

SCHEDULES

SCHEDULE 8

ABOLITION OF ASSETS RECOVERY AGENCY AND ITS DIRECTOR

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,”.

Status: This is the original version (as it was originally enacted).

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,
- (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—

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“(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)”.

(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—

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“(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)”.

(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,

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- (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)—

- (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);

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- (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).

(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.
- (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”.