

BORDERS, CITIZENSHIP AND IMMIGRATION ACT 2009

EXPLANATORY NOTES

COMMENTARY

Part 1: Border Functions

Customs revenue officials

Section 11: Designation of customs revenue officials

53. **Section 11(1)** provides that the Director may designate an immigration official or other official of the Secretary of State by whom general customs functions are exercisable as a customs revenue official for the purposes of this Part of the Act. Subsection (2) provides that a customs revenue official has, in relation to a customs revenue matter, the same functions as an officer of Revenue and Customs would have and may exercise the functions that are conferred on the Director by section 7.
54. Subsection (3) provides that a function that may be exercised in relation to both a customs revenue matter and another matter is exercisable by a customs revenue official only in relation to the customs revenue matter.
55. Subsection (4) provides that, where appropriate, a reference to an officer of Revenue and Customs, or to HMRC, in an enactment, instrument or document to which section 11 applies is to be construed as including a reference to a customs revenue official. Subsection (5) provides that a reference in section 11 to functions of an officer of Revenue and Customs are to functions conferred by an enactment to which section 11 applies. Subsection (6) specifies that section 11 applies to an enactment passed or made, or an instrument or document issued, before the Act is passed and, subject to express provision to the contrary, to an enactment passed or made, or an instrument or document issued, after the Act is passed.
56. Subsection (7) provides that section 11 applies only in relation to certain sections of the CRCA 2005, namely section 2(4) (continuation of anything begun by one officer by another), section 6 (officers' initial functions), section 25(1), (1A) and (5) (evidence), section 25A(1) (certificates of debt) and section 26 (rewards), section 31 (obstruction), section 32 (assault) and section 33 (power of arrest) excluding the power to arrest a person for the offence of impersonation under section 30. Subsection (8) provides that the extent to which a customs revenue official may exercise functions under section 11 is subject to any limitation specified in the official's designation under section 12 (supplementary provisions about designation) and to any designation of the same official under section 3 (designation of general customs officials).

Section 12: Designation: supplementary

57. **Section 12** provides that a designation under section 11 is subject to such limitations as may be specified in the designation and subsection (2) provides that a limitation may,

in particular, relate to the functions which are exercisable by virtue of the designation or the purposes for which those functions are exercisable.

58. Subsection (3) states that a designation may be permanent or made for a specified period and may, in either case, be withdrawn or varied. Subsection (4) requires that the power to designate, withdraw or vary a designation must be exercised by the Director giving notice to the official in question. Subsection (5) states that the Director may designate an official only if the Director is satisfied that the official is capable of effectively carrying out the functions that are exercisable by virtue of the designation and has received adequate training in respect of the exercise of those functions. In addition to these requirements, the Director must also be satisfied that the official is otherwise a suitable person to exercise those functions.

Section 13: Directions by the Director

59. **Section 13** requires a customs revenue official to comply with the directions of the Director in the exercise of customs revenue functions.