

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(1) (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.”.

(1) 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.

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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(2) (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(3) (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—

(2) 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.

(3) 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(4) (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(5) (establishment and organisation of the RCPO).
- 10.—(1) Section 40(6) (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”;

(4) 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).

(5) 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).

(6) 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).

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- (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).

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11. Omit section 41(7) (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.

(7) 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.