



# Commissioners for Revenue and Customs Act 2005

## 2005 CHAPTER 11

### *Prosecutions*

#### **<sup>F1</sup>34 The Revenue and Customs Prosecutions Office**

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##### **Textual Amendments**

- F1** Ss. 34-39 omitted (27.3.2014) by virtue of [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), [Sch. 1 para. 9](#) (with art. 7)

#### **<sup>F1</sup>35 Functions**

.....

##### **Textual Amendments**

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#### **<sup>F1</sup>36 Functions: supplemental**

.....

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**Textual Amendments**

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**F137 Prosecutors**

.....

**Textual Amendments**

**F1** Ss. 34-39 omitted (27.3.2014) by virtue of [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), [Sch. 1 para. 9](#) (with art. 7)

**F138 Conduct of prosecutions on behalf of the Office**

.....

**Textual Amendments**

**F1** Ss. 34-39 omitted (27.3.2014) by virtue of [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), [Sch. 1 para. 9](#) (with art. 7)

**F139 Designation of non-legal staff**

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**Textual Amendments**

**F1** Ss. 34-39 omitted (27.3.2014) by virtue of [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), [Sch. 1 para. 9](#) (with art. 7)

**40 Confidentiality**

- (1) [<sup>F2</sup>The Crown Prosecution Service] may not disclose information which—
  - (a) is held by [<sup>F3</sup>the Service in connection with any of the Director of Public Prosecution’s functions], <sup>F4</sup>...
  - (b) relates to a person whose identity is specified in the disclosure or can be deduced from it<sup>F5</sup>, 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.]
- (2) But subsection (1)—

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- (a) does not apply to a disclosure which—
  - (i) is made for the purposes of a function of [<sup>F6</sup>the Director of Public Prosecutions], and
  - (ii) does not contravene any restriction imposed by the Director [<sup>F7</sup>of Public Prosecutions],
- (b) does not apply to a disclosure made to Her Majesty’s Revenue and Customs in connection with a function of the Revenue and Customs (within the meaning of section 25),
- (c) does not apply to a disclosure made for the purposes of a criminal investigation or criminal proceedings (whether or not within the United Kingdom),
- [<sup>F8</sup>(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 [<sup>F9</sup>National Crime Agency] under that Act,
  - (iii) the exercise of any functions of <sup>F10</sup>... 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 [<sup>F11</sup>, an accredited financial investigator] 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,
- <sup>F12</sup>(cb) ] .....
  - (d) does not apply to a disclosure which in the opinion of the Director [<sup>F13</sup>of Public Prosecutions] is desirable for the purpose of safeguarding national security,
  - (e) does not apply to a disclosure made in pursuance of an order of a court,
- [<sup>F14</sup>(ea) does not apply to a disclosure made with the consent of the Commissioners (which may be general or specific),
  - (f) does not apply to a disclosure made with the consent of each person to whom the information relates, and
  - (g) is subject to any other enactment.
- (3) A person commits an offence if he contravenes subsection (1).
- (4) Subsection (3) does not apply to the disclosure of information about internal administrative arrangements of [<sup>F15</sup>the Crown Prosecution Service] (whether relating to a member of [<sup>F16</sup>the Service] or to another person).
- (5) It is a defence for a person charged with an offence under this section of disclosing information to prove that he reasonably believed—
  - (a) that the disclosure was lawful, or
  - (b) that the information had already and lawfully been made available to the public.
- (6) In this section a reference to [<sup>F17</sup>the Crown Prosecution Service] includes a reference to—
  - [<sup>F18</sup>(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,]

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- (a) former members of [<sup>F19</sup>the Revenue and Customs Prosecutions Office], and
- (b) persons who <sup>F20</sup>... have held appointment under section 38.

[<sup>F21</sup>(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) A person guilty of an offence under this section shall be 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 [<sup>F22</sup>12 months][<sup>F22</sup>the general limit in a magistrates’ court], to a fine not exceeding the statutory maximum or to both.

(8) A prosecution for an offence under this section may be instituted in England and Wales [<sup>F23</sup>only by or with the consent of the Director of Public Prosecutions.]

(9) A prosecution for an offence under this section may be instituted in Northern Ireland only—

- (a) by the Commissioners, or
- (b) with the consent of the Director of Public Prosecutions for Northern Ireland.

(10) In the application of this section to Scotland or Northern Ireland the reference in subsection (7)(b) to 12 months shall be taken as a reference to six months.

<sup>F24</sup>(10A) .....

(11) In subsection (2) the reference to an enactment does not include—

- (a) an Act of the Scottish Parliament or an instrument made under such an Act,
- [<sup>F25</sup>(aa) an Act of the National Assembly for Wales or an instrument made under such an Act,] or
- (b) an Act of the Northern Ireland Assembly or an instrument made under such an Act.

#### Textual Amendments

- F2** Words in s. 40(1) substituted (27.3.2014) by [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), **Sch. 1 para. 10(2)(a)**
- F3** Words in s. 40(1)(a) substituted (27.3.2014) by [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), **Sch. 1 para. 10(2)(b)**
- F4** Word in s. 40(1) omitted (27.3.2014) by virtue of [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), **Sch. 1 para. 10(2)(c)**
- F5** S. 40(1)(c) and word inserted (27.3.2014) by [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), **Sch. 1 para. 10(2)(d)**

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- F6** Words in s. 40(2)(a)(i) substituted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(3)(a)**
- F7** Words in s. 40(2)(a)(ii) inserted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(3)(b)**
- F8** S. 40(2)(ca)(cb) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 167(2)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)
- F9** Words in s. 40(2)(ca)(ii) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 186**; S.I. 2013/1682, art. 3(v)
- F10** Words in s. 40(2)(ca)(iii) omitted (27.3.2014) by virtue of The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(3)(c)**
- F11** Words in s. 40(2)(ca)(iv) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 11 para. 16**; S.I. 2008/755, art. 17(1)(f)
- F12** S. 40(2)(cb) omitted (27.3.2014) by virtue of The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(3)(d)**
- F13** Words in s. 40(2)(d) inserted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(3)(e)**
- F14** S. 40(2)(ea) inserted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(3)(f)**
- F15** Words in s. 40(4) substituted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(4)(a)**
- F16** Words in s. 40(4) substituted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(4)(b)**
- F17** Words in s. 40(6) substituted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(5)(a)**
- F18** S. 40(6)(za)(zb) inserted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(5)(b)**
- F19** Words in s. 40(6)(a) substituted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(5)(c)**
- F20** Words in s. 40(6)(b) omitted (27.3.2014) by virtue of The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(5)(d)**
- F21** S. 40(6A) inserted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(6)**
- F22** Words in s. 40(7) substituted (E.W.) (7.2.2023 at 12.00 p.m.) by The Judicial Review and Courts Act 2022 (Magistrates' Court Sentencing Powers) Regulations 2023 (S.I. 2023/149), regs. 1(2), 2(1), **Sch. Pt. 1**
- F23** Words in s. 40(8) substituted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 1 para. 10(7)**

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- F24** S. 40(10A) omitted (27.3.2014) by virtue of [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), [Sch. 1 para. 10\(8\)](#)
- F25** S. 40(11)(aa) inserted (17.2.2015) by [Wales Act 2014 \(c. 29\)](#), [ss. 7\(10\)](#), 29(2)(b), (3)

**Modifications etc. (not altering text)**

- C1** S. 40 modified (27.3.2014) by [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), arts. 1(1), [9](#)

**Commencement Information**

- I1** S. 40 in force at 7.4.2005 by [S.I. 2005/1126](#), [art. 2\(1\)](#)

**<sup>F26</sup> 41 Disclosure of information to Director of Revenue and Customs Prosecutions**

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**Textual Amendments**

- F26** S. 41 omitted (27.3.2014) by virtue of [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), [Sch. 1 para. 11](#)

**Commencement Information**

- I2** S. 41 in force at 7.4.2005 by [S.I. 2005/1126](#), [art. 2\(1\)](#)

**<sup>F27</sup> 42 Inspection**

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**Textual Amendments**

- F27** S. 42 omitted (27.3.2014) by virtue of [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), [Sch. 1 para. 12](#)

**Commencement Information**

- I3** S. 42 in force at 7.4.2005 by [S.I. 2005/1126](#), [art. 2\(1\)](#)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 18(2)(ia) inserted by [2019 anaw 1 s. 9](#)