

*Draft Order laid before Parliament under section 11 of the Public Bodies Act 2011, for approval by resolution of each House of Parliament after the expiry of the 40-day period referred to in section 11(4) of that Act.*

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DRAFT STATUTORY INSTRUMENTS

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**2014 No.**

**PUBLIC BODIES**

**The Public Bodies (Merger of the Director  
of Public Prosecutions and the Director of  
Revenue and Customs Prosecutions) Order 2014**

*Made* - - - - *\*\*\**

*Coming into force in accordance with article 1*

The Secretary of State makes the following Order in exercise of the powers conferred by sections 2(1), 6(1) and (2), 23(1), (2), (5) and (6), 24(1) and 35(2) of the Public Bodies Act 2011(1) (“the Act”).

In accordance with section 8 of the Act, the Secretary of State—

- (a) having had regard to the factors set out in section 8(1) of the Act, considers that this Order serves the purpose of improving the exercise of public functions; and
- (b) considers that this Order does not remove any necessary protection or prevent any person from continuing to exercise any right or freedom which that person might reasonably expect to continue to exercise.

The Secretary of State has consulted in accordance with section 10 of the Act.

A draft of this Order and an explanatory document containing the information required by section 11(2) of the Act have been laid before Parliament in accordance with section 11(1) after the end of the period of twelve weeks mentioned in section 11(3). In accordance with section 11(4) of the Act, the draft of this Order has been approved by a resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision.

**Citation, commencement and extent**

1.—(1) This Order may be cited as the Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 and comes into force on the day after the day on which it is made.

(2) Any amendment, repeal or revocation made by this Order has the same extent as the enactment to which it relates.

## **Interpretation**

2. In this Order—

- “the CPS” means the Crown Prosecution Service;
- “the CRCA 2005” means the Commissioners for Revenue and Customs Act 2005<sup>(2)</sup>;
- “the DPP” means the Director of Public Prosecutions;
- “the DRCP” means the Director of Revenue and Customs Prosecutions;
- “the POA 1985” means the Prosecution of Offences Act 1985<sup>(3)</sup>;
- “the RCPO” means the Revenue and Customs Prosecutions Office.

## **Abolition of the DRCP and transfer of statutory functions to the DPP: merger of offices**

3.—(1) The office of the DRCP<sup>(4)</sup> is abolished.

(2) Subject to provision made by Schedules 1 to 3 to this Order, the functions of the DRCP are transferred to the DPP.

(3) The following Schedules have effect—

- (a) Schedule 1 (amendments of the POA 1985 and the CRCA 2005);
- (b) Schedule 2 (amendments of other Acts);
- (c) Schedule 3 (amendments of secondary legislation).

## **Transfer of property, rights and liabilities**

4.—(1) All property, rights and liabilities to which the DRCP or the RCPO is entitled or subject at the coming into force of this Order are transferred to the DPP or, as the case may be, the CPS.

(2) Paragraph (1) has effect in relation to property, rights and liabilities—

- (a) whether or not they would otherwise be capable of being transferred;
- (b) without any instrument or other formality being required;
- (c) irrespective of any requirement for consent that would otherwise apply.

## **The abolition of the office of the DRCP: supplementary**

5.—(1) This Order does not affect the validity of anything done (or having effect as if done) by or in relation to the DRCP before the coming into force of this Order.

(2) Anything done (or having effect as if done) by or in relation to the DRCP has effect, so far as is necessary for continuing its effect after the coming into force of this Order, as if done by or in relation to the DPP.

(3) Anything (including legal proceedings) which at the coming into force of this Order is in the process of being done by or in relation to the DRCP may be continued by or in relation to the DPP.

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(2) 2005 c. 11.

(3) 1985 c. 23.

(4) The office of the DRCP was established by section 34(1) of the CRCA 2005. The Director and his staff are together referred to as the RCPO.

(4) So far as is necessary or appropriate, after the coming into force of this Order, a reference to the DRCP in an enactment, agreement (whether written or not), instrument or other document is to be treated as a reference to the DPP.

(5) In this article—

- (a) a reference to the DRCP includes a reference to the RCPO, a Revenue and Customs Prosecutor, a member of the staff of the RCPO other than a Revenue and Customs Prosecutor and a person appointed under section 38(5) of the CRCA 2005, and
- (b) a reference to the DPP is to be read, so far as is necessary or appropriate, as being a reference to the CPS, a Crown Prosecutor, a member of the staff of the CPS other than a Crown Prosecutor or a person appointed under section 5(6) of the POA 1985.

### **Saving of powers to conduct proceedings**

6.—(1) Where the DPP has conduct of proceedings by virtue of article 5(3), the DPP is to be treated, notwithstanding the repeals and amendments made by this Order—

- (a) as acting under the enactment under which the DRCP was acting at the coming into force of this Order, and
- (b) as having the same powers to take steps in relation to those proceedings as the DRCP would have had.

(2) In this article—

- (a) a reference to the DRCP includes a reference to a Revenue and Customs Prosecutor and a person appointed under section 38 of the CRCA 2005, and
- (b) a reference to the DPP is to be read, so far as is necessary or appropriate, as being a reference to a Crown Prosecutor or a person appointed under section 5 of the POA 1985.

### **Transfer of appointments, etc**

7. An appointment of a person under section 38 of the CRCA 2005 (appointment of person to conduct proceedings on behalf of the RCPO) relating to—

- (a) specified proceedings, or
- (b) a specified class or description of proceedings,

is to be treated after the coming into force of this Order as if it were an appointment of a person by the DPP under section 5 of the POA 1985 relating to the same proceedings or the same class or description of proceedings.

### **Assignment of functions**

8. An assignment of a function to the DRCP by order under section 31(1) of the Borders, Citizenship and Immigration Act 2009(7) (power to assign prosecution functions relating to criminal investigations by designated customs officials etc) is to be treated after the coming into force of this Order as if it were an assignment to the DPP under section 3(2)(g)(8) of the POA 1985.

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(5) Section 38(1A) was inserted by the Serious Crime Act 2007 (c. 27), section 84(3).

(6) Section 5(1) was amended by the Courts and Legal Services Act 1990 (c.41), section 71(2), Schedule 10, paragraph 61(2) and by the Extradition Act 2003, section 190(1) and (4).

(7) 2009 c. 11.

(8) No amendments have been made to section 3(2)(g). Amendments to section 3 appear below.

### **Confidentiality of information**

**9.** Information held by the CPS by reason of a transfer of property, rights and liabilities to the DPP or the CPS under article 4 is to be treated for the purposes of section 40(9) of the CRCA 2005 (as amended by this Order) as if it were information disclosed to the DPP by Her Majesty's Revenue and Customs for use in connection with a Revenue and Customs function of the DPP (within the meaning of section 40(6A) of the CRCA 2005).

### **Superintendence of the Attorney General**

**10.** Functions exercisable by the DPP by virtue of this Order are to be discharged under the superintendence of the Attorney General.

Signed by the authority of the Secretary of State

Date

*Name*  
Minister of State  
Ministry of Justice

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(9) Section 40(2)(ca) was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraph 167(1) and (2); amended by that Act, section 79, Schedule 11, paragraph 16; and amended by the Crime and Courts Act 2013, section 15(3), Schedule 8, paragraph 186. Section 40(2)(cb) was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraph 167(1) and (2). Section 40(10A) was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraph 167(1) and (3).

## SCHEDULE 1

Article 3(3)

### Amendments of the POA 1985 and the CRCA 2005

## PART 1

### The POA 1985

1. The POA 1985 is amended as follows.
- 2.—(1) Section 3(10) (functions of the DPP) is amended as follows.
  - (2) After subsection (2)(aa) insert—
    - “(ab) to take over the conduct of any criminal proceedings instituted in England and Wales by the Revenue and Customs;”.
  - (3) After subsection (2)(ba) insert—
    - “(bb) where it appears to him appropriate to do so, to institute and have the conduct of any criminal proceedings in England and Wales relating to a criminal investigation by the Revenue and Customs;”.
  - (4) After subsection (2)(ed) insert—
    - “(ee) to give, to such extent as he considers appropriate, and to such persons as he considers appropriate, advice on matters relating to—
      - (i) a criminal investigation by the Revenue and Customs; or
      - (ii) criminal proceedings instituted in England and Wales relating to a criminal investigation by the Revenue and Customs;”.
  - (5) In subsection (3), at the appropriate place, insert—
    - ““criminal investigation” means any process—
      - (i) for considering whether an offence has been committed;
      - (ii) for discovering by whom an offence has been committed; or
      - (iii) as a result of which an offence is alleged to have been committed;”.
  - (6) After subsection (3) insert—
    - “(3A) In this section a reference to the Revenue and Customs is a reference to—
      - (a) the Commissioners for Her Majesty’s Revenue and Customs;
      - (b) an officer of Revenue and Customs; or
      - (c) a person acting on behalf of the Commissioners or an officer of Revenue and Customs.”.

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(10) Section 3(2) was amended by the Criminal Justice Act 1987 (c. 38), section 15, Schedule 2, paragraph 13; the Immigration and Asylum Act 1999 (c. 33), section 164; the Police Reform Act 2002 (c. 30), section 107, Schedule 7, paragraph 10; the Anti-social Behaviour Act 2003 (c. 38), section 86(6) and 92 and Schedule 3; the Extradition Act 2003 (c. 41), section 190; the Asylum and Immigration (Treatment of Claimants, etc) Act 2004 (c. 19), section 7; the Constitutional Reform Act 2005 (c. 4), section 40(4), Schedule 9, paragraph 41(1) and (2); the Serious Organised Crime and Police Act 2005 (c. 15), section 140(5), Schedule 4, paragraph 47; the Violent Crime Reduction Act 2006 (c. 38), sections 7(10), 8(7) and 52(2) and Schedule 3, paragraph 15; the Serious Crime Act 2007 (c. 27), section 74(2), Schedule 8, paragraph 149; and the Crime and Courts Act 2013 (c. 22), section 15(3), Schedule 8, paragraph 30. Section 3(3) was amended by the Police Act 1996 (c. 16), section 103(1), Schedule 7, paragraph 39; the Police Act 1997 (c. 50), section 134(1), Schedule 9, paragraph 48; the Serious Organised Crime and Police Act 2005, sections 59 and 174(2), Schedule 4, paragraph 47 and Schedule 17, Part 2; and the Police Reform and Social Responsibility Act 2011 (c. 13), section 99, Schedule 16, paragraph 171.

3.—(1) Section 5 (conduct of prosecutions on behalf of the CPS by a person appointed by the DPP) is amended as follows.

(2) After subsection (1) insert—

“(1A) The Director may at any time appoint such a person—

- (a) to exercise a function of the Director under section 3(2)(ab) or (bb) in relation to a class or description of criminal proceedings specified in the appointment;
- (b) to exercise a function of the Director under section 3(2)(ee) in relation to—
  - (i) such criminal proceedings as are specified in the appointment, or
  - (ii) a class or description of criminal proceedings specified in the appointment;
 or
- (c) to appear in—
  - (i) Revenue and Customs cash recovery proceedings specified in the appointment, or
  - (ii) a class or description of Revenue and Customs cash recovery proceedings specified in the appointment.

(1B) In subsection (1A)—

“Revenue and Customs cash recovery proceedings” means proceedings in which the Director or a Crown Prosecutor would otherwise appear by virtue of section 302A(2) of the Proceeds of Crime Act 2002<sup>(11)</sup> (cash recovery proceedings relating to revenue and customs matters).”

(3) In subsection (2), for “this section” substitute “subsection (1) or exercising functions by virtue of an appointment made under subsection (1A)”.

4.—(1) Section 7A<sup>(12)</sup> (powers of non-legal staff) is amended as follows.

(2) In subsection (1), for “, for the purposes of this section,” substitute “under this subsection”.

(3) In subsection (2), after “the designation” insert “under subsection (1)”.

(4) After subsection (2) insert—

“(2A) The Director may designate under this subsection members of the staff of the Crown Prosecution Service who are not Crown Prosecutors.

(2B) A person designated under subsection (2A) has the powers and rights of audience of a Crown Prosecutor in relation to—

- (a) Revenue and Customs cash recovery proceedings specified in the designation under subsection (2A), or
- (b) a class or description of Revenue and Customs cash recovery proceedings specified in the designation under subsection (2A).”

(5) In subsection (3)—

- (a) for “so designated” substitute “designated under subsection (1) or (2A)”;
- (b) for “any such powers” substitute “any powers so conferred”.

(6) In subsection (5), at the appropriate place, insert—

<sup>(11)</sup> 2002 c. 29; section 302A was inserted by the Serious Crime Act 2007, section 84(1); it was amended by the same Act, section 79, Schedule 11, paragraphs 1 and 12.

<sup>(12)</sup> Section 7A was inserted by the Courts and Legal Services Act, section 114 and substituted by the Crime and Disorder Act 1998 (c. 37), section 53. Subsection (2) was amended by the Criminal Justice and Immigration Act 2008 (c. 4), section 55(1) and (2). Subsection (5) was substituted, and subsection (5A) inserted, by the Criminal Justice and Immigration Act 2008, section 55(1) and (3). Subsection (5) was amended by the Crime and Security Act 2010 (c. 17), section 41(6). Subsections (8) to (12) were inserted by the Criminal Justice and Immigration Act 2008, section 55(1) and (5).

- ““Revenue and Customs cash recovery proceedings” has the meaning given by section 5(1B).”.
- (7) In subsection (7)(a), for “under this section” substitute “under subsection (1) or (2A)”.
- (8) In subsection (8), for “under this section” substitute “under subsection (1) or (2A)”.
- (9) In subsection (9), for “under this section” substitute “under subsection (1) or (2A)”.
- (10) In subsection (10), for “under this section” substitute “under subsection (1) or (2A)”.

## PART 2

### The CRCA 2005

5. The CRCA 2005 is amended as follows.
6. In section 19 (wrongful disclosure), in subsection (5), for the words from “only—” to the end substitute “only by or with the consent of the Director of Public Prosecutions.”.
- 7.—(1) Section 21(13) (disclosure to prosecuting authority) is amended as follows.
- (2) In subsection (1)(b)(ii), omit “(within the meaning of section 35(5)(b))”.
- (3) In subsection (1)(b)(iii), for “the Director of Revenue and Customs Prosecutions” substitute “the Director of Public Prosecutions”.
- (4) In subsection (2)(a), for “the Director of Revenue and Customs Prosecutions” substitute “the Director of Public Prosecutions”.
- (5) After subsection (2) insert—
- “(2A) In subsection (1) “criminal investigation” means any process—
- (i) for considering whether an offence has been committed,
- (ii) for discovering by whom an offence has been committed, or
- (iii) as a result of which an offence is alleged to have been committed.”.
- (6) In subsection (7), for the words from “only—” to the end substitute “only by or with the consent of the Director of Public Prosecutions.”.
8. In section 29 (confidentiality, etc), in subsection (7), for the words from “only—” to the end substitute “only by or with the consent of the Director of Public Prosecutions.”.
9. Omit sections 34 to 39(14) (establishment and organisation of the RCPO).
- 10.—(1) Section 40(15) (confidentiality) is amended as follows.
- (2) In subsection (1)—
- (a) for “The Revenue and Customs Prosecutions Office” substitute “The Crown Prosecution Service”;
- (b) in paragraph (a), for “the Prosecutions Office in connection with any of its functions” substitute “the Service in connection with any of the Director of Public Prosecution’s functions”;

(13) Section 21(1)(b)(i) was amended by the Serious Crime Act 2007, sections 74(2) and 92, Schedule 8, paragraph 164(a). Section 21(1)(b)(iii) was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraph 164(b).

(14) Sections 35 and 37 were amended by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraphs 165 and 166. Sections 38 and 39 were amended by the Serious Crime Act 2007, section 84(3) and (4).

(15) Section 40(2)(ca) was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraph 167(1) and (2); amended by that Act, section 79, Schedule 11, paragraph 16; and amended by the Crime and Courts Act 2013, section 15(3), Schedule 8, paragraph 186. Section 40(2)(cb) was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraph 167(1) and (2). Section 40(10A) was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraph 167(1) and (3).

- (c) omit the “and” following paragraph (a);
- (d) after paragraph (b) insert—
  - “, and
  - (c) was disclosed to the Director of Public Prosecutions by Her Majesty’s Revenue and Customs for use in connection with a Revenue and Customs function of the Director of Public Prosecutions.”.
- (3) In subsection (2)—
  - (a) in paragraph (a)(i), for “the Prosecutions Office” substitute “the Director of Public Prosecutions”;
  - (b) in paragraph (a)(ii), after “the Director” insert “of Public Prosecutions”;
  - (c) in paragraph (ca)(iii), omit “the Director of Public Prosecutions,”;
  - (d) omit paragraph (cb);
  - (e) in paragraph (d), after “the Director” insert “of Public Prosecutions”;
  - (f) after paragraph (e) insert—
    - “(ea) does not apply to a disclosure made with the consent of the Commissioners (which may be general or specific),”.
- (4) In subsection (4)—
  - (a) for “the Revenue and Customs Prosecutions Office” substitute “the Crown Prosecution Service”;
  - (b) for “the Office” substitute “the Service”.
- (5) In subsection (6)—
  - (a) for “the Revenue and Customs Prosecutions Office” substitute “the Crown Prosecution Service”;
  - (b) before paragraph (a) insert—
    - “(za) former members of the Crown Prosecution Service,
    - (zb) persons who hold or have held appointment under section 5 of the Prosecution of Offences Act 1985,”;
  - (c) in paragraph (a), for “the Office” substitute “the Revenue and Customs Prosecutions Office”;
  - (d) in paragraph (b), omit “hold or”.
- (6) After subsection (6) insert—
  - “(6A) In this section “Revenue and Customs function of the Director of Public Prosecutions” means—
    - (a) a function of the Director of Public Prosecutions under section 3(2)(ab), (bb) or (ee) of the Prosecution of Offences Act 1985, or
    - (b) a function of the Director of Public Prosecutions under the Proceeds of Crime Act 2002 that relates to a function of the Commissioners for Her Majesty’s Revenue and Customs or an officer of Revenue and Customs.”.
- (7) In subsection (8), for the words from “only—” to the end substitute “only by or with the consent of the Director of Public Prosecutions.”.
- (8) Omit subsection (10A).



11. Omit section 41(16) (disclosure of information to the DRCP).
12. Omit section 42 (inspection of the RCPO).
13. Omit section 49 (transfer of property etc to the DRCP).
14. Omit Schedule 3 (further provision as to the DRCP and the RCPO).
15. In Schedule 4 (consequential amendments), omit paragraphs 30, 41, 69, 77 and 97.

## SCHEDULE 2

Article 3(3)

### Amendments of other Acts

#### **Biological Weapons Act 1974**

1. In section 1B of the Biological Weapons Act 1974(17) (Revenue and Customs prosecutions), in subsection (1), for “the Director of Revenue and Customs Prosecutions” substitute “the Director of Public Prosecutions”.

#### **Customs and Excise Management Act 1979**

2. In the following provisions of the Customs and Excise Management Act 1979(18), for “the Director of Revenue and Customs Prosecutions” substitute “the Director of Public Prosecutions”—

- (a) in section 145(19) (institution of proceedings), subsection (1)(a);
- (b) in section 146A(20) (time limits for proceedings), subsection (7)(a);
- (c) in section 150(21) (incidental provisions as to legal proceedings), subsection (1).

#### **Limitation Act 1980**

3. The Limitation Act 1980(22) is amended as follows.
4. In section 27A(23) (actions for recovery of property obtained through unlawful conduct etc), omit subsection (8)(c).
5. In section 27AB(24) (actions to prohibit dealing with property subject to an external request), omit subsection (6)(c).

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(16) Section 41 was amended by the Serious Crime Act 2007, section 74(2) and Schedule 8, paragraph 168; and by the Crime and Courts Act 2013, section 15(3), Schedule 8, paragraph 187.

(17) 1974 c. 6; section 1B was inserted by the Anti-terrorism, Crime and Security Act 2001 (c. 24), section 45. Section 1B(1) was amended by the Commissioners for Revenue and Customs Act 2005 (c. 11), section 50(6), Schedule 4, paragraph 17(a) (and the heading by paragraph 17(e)).

(18) 1979 c. 2.

(19) Section 145(1) was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraph 23(a).

(20) Section 146A was inserted, in relation to offences committed on or after 27 July 1989, by the Finance Act 1989 (c. 26), section 16(1) and (4); section 146A(7) was amended by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraphs 20 and 24.

(21) Section 150(1) was amended by the Commissioners for Revenue and Customs Act 2005, Schedule 4, paragraphs 20 and 25.

(22) 1980 c. 58.

(23) Section 27A was inserted by the Proceeds of Crime Act 2002 (c. 29), section 288(1). Section 27A(8) was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraph 147(1) and (4) and subsection (8)(a) substituted by the Crime and Courts Act 2013, section 15(3), Schedule 8, para 28(1).

(24) Section 27AB was inserted by S.I. 2013/2604.

6. In section 27B(25) (actions for recovery of property for purposes of an external order), omit subsection (8)(c).

#### **Criminal Justice Act 1987**

7. In section 3 of the Criminal Justice Act 1987(26) (disclosure of information), in subsection (1) (b), for “the Revenue and Customs Prosecutions Office” substitute “the Crown Prosecution Service”.

#### **Criminal Justice (International Co-operation) Act 1990**

8. In section 21 of the Criminal Justice (International Co-operation) Act 1990(27) (jurisdiction and prosecutions), in subsection (2)(a), omit “or the Director of Revenue and Customs Prosecutions”.

#### **Drug Trafficking Act 1994**

9. In section 60 of the Drug Trafficking Act 1990(28) (Revenue and Customs prosecutions), in subsection (1), for “the Director of Revenue and Customs Prosecutions” substitute “the Director of Public Prosecutions”.

#### **Criminal Appeal Act 1995**

10. In section 22 of the Criminal Appeal Act 1995(29) (meaning of “public body” etc), omit subsection (4)(f).

#### **Chemical Weapons Act 1996**

11. In section 30A of the Chemical Weapons Act 1996(30) (Revenue and Customs prosecutions), in subsection (1), for “the Director of Revenue and Customs Prosecutions” substitute “the Director of Public Prosecutions”.

#### **Petroleum Act 1998**

12. In section 5C of the Petroleum Act 1998(31) (offences under section 5B: supplemental), in subsection (1), for the words from “except—” to the end substitute “except by or with the consent of the Director of Public Prosecutions.”.

#### **Landmines Act 1998**

13. In section 21 of the Landmines Act 1998(32) (Revenue and Customs prosecutions), in subsection (1), for “the Director of Revenue and Customs Prosecutions” substitute “the Director of Public Prosecutions”.

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(25) Section 27B was inserted by S.I. 2005/3181. Subsection (8) was added by S.I. 2008/302, article 4; and subsection (8)(a) was substituted by the Crime and Courts Act 2013, section 15(3), Schedule 8, para 28(2).

(26) 1987 c. 38; section 3(1)(b) was amended by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 35(1).

(27) 1990 c. 5; section 21(2)(a) was amended by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 41.

(28) 1994 c. 37; section 60(1) was amended by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 59(a).

(29) 1995 c. 35; section 22(4)(f) was substituted by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 62.

(30) 1996 c. 6; section 30A was inserted by the Anti-terrorism, Crime and Security Act 2001 (c. 24), section 46; section 30A(1) was amended by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 64(a).

(31) 1998 c. 17; section 5C was inserted by the Energy Act 2008 (c. 32), section 76.

(32) 1998 c. 33; section 21(1) was amended by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 66(a).

### **Crime and Disorder Act 1998**

14. The Crime and Disorder Act 1998(33) is amended as follows.
15. In section 51B(34) (notices in serious or complex fraud cases), omit subsection (9)(c).
16. In section 66H(35) (interpretation), omit paragraph (e)(iii).

### **Crown Prosecution Service Inspectorate Act 2000**

17. In section 2 of the Crown Prosecution Service Inspectorate Act 2000(36) (functions), omit subsection (4).

### **Anti-terrorism, Crime and Security Act 2001**

18. In section 53 of the Anti-terrorism, Crime and Security Act 2001(37) (Revenue and Customs prosecutions), in subsection (1), for “the Director of Revenue and Customs Prosecutions” substitute “the Director of Public Prosecutions”.

### **Proceeds of Crime Act 2002**

19. The Proceeds of Crime Act 2002(38) is amended as follows.
- 20.—(1) Section 2A(39) (contribution to the reduction of crime) is amended as follows.
  - (2) Omit subsection (2)(d).
  - (3) In subsection (3)(b), omit “, the Director of Revenue and Customs Prosecutions”.
- 21.—(1) Section 2C(40) (prosecuting authorities) is amended as follows.
  - (2) In subsection (2)—
    - (a) omit “the Director of Revenue and Customs Prosecutions or”;
    - (b) omit “concerned”.
  - (3) In subsection (3A), omit “and the Director of Revenue and Customs Prosecutions”.
  - (4) Omit subsection (4)(c).
22. In section 55(41) (sums received by designated officer), omit subsection (8)(f).
23. In section 72(42) (serious default by prosecutors etc), omit subsection (9)(d).

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(33) 1998 c. 37.

(34) Section 51B was substituted by the Criminal Justice Act 2003 (c. 44), section 41, Schedule 3, paragraphs 15 and 18; section 51B(9)(c) was substituted by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 69.

(35) Section 66H was inserted by the Criminal Justice and Immigration Act 2008 (c. 4), section 48(1), Schedule 9, paragraphs 1 and 3.

(36) 2000 c. 10; section 2(4) was inserted by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 77.

(37) 2001 c. 24. Section 53(1) was amended by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 87(a).

(38) 2002 c. 29.

(39) Section 2A was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraphs 121 and 124.

(40) Section 2C was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraphs 121 and 124; section 2C(3A) was inserted by the Serious Crime Act 2007, section 84(2).

(41) Section 55(8) was substituted by the Policing and Crime Act 2009 (c. 26), section 51(1) and (2). It has been further amended but not in relation to subsection (8)(f).

(42) Section 72(9)(d) was substituted by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 97.

**24.** In section 302A**(43)** (powers for prosecutors to appear in proceedings), in subsection (2), for “The Director of Revenue and Customs Prosecutions” substitute “The Director of Public Prosecutions”.

**25.** In section 316**(44)** (general interpretation), in subsection (1), in the definition of “enforcement authority”, in paragraph (a), omit “, the Director of Revenue and Customs Prosecutions”.

**26.** In section 352**(45)** (search and seizure warrants), in subsection (5A)(a), omit “, the Director of Revenue and Customs Prosecutions”.

**27.** In section 357**(46)** (disclosure orders), in subsection (8)(d), for “the Director of Revenue and Customs Prosecutions” substitute “the Director of Public Prosecutions”.

**28.** In section 377A**(47)** (code of practice of Attorney General or Advocate General for Northern Ireland), in subsection (1)(a), omit “, the Director of Revenue and Customs Prosecutions”.

**29.** In section 438**(48)** (disclosure of information by certain Directors), in subsection (1)(fa), for “, another Director or the Director of Revenue and Customs Prosecutions” substitute “or another Director”.

**30.** In section 439**(49)** (disclosure of information to Lord Advocate and to Scottish Ministers), omit subsection (5)(fa).

**31.** In section 441**(50)** (disclosure of information by Lord Advocate and by Scottish Ministers), in subsection (2)(fa), omit “the Director of Revenue and Customs Prosecutions,”.

**32.** In section 444**(51)** (external requests and orders), in subsection (4)—

- (a) after paragraph (f) insert “and”;
- (b) omit paragraph (h) and the “and” preceding it.

**33.** In section 445**(52)** (external investigations), in subsection (2)(b), omit “the Director of Revenue and Customs Prosecutions,”.

**34.** In section 451**(53)** (Revenue and Customs prosecutions), in subsection (1), for “the Director of Revenue and Customs Prosecutions” substitute “the Director of Public Prosecutions”.

**35.** In section 460**(54)** (finance), in subsection (3)(a), omit “, the Director of Revenue and Customs Prosecutions”.

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**(43)** Section 302A was inserted by the Serious Crime Act 2007, section 84(1).

**(44)** In section 316, paragraph (a) in the definition of “enforcement authority” was substituted by the Serious Crime Act 2007, Schedule 8, paragraph 91(1) and (2)(a). It has been further amended but not in relation to the Director of Revenue and Customs Prosecutions.

**(45)** Section 352(5A) was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraphs 103 and 105(1) and (3).

**(46)** Section 357(8) was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraphs 103 and 108(1) and (7).

**(47)** Section 377A was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraphs 103 and 115.

**(48)** Section 438(1)(fa) was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraphs 121 and 134(1) and (3)(c). It has been further amended but not in relation to the Director of Revenue and Customs Prosecutions.

**(49)** Section 439(5)(fa) was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraphs 121 and 135(b).

**(50)** Section 441(2)(fa) was substituted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraphs 121 and 136.

**(51)** Section 444(4) was inserted by the Serious Organised Crime and Police Act 2005 (c. 15), section 108(1) and (3).

**(52)** Section 445(2)(b) was amended by the Serious Crime Act 2007, Schedule 8, Part 6, paragraph 139.

**(53)** Section 451(1) was amended by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 99(a).

**(54)** Section 460(3) was inserted by the Serious Crime Act 2007, section 74(2), Schedule 8, paragraphs 121 and 141.

### **Dealing in Cultural Objects (Offences) Act 2003**

36. In section 4 of the Dealing in Cultural Objects (Offences) Act 2003(55) (Revenue and Customs prosecutions), in subsection (1), for “the Director of Revenue and Customs Prosecutions” substitute “the Director of Public Prosecutions”.

### **Criminal Justice Act 2003**

37. The Criminal Justice Act 2003(56) is amended as follows.

38. In section 27(57) (interpretation of Part 3), in the definition of “relevant prosecutor”, omit paragraph (ba).

39. In section 29(58) (new method of instituting proceedings), in subsection (5) (definition of “public prosecutor”), omit paragraph (ca).

### **Serious Organised Crime and Police Act 2005**

40. The Serious Organised Crime and Police Act 2005(59) is amended as follows.

41.—(1) Section 60(60) (investigatory powers of DPP etc) is amended as follows.

(2) Omit subsection (1)(b).

(3) Omit subsection (3).

(4) Omit subsection (5)(b).

(5) In subsection (6), omit “(3),”.

42. In section 71(61) (assistance by offender: immunity from prosecution), omit subsection (4) (b).

43. In Schedule 5 (persons specified for the purposes of section 82), in paragraph 12, in both places, omit “is or”.

### **Corporate Manslaughter and Corporate Homicide Act 2007**

44. In Schedule 1 to the Corporate Manslaughter and Corporate Homicide Act 2007(62) (list of government departments etc), omit “Revenue and Customs Prosecutions Office”.

### **Serious Crime Act 2007**

45. The Serious Crime Act 2007(63) is amended as follows.

46. In section 8 (limited class of applicants for making of orders), omit paragraph (a)(ii).

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(55) 2003 c. 27; section 4(1) was amended by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 128(a).

(56) 2003 c. 44.

(57) In section 27, paragraph (ba) in the definition of “relevant prosecutor” was inserted by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 129(b).

(58) Section 29(5)(ca) was inserted by the Commissioners for Revenue and Customs Act 2005, section 50(6), Schedule 4, paragraph 130.

(59) 2005 c. 15. Part 1 of the Serious Organised Crime and Police Act 2005 is repealed by the Crime and Courts Act 2013, section 15(3), Schedule 8, paragraph 158. Paragraph 158 came into force on 7 October 2013 (SI 2013/1682).

(60) Section 60(1)(b) and 60(5)(b) was amended by the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), section 30(2), Schedule 5.

(61) Section 71(4) was amended by the Coroners and Justice Act 2009 (c. 25), section 113(1) and (3)(a), and by the Finance Act 2012 (c. 14), section 114(1), Schedule 18, paragraph 106(1), (2).

(62) 2007 c. 19.

(63) 2007 c. 27.

47. In section 10 (notice requirements in relation to orders), omit subsection (4)(a)(ii).
48. In section 27 (powers to wind up companies etc: England and Wales and Scotland), in subsections (1) and (3), omit “, the Director of Revenue and Customs Prosecutions”.
49. In section 43 (index of defined expressions: Part 1), in the table, in the entry relating to the Director of Public Prosecutions and other prosecutors—
- (a) omit “Director of Revenue and Customs Prosecutions,”;
  - (b) omit “7(2),”.
50. In section 70 (penalty and prosecution for offences under section 69), in subsection (2), for the words from “only—” to the end substitute “only by or with the consent of the Director of Public Prosecutions.”.
51. In section 84 (powers for prosecutors to appear in cash recovery proceedings), omit subsections (3) and (4).
- 52.—(1) Schedule 2 (functions of applicant authorities under Part 1) is amended as follows.
- (2) After paragraph 5 insert—
 

“5A. Section 21 of the Commissioners for Revenue and Customs Act 2005 (disclosure to prosecuting authority) has effect as if the purpose mentioned in subsection (1)(b) included the purpose of enabling the Director to exercise the Director’s functions under this Part.”.
  - (3) Omit the heading preceding paragraph 6.
  - (4) Omit paragraphs 6 to 11.
53. In Schedule 8 (abolition of Assets Recovery Agency and its Director), omit paragraphs 135(b), 165 and 168.

## **UK Borders Act 2007**

54. The UK Borders Act 2007(64) is amended as follows.
- 55.—(1) Section 40 (supply of Revenue and Customs information) is amended as follows.
- (2) In subsection (1), for “the Revenue and Customs Prosecutions Office (the RCPO)” substitute “the Crown Prosecution Service (the CPS)”.
  - (3) In subsection (2), in both places, for “the RCPO” substitute “the CPS”.
  - (4) After subsection (4), insert—
 

“(4A) Subsections (1) and (2) are subject to subsection (4B).

(4B) In relation to the CPS, this section applies to—

    - (a) information held by the CPS in connection with a Revenue and Customs function of the Director of Public Prosecutions;
    - (b) a document or article which comes into the possession of, or is discovered by, the CPS, or a person acting on behalf of the CPS, in the exercise of a Revenue and Customs function of the Director of Public Prosecutions.

(4C) In subsection (4B) “Revenue and Customs function of the Director of Public Prosecutions” means—

    - (a) a function of the Director of Public Prosecutions under section 3(2)(ab), (bb) or (ee) of the Prosecution of Offences Act 1985, or

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(64) 2007 c. 30.

- (b) a function of the Director of Public Prosecutions under the Proceeds of Crime Act 2002 that relates to a function of the Commissioners for Her Majesty's Revenue and Customs or an officer of Revenue and Customs.”.
- (5) In subsection (5), in both places, for “the RCPO” substitute “the CPS”.
- (6) After subsection (5), insert—
- “(5A) Nothing in this section affects any power to supply information apart from this section.”.
- 56.** In section 41 (confidentiality), in subsections (2) and (3)(e), for “the RCPO” substitute “the CPS”.
- 57.**—(1) Section 41A(**65**) (supply of information to UK Border Agency) is amended as follows.
- (2) In subsection (1), for “the RCPO” substitute “the CPS”.
- (3) In subsection (3), in both places, for “the RCPO” substitute “the CPS”.
- (4) After subsection (4), insert—
- “(4A) Subsections (1) and (3) are subject to subsection (4B).
- (4B) In relation to the CPS, this section applies to—
- (a) information held by the CPS in connection with a Revenue and Customs function of the Director of Public Prosecutions;
- (b) a document or article which comes into the possession of, or is discovered by, the CPS, or a person acting on behalf of the CPS, in the exercise of a Revenue and Customs function of the Director of Public Prosecutions.
- (4C) In this section “Revenue and Customs function of the Director of Public Prosecutions” has the meaning given by section 40(4C).”.
- (5) In subsection (5), in both places, for “the RCPO” substitute “the CPS”.
- (6) After subsection (6), insert—
- “(7) Nothing in this section affects any power to supply information apart from this section.”.
- 58.** In section 41B(**66**) (UK Border Agency: onward disclosure), in subsection (2)(e), for “the RCPO” substitute “the CPS”.
- 59.** In section 42 (wrongful disclosure), in subsection (2), in both places, for “the RCPO” substitute “the CPS”.

### **Counter-Terrorism Act 2008**

- 60.** In Schedule 7 to the Counter-Terrorism Act 2008(**67**) (terrorist financing and money laundering), in Part 7 (enforcement: offences), omit paragraph 33(1)(b).

### **Corporation Tax Act 2009**

- 61.** The Corporation Tax Act 2009(**68**) is amended as follows.
- 62.** In section 1207 (wrongful disclosure), in subsection (4), for the words from “only—” to the end substitute “only by or with the consent of the Director of Public Prosecutions.”.

(65) Section 41A was inserted by the Borders, Citizenship and Immigration Act 2009 (c. 11), section 20(1).

(66) Section 41B was inserted by the Borders, Citizenship and Immigration Act 2009, section 20(1).

(67) 2008 c. 28. Paragraph 33 of Schedule 7 was amended by the Financial Services Act 2012, section 114(1), Schedule 18, paragraph 127(1) and (4).

(68) 2009 c. 4.

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**63.** In section 1216CN(**69**) (wrongful disclosure), in subsection (4), for the words from “only—” to the end substitute “only by or with the consent of the Director of Public Prosecutions.”.

**64.** In section 1217CN(**70**) (wrongful disclosure), in subsection (4), for the words from “only—” to the end substitute “only by or with the consent of the Director of Public Prosecutions.”.

### **Borders, Citizenship and Immigration Act 2009**

**65.** The Borders, Citizenship and Immigration Act 2009(**71**) is amended as follows.

**66.** In section 15 (prohibition on disclosure of personal customs information), in subsection (7), for “or the Revenue and Customs Prosecutions Office” substitute “or to information supplied by or on behalf of the Crown Prosecution Service under section 40 or 41A of the UK Borders Act 2007”.

**67.** In section 18 (offence of wrongful disclosure), in subsection (3)(a), omit “or the Director of Revenue and Customs Prosecutions”.

**68.** Omit section 31 (prosecution of offences).

**69.** In section 37 (subordinate legislation), omit subsection (8).

### **Coroners and Justice Act 2009**

**70.** The Coroners and Justice Act 2009(**72**) is amended as follows.

**71.** In section 77 (applications for investigation anonymity orders), omit subsection (1)(f).

**72.** In section 80 (discharge of order), omit subsection (2)(c).

**73.** In section 81 (delegation of certain functions under the Act by a chief officer of police etc), omit subsection (6).

### **Bribery Act 2010**

**74.**—(1) Section 10 of the Bribery Act 2010(**73**) (consent to prosecution) is amended as follows.

(2) In subsection (1)—

(a) after paragraph (a) after “the Director of Public Prosecutions,” insert “or”;

(b) omit paragraph (c) and the “or” preceding it.

(3) In subsection (3)(a)(i), for “, the Director of the Serious Fraud Office or the Director of Revenue and Customs Prosecutions” substitute “or the Director of the Serious Fraud Office”.

(4) In subsection (4), for “, the Director of the Serious Fraud Office and the Director of Revenue and Customs Prosecutions” substitute “and the Director of the Serious Fraud Office”.

(5) In subsection (7), for “, the Director of the Serious Fraud Office or the Director of Revenue and Customs Prosecutions” substitute “or the Director of the Serious Fraud Office”.

### **Finance Act 2011**

**75.** In Schedule 25 to the Finance Act 2011(**74**) (mutual assistance for recovery of taxes etc), in paragraph 5(3), for the words from “only—” to the end substitute “only by or with the consent of the Director of Public Prosecutions.”.

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(69) Section 1216CN was inserted by the Finance Act 2013 (c. 29), section 36(1), Schedule 16, paragraph 1.

(70) Section 1217CN was inserted by the Finance Act 2013, section 36(1), Schedule 16, paragraph 1.

(71) 2009 c. 11.

(72) 2009 c. 25.

(73) 2010 c. 23.

(74) 2011 c. 11.



## **Crime and Courts Act 2013**

76. In Schedule 8 to the Crime and Courts Act 2013(75) (abolition of the Serious Organised Crime Agency and the National Policing Improvement Agency), omit paragraph 12 and the heading preceding it.

### SCHEDULE 3

Article 3(3)

#### Amendments of secondary legislation

### **The Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975**

1. In Schedule 1 to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(76) (excepted professions, offices, employments, work and occupations), in Part 2 (offices, employments and work), omit paragraph 18A.

### **The Bail (Amendment) Act 1993 (Prescription of Prosecuting Authorities) Order 1994**

2. In the Schedule to the Bail (Amendment) Act 1993 (Prescription of Prosecuting Authorities) Order 1994(77), omit “The Director of Revenue and Customs Prosecutions and any person designated under section 37(1) of the Commissioners for Revenue and Customs Act 2005”.

### **The Land Registration Rules 2003**

3. The Land Registration Rules 2003(78) are amended as follows.
4. In Schedule 1(79) (schedule 1 forms referred to in rules 206, 207A and 210), in Form CIT—
  - (a) in certificates A to E and I, omit the entry “the Director of Revenue and Customs Prosecutions or a member of the Revenue and Customs Prosecutions Office authorised to apply on behalf of the Director”;
  - (b) in certificate H, for the words “The Director of Revenue and Customs Prosecutions or a member of the Revenue and Customs Prosecutions Office authorised to apply on behalf of the Director” substitute “The Director of Public Prosecutions or a member of the Crown Prosecution Service authorised to apply on behalf of the Director”.
5. In Schedule 5(80) (applications in connection with court proceedings, insolvency and tax liability – qualifying applicants and appropriate certificates)—
  - (a) omit the entry in column 1 that relates to the DRCP and the corresponding references in column 2 of that entry to Certificates A to E, H and I;
  - (b) in column 2, in the entry that relates to the DPP, at the appropriate place, insert “Certificate H”.

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(75) 2013 c. 22.

(76) S.I. 1975/1023, amended by S.I. 2006/2143; there are other amending instruments but none are relevant.

(77) S.I. 1994/1438, amended by S.I. 2005/1129; there are other amending instruments but none are relevant.

(78) S.I. 2003/1417.

(79) Schedule 1 was amended by S.I. 2005/1766 and S.I. 2008/574; there are other amending instruments but none are relevant.

(80) Schedule 5 was amended by S.I. 2005/1766 and S.I. 2008/574; there are other amending instruments but none are relevant.

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### **The Extradition Act 2003 (Part 3 Designation) Order 2003**

6. In article 2 of the Extradition Act 2003 (Part 3 Designation) Order 2003(81), omit paragraph (2) (a).

### **The Crime (International Co-operation) Act 2003 (Designation of Prosecuting Authorities) Order 2004**

7. In article 2 of the Crime (International Co-operation) Act 2003 (Designation of Prosecuting Authorities) Order 2004(82), in paragraph (2), omit “the Director of Revenue and Customs Prosecutions and any person designated under section 37(1) of the Commissioners for Revenue and Customs Act 2005;”.

### **The Extradition Act 2003 (Part 3 Designation) (Amendment) Order 2005**

8. In article 2 of the Extradition Act 2003 (Part 3 Designation) (Amendment) Order 2005(83), omit sub-paragraph (a).

### **The Crime (International Co-operation) Act 2003 (Designation of Prosecuting Authorities) (Amendment) Order 2005**

9. In article 2 of the Crime (International Co-operation) Act 2003 (Designation of Prosecuting Authorities) (Amendment) Order 2005(84), omit paragraph (3).

### **The Revenue and Customs (Inspections) Regulations 2005**

10. In regulation 2 of the Revenue and Customs (Inspections) Regulations 2005(85) (interpretation), in the definition of “Director”, for “the Director of Revenue and Customs Prosecutions” substitute “the Director of Public Prosecutions”.

### **The Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005**

11. The Criminal Justice (International Co-operation) Act 1990 (Enforcement of Overseas Forfeiture Orders) Order 2005(86) is amended as follows.

12. In article 3 (action on receipt of request for restraint of property), in paragraph (1), omit “or the Director of Revenue and Customs Prosecutions”.

13. In article 15 (action on receipt of external forfeiture order in connection with criminal convictions), in paragraph (1), for the words from “to—” to the end substitute “to the Director of Public Prosecutions to process it.”.

### **The Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005**

14. The Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005(87) is amended as follows.

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(81) [S.I. 2003/3335](#), amended by [S.I. 2005/1127](#); there are other amending instruments but none are relevant.

(82) [S.I. 2004/1034](#), amended by [S.I. 2005/1130](#); there are other amending instruments but none are relevant.

(83) [S.I. 2005/1127](#).

(84) [S.I. 2005/1130](#).

(85) [S.I. 2005/1133](#).

(86) [S.I. 2005/3180](#).

(87) [S.I. 2005/3181](#).

15. In article 6(88) (action on receipt of external request in connection with criminal investigations or proceedings), in paragraph (1), for the words from “to—” to the end substitute “to the Director of Public Prosecutions to process it.”.

16. In article 18(89) (action on receipt of external order in connection with criminal convictions), in paragraph (1), for the words from “to—” to the end substitute “to the Director of Public Prosecutions to process it.”.

17. In article 34 (sums received by relevant director), in paragraph (6), for “the Crown Prosecution Service, the Serious Fraud Office or the Revenue and Customs Prosecution Office” substitute “the Crown Prosecution Service or the Serious Fraud Office”.

18. In article 141R(90) (interpretation), in paragraph (1), in the definition of “enforcement authority”, in paragraph (a), omit “, the Director of Revenue and Customs Prosecutions”.

19. In article 213(91) (general interpretation), in paragraph (1), in the definition of “enforcement authority”, in paragraph (a), omit “, the Director of Revenue and Customs Prosecutions”.

#### **The Public Contracts Regulations 2006**

20. In Schedule 1 to the Public Contracts Regulations 2006(92) (GPA Annex 1 contracting authorities), omit “The Revenue and Customs Prosecutions Office”.

#### **The Money Laundering Regulations 2007**

21. In regulation 46 of the Money Laundering Regulations 2007(93) (prosecution of offences), in paragraph (1)(a), omit “the Director of Revenue and Customs Prosecutions or by”.

#### **The Transfer of Funds (Information on the Payer) Regulations 2007**

22. In regulation 15 of the Transfer of Funds (Information on the Payer) Regulations 2007(94) (prosecution of offences), in paragraph (1)(a), omit “the Director of Revenue and Customs Prosecutions or by”.

#### **The Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008**

23. In the Schedule to the Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008(95) (amendment of statutory instruments and statutory rules of Northern Ireland relating to ARA, its Director and SOCA), omit paragraph 6(3)(c).

#### **The UK Border Agency (Complaints and Misconduct) Regulations 2010**

24. The UK Border Agency (Complaints and Misconduct) Regulations 2010(96) are amended as follows.

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(88) There are amending instruments, but none are relevant.

(89) There are amending instruments, but none are relevant.

(90) Article 141R was inserted by [S.I. 2013/2604](#).

(91) Article 213 was amended by [S.I. 2008/302](#); there are other amending instruments but none are relevant.

(92) [S.I. 2006/5](#); there are amendments, but none are relevant to this Order.

(93) [S.I. 2007/2157](#).

(94) [S.I. 2007/3298](#).

(95) [S.I. 2008/574](#).

(96) [S.I. 2010/782](#).

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25. In regulation 46 (restrictions on proceedings pending the conclusion of an investigation), in paragraph (3), omit “or, as the case may be, the Director of Revenue and Customs Prosecutions”.

26. In regulation 61 (action by a police force on completion of an investigation report), in paragraphs (3)(a), (5), (6) and (7), omit “or, as the case may be, the Director of Revenue and Customs Prosecutions”.

27. In regulation 62 (final reports on investigations: complaints, conduct matters and certain DSI matters), in paragraph (4), omit “or, as the case may be, the Director of Revenue and Customs Prosecutions”.

28. In regulation 63 (action by the IPCC in response to an investigation report under regulation 62), in paragraphs (2)(c), (4), (5) and (6), omit “or, as the case may be, the Director of Revenue and Customs Prosecutions”.

29.—(1) Regulation 70 (appeals to the IPCC with respect to an investigation) is amended as follows.

(2) In paragraph (2)(e), omit “or the Director of Revenue and Customs Prosecutions”.

(3) In paragraphs (3)(e) and (9)(a), omit “or, as the case may be, the Director of Revenue and Customs Prosecutions”.

### **The Revenue and Customs (Complaints and Misconduct) Regulations 2010**

30. The Revenue and Customs (Complaints and Misconduct) Regulations 2010(97) are amended as follows.

31. In regulation 40 (power of the IPCC to impose requirements in relation to an investigation which it is supervising), in paragraph (2), for the words from “consent” to the end substitute “consent of the Director of Public Prosecutions to the imposition of any such requirement.”.

32. In regulation 52 (restrictions on proceedings pending the conclusion of an investigation), in paragraph (3), omit “or, as the case may be, the Director of Revenue and Customs Prosecutions”.

33.—(1) Regulation 67 (action by the IPCC in response to an investigation report under regulation 66) is amended as follows.

(2) In paragraph (2)(c), omit “or the Director of Revenue and Customs Prosecutions”.

(3) In paragraphs (4), (5) and (6), omit “or, as the case may be, the Director of Revenue and Customs Prosecutions”.

34. In regulation 68 (action by the appropriate authority in response to an investigation report under regulation 66), in paragraphs (2)(b), (4), (5), (6) and (9)(b), omit “or, as the case may be, the Director of Revenue and Customs Prosecutions”.

35. In regulation 74 (appeals to the IPCC with respect to an investigation), in paragraphs (2)(e), (3)(d) and (10)(a), omit “or, as the case may be, the Director of Revenue and Customs Prosecutions”.

### **The Customs Disclosure of Information and Miscellaneous Amendments Regulations 2012**

36. In regulation 4 of the Customs Disclosure of Information and Miscellaneous Amendments Regulations 2012(98) (penalties for offence of disclosure of restricted information), in paragraph (2), for the words from “only—” to the end substitute “only by or with the consent of the Director of Public Prosecutions.”.

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(97) [S.I. 2010/1813](#).

(98) [S.I. 2012/1848](#).

### **The Extradition Act 2003 (Designation of Prosecutors) (England and Wales and Northern Ireland) Order 2013**

**37.** In the Schedule to the Extradition Act 2003 (Designation of Prosecutors) (England and Wales and Northern Ireland) Order 2013(**99**) (listed prosecutors), omit “The Director of Revenue and Customs Prosecutions”.

### **The Proceeds of Crime Act 2002 (External Investigations) Order 2013**

**38.**—(1) Article 2 of the Proceeds of Crime Act 2002 (External Investigations) Order 2013(**100**) (interpretation) is amended as follows.

- (2) In paragraph (7)(a), omit “, the Director of Revenue and Customs Prosecutions”.
- (3) In paragraph (8)(a), omit “or the Director of Revenue and Customs Prosecutions,”.

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## **EXPLANATORY NOTE**

*(This note is not part of the Order)*

The Public Bodies Act [2011 \(c. 24\)](#) makes provision for the merger, and associated transfer of functions, by order of any group of bodies or offices specified in Schedule 2 to that Act. One such group consists of the Director of Public Prosecutions (“the DPP”) and the Director of Revenue and Customs Prosecutions (“the DRCP”).

The DPP is an office established by section 2 of the Prosecution of Offences Act [1985 \(c. 23\)](#) (“the POA 1985”). The Director and staff appointed by the Director under section 1 of the POA 1985 constitute the Crown Prosecution Service (“the CPS”). The DRCP is an office established by section 34 of the Commissioners for Revenue and Customs Act (c. 11) (“the CRCA 2005”). The Director and his staff are together referred to as the Revenue and Customs Prosecutions Office.

Article 3 of this Order abolishes the DRCP and transfers the functions of the DRCP to the DPP, subject to such changes as are given effect by Schedules 1 to 3.

Article 4 transfers the property, rights and liabilities of the DRCP and the RCPO to the DPP or, as the case may be, the CPS.

Article 5 makes transitional provision for various supplementary matters including enabling proceedings being carried on by the DRCP to continue by or in relation to the DPP. For that purpose, the DPP is to be treated as acting under the enactment under which the DRCP was acting at the coming into force of the Order (article 6).

Article 7 treats appointments made under section 38 of the CRCA 2005 as if they were appointments made under the equivalent provision of the POA 1985.

Article 8 treats an assignment of a function to the DRCP made by order of the Attorney General under section 31(1) of the Borders, Citizenship and Immigration Act [2009 \(c. 11\)](#) as if it were an assignment to the DPP under section 3(2)(g) of the POA 1985.

Article 9 provides that information held by the CPS by reason of the merger is to be treated as if it were information disclosed to the DPP by Her Majesty’s Revenue and Customs for use in connection

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(99) [S.I. 2013/2388](#).

(100) [S.I. 2013/2605](#)

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with the DPP's revenue and customs functions. This ensures that such material attracts the protection of section 40 of the CRCA 2005.

Schedule 1 amends the POA 1985 and the CRCA 2005. Schedules 2 and 3 make consequential provision to other primary and secondary legislation.

A regulatory impact assessment has not been prepared for this Order as no impact on the private or voluntary sectors is foreseen.