

SCHEDULES

SCHEDULE 8

ABOLITION OF ASSETS RECOVERY AGENCY AND ITS DIRECTOR

PART 6

OTHER AMENDMENTS TO 2002 ACT

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

“2A Contribution to the reduction of crime

- (1) A relevant authority must exercise its functions under this Act in the way which it considers is best calculated to contribute to the reduction of crime.
- (2) In this section “a relevant authority” means—
- SOCA,
 - the Director of Public Prosecutions,
 - the Director of Public Prosecutions for Northern Ireland,
 - the Director of Revenue and Customs Prosecutions, or
 - the Director of the Serious Fraud Office.
- (3) In considering under subsection (1) the way which is best calculated to contribute to the reduction of crime a relevant authority must have regard to any guidance given to it by—
- in the case of SOCA, the Secretary of State,
 - in the case of the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions or the Director of the Serious Fraud Office, the Attorney General, and
 - in the case of the Director of Public Prosecutions for Northern Ireland, the Advocate General for Northern Ireland.
- (4) The guidance must indicate that the reduction of crime is in general best secured by means of criminal investigations and criminal proceedings.
- (5) The reference in this section to the Advocate General for Northern Ireland is to be read, before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002 (c. 26), as a reference to the Attorney General for Northern Ireland.

2B SOCA and members of SOCA’s staff

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

2C Prosecuting authorities

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

- 125 Omit sections 4 and 5 (co-operation and advice and assistance for Secretary of State).
- 126 In section 330(4)(b) (failure to disclose: regulated sector) for “the Serious Organised Crime Agency” substitute “SOCA”.
- 127 In section 331(4) (failure to disclose: nominated officers in the regulated sector) for “the Serious Organised Crime Agency” substitute “SOCA”.
- 128 In section 332(4) (failure to disclose: other nominated officers) for “the Serious Organised Crime Agency” substitute “SOCA”.
- 129 In section 336(2)(a), (3)(a) and (4)(a) (nominated officer: consent) for “the Serious Organised Crime Agency” substitute “SOCA”.
- 130 In section 340(13) (interpretation: Part 7) for “the Serious Organised Crime Agency” substitute “SOCA”.

131 For section 435 (use of information by Director) substitute—

“435 Use of information by certain Directors

- (1) Information obtained by or on behalf of the Director in connection with the exercise of any of his functions under, or in relation to, Part 5 or 8 may be used by him in connection with his exercise of any of his other functions (whether under, or in relation to, either Part, another Part of this Act or otherwise).
- (2) Information obtained by or on behalf of the Director in connection with the exercise of any of his functions (whether under, or in relation to, this Act or otherwise) which are not functions under, or in relation to, Part 5 or 8 may be used by him in connection with his exercise of any of his functions under, or in relation to, Part 5 or 8.
- (3) This section applies to information obtained before the coming into force of the section as well as to information obtained after the coming into force of the section.
- (4) In this section “the Director” means—
 - (a) the Director of Public Prosecutions;
 - (b) the Director of the Serious Fraud Office; or
 - (c) the Director of Public Prosecutions for Northern Ireland.”

132 (1) Section 436 (disclosure of information to Director) is amended as follows.

- (2) In the heading for “Director” substitute “certain Directors”.
- (3) In subsection (1)—
 - (a) for “this section” substitute “subsection (10)”; and
 - (b) after “functions” insert “under, or in relation to, Part 5 or 8”.
- (4) In subsection (5), omit paragraph (b) and (ga).
- (5) After subsection (9) insert—

“(10) In this section “the Director” has the same meaning as in section 435.”

133 (1) Section 437 (further disclosure) is amended as follows.

- (2) In subsection (2)(a) after “functions” insert “under, or in relation to, Part 5 or 8”.
- (3) After subsection (6) insert—

“(7) In this section “the Director” has the same meaning as in section 435.”

134 (1) Section 438 (disclosure of information by Director) is amended as follows.

- (2) In the heading for “Director” substitute “certain Directors”.
- (3) In subsection (1)—
 - (a) after “functions”, where it first appears, insert “under, or in relation to, Part 5 or 8”;
 - (b) in paragraph (c) after “functions” insert “under, or in relation to, Part 5 or 8”; and
 - (c) after paragraph (f) insert—

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

- “(fa) the exercise of any functions of SOCA, another Director or the Director of Revenue and Customs Prosecutions under, or in relation to, Part 5 or 8;”.
- (4) Omit subsections (2) to (4).
- (5) After subsection (8) insert—
- “(8A) This section does not affect a power to disclose which exists apart from this section.
- (8B) This section applies to information obtained before the coming into force of subsection (10) as well as to information obtained after the coming into force of that subsection.”
- (6) After subsection (9) insert—
- “(10) In this section “the Director” has the same meaning as in section 435.”
- 135 In section 439(5) (disclosure of information to Lord Advocate and to Scottish Ministers)—
- (a) in paragraph (b) for “the Director General of the Serious Organised Crime Agency” substitute “SOCA but only so far as the information is held by it or on its behalf otherwise than in connection with its functions under this Act”; and
- (b) after paragraph (f) insert—
- “(fa) the Director of Revenue and Customs Prosecutions;”.
- 136 In section 441(2) (disclosure of information by Lord Advocate and by Scottish Ministers) for paragraph (f) substitute—
- “(fa) the exercise of the functions of the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions, the Director of the Serious Fraud Office or the Director of Public Prosecutions for Northern Ireland under, or in relation to, Part 5 or 8;”.
- 137 (1) Section 443 (enforcement in different parts of the United Kingdom) is amended as follows.
- (2) In subsection (3)(a) for “and the Director” substitute “, SOCA and the relevant Director”.
- (3) After subsection (4) insert—
- “(5) In this section “relevant Director” has the meaning given by section 352(5A).”
- 138 In section 444(4)(d) (external requests and orders) for “the Director” substitute “SOCA”.
- 139 In section 445(2)(b) (external investigations) for the words from “the Director”, where it first appears, to “Agency” substitute “SOCA, the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland, the Director of Revenue and Customs Prosecutions”.
- 140 (1) Section 449 (agency staff: pseudonyms) is amended as follows.
- (2) In the heading for “Agency” substitute “SOCA's”.
- (3) In subsection (1)—

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- (a) for “the staff of the Agency”, in both places where it appears, substitute “SOCA’s staff”; and
 - (b) for “authorised (generally or specifically) by the Director” substitute “assigned by SOCA”.
- (4) In subsection (2)—
- (a) for “The Director” substitute “An authorised person”; and
 - (b) for “the staff of the Agency” substitute “SOCA’s staff”.
- (5) In subsection (3)—
- (a) for “the Director” substitute “an authorised person”; and
 - (b) for “the staff of the Agency”, in both places where it appears, substitute “SOCA’s staff”.
- (6) In subsection (4) for “the staff of the Agency” substitute “SOCA’s staff”.
- (7) Omit subsection (5).
- (8) After subsection (5) insert—
- “(6) In this section “authorised person” means a member of SOCA’s staff authorised by SOCA for the purposes of this section.”
- 141 After section 460(2) (finance) insert—
- “(3) Subject to anything in this Act—
- (a) any sums received by the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions or the Director of the Serious Fraud Office in consequence of this Act are to be paid into the Consolidated Fund; and
 - (b) any sums received by the Director of Public Prosecutions for Northern Ireland in consequence of this Act are to be paid to the Secretary of State.”
- 142 Omit Schedule 1 (the Assets Recovery Agency).