

**EXPLANATORY MEMORANDUM TO THE  
CRIME (INTERNATIONAL CO-OPERATION) ACT 2003 (DESIGNATION OF  
PROSECUTING AUTHORITIES) (AMENDMENT) ORDER 2005**

**2005 No.1130**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

This memorandum contains information for the Joint Committee on Statutory Instruments.

2. **Description**

This Order designates the Director of Revenue and Customs Prosecutions and designated members of the Revenue and Customs Prosecution Office as competent to issue requests for assistance in obtaining outside the United Kingdom evidence for use in criminal proceedings or investigations in England and Wales. It amends an earlier Order, which designated the Commissioners of Customs and Excise and Commissioners of Inland Revenue. These amendments take account of changes made by the Commissioners for Revenue and Customs Act 2005 (“the 2005 Act”).

3. **Matters of special interest to the Joint Committee on Statutory Instruments**

- 3.1. This Order breaches the 21 day rule. As the Order reflects changes made by the 2005 Act, it could not have been made before 7 April when the Bill completed its parliamentary passage. The changes made by that Act will come into force on 18 April 2005. In order to ensure that there will not be a period when requests cannot be made by the newly established Customs and Revenue Prosecutions Office, this Order also comes into force on that date.

4. **Legislative Background**

- 4.1 Section 7(5) of the Crime (International Co-operation) Act provides that a designated prosecuting authority may request assistance in obtaining outside the United Kingdom evidence for use in criminal proceedings or investigations in the UK.
- 4.2 This Order amends Article 2(2) of the Crime (International Co-operation) Act 2003 (Designation of Prosecuting Authorities) Order 2004, which listed the authorities competent to issue requests for assistance. It is being made as a result of the Commissioners of Revenue and Customs Act 2005, which replaces the Commissioners of Customs and Excise and the Commissioners of the Inland Revenue with the Commissioners for Revenue and Customs, who will be responsible for the investigation of Revenue and Customs offences, and the Revenue and Customs Prosecutions Office, which will be solely responsible for the prosecution of Revenue and Customs offences.

## **5. Extent**

This instrument applies to England, Wales and Northern Ireland. RCPO will be responsible for the prosecution of Revenue and Customs offences in England and Wales only. The Director of Public Prosecutions (Northern Ireland) will continue to prosecute such offences in Northern Ireland.

## **6. European Convention on Human Rights**

Not applicable.

## **7. Policy background**

7.1 The Crime (International Co-operation) Act 2003 makes provision for furthering co-operation with other countries in respect of criminal proceedings and investigations (mutual legal assistance).

7.2 The Commissioners of Customs and Excise and the Inland Revenue were both designated under the Act to issue letters of request to obtain evidence from overseas.

7.3 This Order ensures that letters of request can continue to be issued in Customs and Revenue investigations and prosecutions upon commencement of the Commissioners of Revenue and Customs Act 2005, which completed its parliamentary passage on 7 April 2005.

## **8. Impact**

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector.

## **9. Contact**

Claire Fielder at the Home Office, tel: 020 7035 1275 or e-mail: [claire.fielder@homeoffice.gsi.gov.uk](mailto:claire.fielder@homeoffice.gsi.gov.uk) can answer any queries regarding the instrument.