scotland) Act 1985 (c. 66)	In section 31A(1)(b), the word “52,”.
Insolvency Act 1986 (c. 45)	In section 306A(1)(b), the word “52,”.
Public Order Act 1986 (c. 64)	In section 12(10), the words from “notwithstanding” to the end. In section 13(13), the words from “notwithstanding” to the end. In section 14(10), the words from “notwithstanding” to the end. In section 14B(7), the words from “notwithstanding” to the end.

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<i>Title</i>	<i>Extent of repeal or revocation</i>
Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I.19))	In Article 279A(1)(b), the word “52,”.
Computer Misuse Act 1990 (c. 18)	Section 6(3). Section 7(4). In section 8(3), the words “or by virtue of section 7(4) above”. Section 9(2)(d). In section 16(4), the words from “and any reference” to the end.
Police Act 1996 (c. 16)	In section 97— (a) subsection (1)(ce); (b) in subsections (6)(a) and (8), the word “(ce),”.
Police Act 1997 (c. 50)	In section 108(1), the definition of “customs officer”.
Police (Northern Ireland) Act 1998 (c. 32)	In section 27— (a) subsection (1)(ca); (b) in subsection (5)(b), the word “(ca),”; (c) in subsection (7), the word “(ca),”.
Access to Justice Act 1999 (c. 22)	In paragraph 3(1)(b) of Schedule 2, the words “or 56(3)”.
Regulation of Investigatory Powers Act 2000 (c. 23)	In section 56(1), the definition of “the customs and excise”. In section 81(1), the definition of “customs officer”.
International Criminal Court Act 2001 (c. 17)	Section 55(3). Section 62(3).
Proceeds of Crime Act 2002 (c. 29)	Sections 1 and 2. Section 3(6) and (8). Sections 4 and 5. In section 6(3)(a), the words “or the Director”. In section 11(7), paragraph (b) and the word “or” before it. In section 14(7)(b), the words “or the Director (as the case may be)”. In section 16— (a) in subsection (1), the words “or the Director (as the case may be)”;

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<i>Title</i>	<i>Extent of repeal or revocation</i>
	(b) in subsection (3), the words “or the Director (as the case may be)” and “or the Director”;
	(c) in subsection (4), the words “or Director”;
	(d) in subsection (5), the words “or the Director (as the case may be)” and “or the Director”;
	(e) in subsection (6), the words “or the Director”.
	In section 17(1), the words “or the Director”.
	In section 18(6), the words “or the Director (as the case may be)”.
	In section 19(1)(c), the words “or the Director”.
	In section 20—
	(a) subsection (3);
	(b) in subsection (4), the words from “If the court” to “to do so,” and, in paragraph (b), the words “or the Director”.
	In section 21(1)(b), (c) and (d), the words “or the Director”.
	In section 22(2), paragraph (b) and, in paragraph (c), the words “or 52”.
	In section 23(1)(b), the words “or 52”.
	In section 26—
	(a) in subsection (1)(b), the words “or the Director”;
	(b) in subsection (2), in paragraph (a), the words “or the Director (as the case may be)” and, in paragraph (b), the words “or the Director”.
	In section 27—
	(a) in subsection (3)(a), the words “or the Director”;
	(b) in subsection (5)(b), the words “or the Director (as the case may be)”;
	(c) in subsection (7), the words “or the Director”.
	In section 28—
	(a) in subsection (3)(a), the words “or the Director”;
	(b) in subsection (5)(b), the words “or the Director (as the case may be)”.
	In section 31—

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<i>Title</i>	<i>Extent of repeal or revocation</i>
	(a) in the heading, the words “or Director”; (b) in subsections (1) and (2), the words “or the Director”.
	In section 33(2)— (a) in paragraph (a), the words “(if the prosecutor appealed under section 31)”; (b) paragraph (b).
	Section 34.
	In section 35(1), paragraph (b) and the word “and” before it.
	Sections 36 and 37.
	Section 39(6).
	In section 40— (a) in subsections (4)(a), (5)(a) and (6)(a), the words “or the Director”; (b) in subsection (8)(b), the words “or the Director (as the case may be)”.
	Section 42(2)(b).
	Sections 52 and 53.
	Sections 56 and 57.
	Section 60.
	In section 63(1)(b), the words from “or”, where it first appears, to “Director”.
	In section 64— (a) in subsection (1)(b), the words from “or” to “section 52”; (b) subsection (3).
	In section 65— (a) in subsections (1) and (2), the words “or section 53”; (b) in subsection (5)(a), the words from “or”, where it first appears, to “Director”.
	Section 67(4)(c).
	In section 74(1)— (a) in paragraph (b), the words “or the Director”; (b) in paragraph (c), the words “or the Director (as the case may be)”.
	In section 156(3)(a), the words “or the Director”.
	In section 161(7), paragraph (b) and the word “or” before it.

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<i>Title</i>	<i>Extent of repeal or revocation</i>
	In section 164(7)(b), the words “or the Director (as the case may be)”.
	In section 166—
	(a) in subsection (1), the words “or the Director (as the case may be)”;
	(b) in subsection (3), the words “or the Director (as the case may be)” and “or the Director”;
	(c) in subsection (4), the words “or Director”;
	(d) in subsection (5), the words “or the Director (as the case may be)” and “or the Director”;
	(e) in subsection (6), the words “or the Director”.
	In section 167(1), the words “or the Director”.
	In section 168(6), the words “or the Director (as the case may be)”.
	In section 169(1)(c), the words “or the Director”.
	In section 170—
	(a) subsection (3);
	(b) in subsection (4), the words from “If the court” to “to do so,” and, in paragraph (b), the words “or the Director”.
	In section 171(1)(b), (c) and (d), the words “or the Director”.
	In section 172(2), paragraph (b) and, in paragraph (c), the words “or 200”.
	In section 173(1)(b), the words “or 200”.
	In section 176—
	(a) in subsection (1)(b), the words “or the Director”;
	(b) in subsection (2), in paragraph (a), the words “or the Director (as the case may be)” and, in paragraph (b), the words “or the Director”.
	In section 177—
	(a) in subsection (3)(a), the words “or the Director”;
	(b) in subsection (5)(b), the words “or the Director (as the case may be)”;
	(c) in subsection (7), the words “or the Director”.

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<i>Title</i>	<i>Extent of repeal or revocation</i>
	In section 178— (a) in subsection (3)(a), the words “or the Director”; (b) in subsection (5)(b), the words “or the Director (as the case may be)”.
	In section 181— (a) in the heading, the words “or Director”; (b) in subsections (1) and (2), the words “or the Director”.
	In section 183(2)— (a) in paragraph (a), the words “(if the prosecutor appealed under section 181)”; paragraph (b).
	Section 184.
	Section 186.
	Section 188(6).
	In section 189— (a) in subsections (4)(a), (5)(a) and (6)(a), the words “or the Director”; (b) in subsection (8)(b), the words “or the Director (as the case may be)”.
	Section 191(2)(b).
	Sections 200 and 201.
	Sections 204 and 205.
	Section 208.
	In section 210(2)(b) and (3), the words “or 200”.
	In section 211(1)(b), the words from “or”, where it first appears, to “Director”.
	In section 212— (a) in subsection (1)(b), the words from “or” to “section 200”; (b) subsection (3).
	In section 213— (a) in subsections (1) and (2), the words “or section 201”; (b) in subsection (5)(a), the words from “or”, where it first appears, to “Director”.
	Section 215(4)(d).
	In section 222(1)— (a) in paragraph (b), the words “or the Director”;

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<i>Title</i>	<i>Extent of repeal or revocation</i>
	(b) in paragraph (c), the words “or the Director (as the case may be)”.
	Section 313.
	Section 325(1).
	Section 356(6).
	Section 376.
	Section 378(7).
	In section 417(2)—
	(a) in paragraph (b), the words “or 52”;
	(b) in paragraph (d), the words “or 200”.
	In section 419(2)(b), the word “52,”.
	In section 420(2)—
	(a) in paragraph (b), the words “or 52”;
	(b) in paragraph (d), the words “or 200”.
	In section 422(2)(b), the word “52,”.
	In section 423(2)—
	(a) in paragraph (b), the words “or 52”;
	(b) in paragraph (d), the words “or 200”.
	In section 425(2)(b), the word “52,”.
	In section 426(2)—
	(a) in paragraph (b), the words “or 52”;
	(b) in paragraph (d), the words “or 200”.
	In section 427(3)(b), the word “52,”.
	In section 428(2)—
	(a) in paragraph (b), the words “or 52”;
	(b) in paragraph (d), the words “or 200”.
	In section 429(3)(b), the word “52,”.
	In section 430(2)—
	(a) in paragraph (b), the words “or 52”;
	(b) in paragraph (d), the words “or 200”.
	Section 436(5)(b) and (ga).
	Section 438(2) to (4).
	Section 449(5).
	Schedule 1.
	In Schedule 8, the words from “The Director”, where it first appears, to “by law.””, where it first appears.
	In Schedule 11, paragraphs 2, 4(2), 9(3), 30(1) and (2) and 34(1) and (2).

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<i>Title</i>	<i>Extent of repeal or revocation</i>
Crime (International Co-operation) Act 2003 (c. 32)	In Schedule 5, paragraphs 82 and 83.
Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I.10))	In paragraph 3(1)(a) of Schedule 2, the words “or 204(3)”.
Commissioners for Revenue and Customs Act 2005 (c. 11)	In section 21(1)(b), the word “or” at the end of sub-paragraph (i). Paragraphs 1 and 11 of Schedule 2. Paragraph 98 of Schedule 4.
Serious Organised Crime and Police Act 2005 (c. 15)	Section 99(4). In Schedule 4— (a) in paragraph 82(2), paragraph (b) and the word “and” at the end of paragraph (b); (b) paragraphs 169, 176 and 178. In Schedule 5, in paragraph 21(1) and (2), the words “is or”.
Gambling Act 2005 (c. 19)	In Part 2 of Schedule 6, the entries relating to the Director and staff of the Assets Recovery Agency, the Director General and staff of the National Crime Squad and the Director General and staff of the National Criminal Intelligence Service.
Wireless Telegraphy Act 2006 (c. 36)	In Schedule 7, paragraph 38.
Police and Justice Act 2006 (c. 48)	Section 35(2). In section 36, in the section to be substituted for section 3 of the Computer Misuse Act 1990 (c. 18), in subsection (2), paragraph (d) and the word “or” preceding it. Section 38(1). In Schedule 14, paragraphs 19(2) and 29(2).
Tribunals, Courts and Enforcement Act 2007 (c. 15)	In Schedule 13, paragraph 145.
Corporate Manslaughter and Corporate Homicide Act 2007 (c. 19)	In Schedule 1, the words “Assets Recovery Agency”.
