

Serious Crime Bill [HL]

COMMONS AMENDMENTS

[The page and line references are to Bill 103, the bill as first printed for the Commons]

Clause 4

- 1 Leave out Clause 4

Clause 24

- 2 Page 15, line 7, before “not”, insert “to discharge or”

Clause 25

- 3 Page 15, line 25, leave out from beginning to “lies” and insert “Subject to subsection (4), an appeal under subsection (1) or (2)”

- 4 Page 15, line 25, at end add –

- “(4) An appeal under subsection (1) or (2) lies without the leave of the Court of Appeal if the judge who made the decision grants a certificate that the decision is fit for appeal under this section.
- (5) Subject to any rules of court made under section 53(1) of the Senior Courts Act 1981 (c. 54) (distribution of business between civil and criminal divisions), the criminal division of the Court of Appeal is the division which is to exercise jurisdiction in relation to an appeal under subsection (1) or (2) from a decision of the Crown Court in the exercise of its jurisdiction in England and Wales under this Part.
- (6) An appeal against a decision of the Court of Appeal on an appeal to that court under subsection (1) or (2) may be made to the Supreme Court by any person who was a party to the proceedings before the Court of Appeal.
- (7) An appeal under subsection (6) lies only with the leave of the Court of Appeal or the Supreme Court.
- (8) Such leave must not be granted unless –
 - (a) it is certified by the Court of Appeal that a point of law of general public importance is involved in the decision; and

- (b) it appears to the Court of Appeal or (as the case may be) the Supreme Court that the point is one which ought to be considered by the Supreme Court.
- (9) The Secretary of State may for the purposes of this section by order make provision corresponding (subject to any specified modifications) to that made by or under an enactment and relating to—
 - (a) appeals to the Court of Appeal under Part 1 of—
 - (i) the Criminal Appeal Act 1968 (c. 19); or
 - (ii) the Criminal Appeal (Northern Ireland) Act 1980 (c. 47);
 - (b) appeals from any decision of the Court of Appeal on appeals falling within paragraph (a); or
 - (c) any matter connected with or arising out of appeals falling within paragraph (a) or (b).
- (10) An order under subsection (9) may, in particular, make provision about the payment of costs.
- (11) The power to make an appeal to the Court of Appeal under subsection (1)(a) operates instead of any power for the person who is the subject of the order to make an appeal against a decision of the Crown Court in relation to a serious crime prevention order by virtue of—
 - (a) section 9 or 10 of the Criminal Appeal Act 1968 (c. 19); or
 - (b) section 8 of the Criminal Appeal (Northern Ireland) Act 1980 (c. 47).
- (12) Section 33(3) of the Criminal Appeal Act 1968 (c. 19) (limitation on appeal from criminal division of the Court of Appeal: England and Wales) does not prevent an appeal to the Supreme Court under subsection (6) above.”

Clause 28

- 5 Page 16, line 28, after “to”, insert “—
 - (a) ”
- 6 Page 16, line 29, leave out “as if it were” and insert “; and
 - (b) the company’s winding up;
as it applies in relation to”
- 7 Page 16, line 30, leave out “(petition for” and insert “for the winding up of a company and the company’s winding up (“
- 8 Page 16, line 43, leave out “has effect” and insert “applies for the purposes of this section”
- 9 Page 17, line 1, leave out “Secretary of State” and insert “appropriate Minister”
- 10 Page 17, line 2, leave out “he” and insert “that person”
- 11 Page 17, line 2, after “appropriate,”, insert “in relation”
- 12 Page 17, line 3, at end insert “and the relevant body’s winding up”
- 13 Page 17, line 9, at end insert—
 - “() No petition may be presented to, or order to wind up made by, a court in Scotland by virtue of this section in respect of a company, partnership or relevant body whose estate may be sequestrated under the Bankruptcy (Scotland) Act 1985 (c. 66).”

- 14 Page 17, line 22, at beginning insert –
““appropriate Minister” means –
(a) in relation to a relevant body falling within paragraphs (a) to (c) of the definition of “relevant body” below, the Treasury; and
(b) in relation to any other relevant body, the Secretary of State;”
- 15 Page 17, line 28, leave out “Scotland or”
- 16 Page 17, line 31, after “registered;”, insert –
““partnership” does not include a relevant body;”
- 17 Page 17, line 37, after “society;”, insert –
“(ca) a limited liability partnership;”

Clause 29

- 18 Page 18, line 8, after “to”, insert “ –
(a) ”
- 19 Page 18, line 8, leave out “as if it were” and insert “; and
(b) the company’s winding up;
as it applies in relation to”
- 20 Page 18, line 9, leave out “(petition for” and insert “for the winding up of a company and the company’s winding up (“
- 21 Page 18, line 22, leave out “has effect” and insert “applies for the purposes of this section”
- 22 Page 18, line 24, leave out “Secretary of State” and insert “appropriate Minister”
- 23 Page 18, line 25, leave out “he” and insert “that person”
- 24 Page 18, line 25, after “appropriate;”, insert “in relation”
- 25 Page 18, line 26, at end insert “and the relevant body’s winding up”
- 26 Page 18, line 45, at beginning insert –
““appropriate Minister” means –
(a) in relation to a relevant body falling within paragraph (a) or (b) of the definition of “relevant body” below, the Treasury; and
(b) in relation to any other relevant body, the Secretary of State;”
- 27 Page 19, line 9, after “registered;”, insert –
““partnership” does not include a relevant body;”
- 28 Page 19, line 15, after “society;”, insert –
“(ca) a limited liability partnership;”

After Clause 29

- 29 Insert the following new Clause –

“Powers to wind up: supplementary

- (1) The Secretary of State may by order make such modifications as he considers appropriate to the application of—
 - (a) the Insolvency Act 1986 (c. 45) by virtue of section 28(2); or
 - (b) the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I.19)) by virtue of section 29(2).
- (2) Any modifications made by virtue of subsection (1) are in addition to the modifications made by section 28(3) and (4) or (as the case may be) section 29(3) and (4).
- (3) The Secretary of State may by order make such consequential or supplementary provision, applying with or without modifications any provision made by or under an enactment, as he considers appropriate in connection with section 28(2) to (4) or 29(2) to (4).
- (4) An order made by virtue of section 28(5) or (6), section 29(5) or (6) or subsection (1) above may, in particular, contain consequential or supplementary provision applying, with or without modifications, any provision made by or under an enactment.”

After Clause 33

30 Insert the following new Clause—

“Providers of information society services

- (1) A serious crime prevention order may not include terms which restrict the freedom of a service provider who is established in an EEA state other than the United Kingdom to provide information society services in relation to an EEA state unless the conditions in subsections (2) and (3) are met.
- (2) The condition in this subsection is that the court concerned considers that the terms—
 - (a) are necessary for the objective of protecting the public by preventing, restricting or disrupting involvement in—
 - (i) in the case of an order in England and Wales, serious crime in England and Wales; and
 - (ii) in the case of an order in Northern Ireland, serious crime in Northern Ireland;
 - (b) relate to an information society service which prejudices that objective or presents a serious and grave risk of prejudice to it; and
 - (c) are proportionate to that objective.
- (3) The conditions in this subsection are that—
 - (a) a law enforcement officer has requested the EEA state in which the service provider is established to take measures which the law enforcement officer considers to be of equivalent effect under the law of the EEA state to the terms and the EEA state has failed to take the measures; and
 - (b) a law enforcement officer has notified the Commission of the European Communities and the EEA state of—
 - (i) the intention to seek an order containing the terms; and
 - (ii) the terms.

- (4) It does not matter for the purposes of subsection (3) whether the request or notification is made before or after the making of the application for the order.
- (5) A serious crime prevention order may not include terms which impose liabilities on service providers of intermediary services so far as the imposition of those liabilities would result in a contravention of Article 12, 13 or 14 of the E-Commerce Directive (various protections for service providers of intermediary services).
- (6) A serious crime prevention order may not include terms which impose a general obligation on service providers of intermediary services covered by Articles 12, 13 and 14 of the E-Commerce Directive –
- (a) to monitor the information which they transmit or store when providing those services; or
 - (b) actively to seek facts or circumstances indicating illegal activity when providing those services.
- (7) For the purposes of this section –
- (a) a service provider is established in a particular EEA state if he effectively pursues an economic activity using a fixed establishment in that EEA state for an indefinite period and he is a national of an EEA state or a company or firm mentioned in Article 48 of the EEC Treaty;
 - (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider;
 - (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment where the service provider has the centre of his activities relating to the service;

and references to a person being established in an EEA state are to be read accordingly.

- (8) In this section –
- “the E-Commerce Directive” means Directive 2000/31/EC of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce);
- “information society services” –
- (a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations); and
 - (b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”;
- “intermediary services” means an information society service which –

- (a) consists in the provision of access to a communication network or the transmission in a communication network of information provided by a recipient of the service;
- (b) consists in the transmission in a communication network of information which—
 - (i) is provided by a recipient of the service; and
 - (ii) is the subject of automatic, intermediate and temporary storage which is solely for the purpose of making the onward transmission of the information to other recipients of the service at their request more efficient; or
- (c) consists in the storage of information provided by a recipient of the service;

“recipient”, in relation to a service, means any person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible; and

“service provider” means a person providing an information society service.

- (9) For the purposes of paragraph (a) of the definition of “intermediary services”, the provision of access to a communication network and the transmission of information in a communication network includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is for the sole purpose of carrying out the transmission in the network.
- (10) Subsection (9) does not apply if the information is stored for longer than is reasonably necessary for the transmission.”

Clause 35

31 Page 23, line 9, leave out subsections (4) and (5) and insert—

- “(4) The Crown Court, when exercising its jurisdiction in England and Wales under this Part, is a criminal court for the purposes of Part 7 of the Courts Act 2003 (c. 39) (procedure rules and practice directions).”

After Clause 37

32 Insert the following new Clause—

“Compliance with orders: authorised monitors

- (1) A serious crime prevention order against a body corporate, partnership or unincorporated association may authorise a law enforcement agency to enter into arrangements with—
 - (a) a specified person; or
 - (b) any person who falls within a specified description of persons;to perform specified monitoring services or monitoring services of a specified description.
- (2) A person with whom the agency has entered into arrangements in accordance with such an authorisation is known for the purposes of this section as an authorised monitor.

- (3) A serious crime prevention order which provides for an authorised monitor may, for the purpose of enabling the performance of monitoring services, impose requirements of the type mentioned in section 6(5) as if the references in paragraph (a)(iv) and (b)(iv) of that provision to a law enforcement officer included references to an authorised monitor.
- (4) A serious crime prevention order which provides for an authorised monitor may require any body corporate, partnership or unincorporated association which is the subject of the order to pay to the law enforcement agency concerned some or all of the costs incurred by the agency under the arrangements with the authorised monitor.
- (5) Any such order –
 - (a) must specify the period, or periods, within which payments are to be made;
 - (b) may require the making of payments on account;
 - (c) may include other terms about the calculation or payment of costs.
- (6) The tests for making or varying a serious crime prevention order in sections 1(1)(b), (2)(b) and (3), 18(1) and (2), 20(2), (4) and (5), 21(2) and (4) and 22(2) and (4) do not operate in relation to an order so far as the order contains terms of the kind envisaged by subsections (4) and (5) above (or by subsection (1) above for the purposes of those subsections).
- (7) But a court must not include in a serious crime prevention order (whether initially or on a variation) terms of the kind envisaged by subsection (4) or (5) unless it considers that it is appropriate to do so having regard to all the circumstances including, in particular –
 - (a) the means of the body corporate, partnership or unincorporated association concerned;
 - (b) the expected size of the costs; and
 - (c) the effect of the terms on the ability of any body corporate, partnership or unincorporated association which is carrying on business to continue to do so.
- (8) A law enforcement agency must inform the subject of a serious crime prevention order which provides for an authorised monitor of the name of, and an address for, any person with whom the agency has entered into arrangements in accordance with the authorisation in the order.
- (9) Nothing in this section affects the ability of law enforcement agencies to enter into arrangements otherwise than in accordance with an authorisation under this section.
- (10) In this section –
 - “law enforcement agency” means –
 - (a) a police authority or the Northern Ireland Policing Board;
 - (b) the Serious Organised Crime Agency;
 - (c) the Commissioners for Her Majesty’s Revenue and Customs; or
 - (d) the Director of the Serious Fraud Office;
 - “monitoring services” means –
 - (a) analysing some or all information received in accordance with a serious crime prevention order;
 - (b) reporting to a law enforcement officer as to whether, on the basis of the information and any other information analysed

for this purpose, the subject of the order appears to be complying with the order or any part of it; and

(c) any related services; and

“specified”, in relation to a serious crime prevention order, means specified in the order.”

33 Insert the following new Clause –

“Costs in relation to authorised monitors

- (1) The Secretary of State may by order make provision about the practice and procedure for determining the amount of –
 - (a) any costs payable by virtue of section (*Compliance with orders: authorised monitors*)(4) and (5); and
 - (b) any interest payable in respect of those costs.
- (2) Such provision may, in particular, include provision about appeals.
- (3) Where any amounts required to be paid by virtue of section (*Compliance with orders: authorised monitors*)(4) and (5) have not been paid within a required period, the law enforcement agency concerned must take reasonable steps to recover them and any interest payable in respect of them.
- (4) The Secretary of State must by order provide for what are reasonable steps for the purposes of subsection (3).
- (5) Any amounts which have not been recovered despite the taking of the reasonable steps are recoverable as if due to the law enforcement agency concerned by virtue of a civil order or judgment.
- (6) Where any amounts required to be paid by virtue of section (*Compliance with orders: authorised monitors*)(4) and (5) are, in the case of an order of the Crown Court, not paid within a required period, the unpaid balance from time to time carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (c. 110) (interest on civil judgment debts).
- (7) For the purposes of section 26, a failure to comply with a requirement imposed by virtue of section (*Compliance with orders: authorised monitors*)(4) and (5) to make payments occurs when the amounts become recoverable as mentioned in subsection (5) above (and not before).
- (8) In this section “law enforcement agency” has the same meaning as in section (*Compliance with orders: authorised monitors*).

Clause 49

34 Page 29, line 29, at end insert –

“(4A) Nothing in this section or Schedule 4 restricts the operation of any enactment by virtue of which an act constituting an offence under this Part is triable under the law of England and Wales or Northern Ireland.”

After Clause 50

35 Insert the following new Clause –

“Institution of proceedings etc. for an offence under this Part

- (1) Any provision to which this section applies has effect with respect to an offence under this Part as it has effect with respect to the anticipated offence.
- (2) This section applies to provisions made by or under an enactment (whenever passed or made) that –
 - (a) provide that proceedings may not be instituted or carried on otherwise than by, or on behalf or with the consent of, any person (including any provision which also makes exceptions to the prohibition);
 - (b) confer power to institute proceedings;
 - (c) confer power to seize and detain property;
 - (d) confer a power of forfeiture, including any power to deal with anything liable to be forfeited.
- (3) In relation to an offence under section 43 –
 - (a) the reference in subsection (1) to the anticipated offence is to be read as a reference to any offence specified in the indictment; and
 - (b) each of the offences specified in the indictment must be an offence in respect of which the prosecutor has power to institute proceedings.
- (4) Any consent to proceedings required as a result of this section is in addition to any consent required by section 50.
- (5) No proceedings for an offence under this Part are to be instituted against a person providing information society services who is established in an EEA State other than the United Kingdom unless the derogation condition is satisfied.
- (6) The derogation condition is satisfied where the institution of proceedings –
 - (a) is necessary to pursue the public interest objective;
 - (b) relates to an information society service that prejudices that objective or presents a serious and grave risk of prejudice to it; and
 - (c) is proportionate to that objective.
- (7) The public interest objective is public policy.
- (8) In this section “information society services” has the same meaning as in section (*Providers of information society services*), and subsection (7) of that section applies for the purposes of this section as it applies for the purposes of that section.”

After Clause 57

36 Insert the following new Clause –

“No individual liability in respect of corporate manslaughter

In section 18 of the Corporate Manslaughter and Corporate Homicide Act 2007 (c. 19) (no individual liability for offences under that Act) after subsection (1) insert –

- “(1A) An individual cannot be guilty of an offence under Part 2 of the Serious Crime Act 2007 (encouraging or assisting crime) by reference to an offence of corporate manslaughter.””

After Clause 65

37 Insert the following new Clause –

“Code of practice for disclosure of information to prevent fraud

- (1) The Secretary of State must prepare, and keep under review, a code of practice with respect to the disclosure, for the purposes of preventing fraud or a particular kind of fraud, of information by public authorities as members of specified anti-fraud organisations or otherwise in accordance with any arrangements made by such organisations.
- (2) Before preparing or altering the code, the Secretary of State must consult –
 - (a) any specified anti-fraud organisation;
 - (b) the Information Commissioner; and
 - (c) such other persons as the Secretary of State considers appropriate.
- (3) A public authority must have regard to the code in (or in connection with) disclosing information, for the purposes of preventing fraud or a particular kind of fraud, as a member of a specified anti-fraud organisation or otherwise in accordance with any arrangements made by such an organisation.
- (4) Nothing in this section applies in relation to any disclosure by a relevant public authority of information whose subject-matter is a matter about which provision would be within the legislative competence of the Scottish Parliament if it were included in an Act of the Scottish Parliament.
- (5) The Secretary of State must –
 - (a) lay a copy of the code, and of any alterations to it, before Parliament; and
 - (b) from time to time publish the code as for the time being in force.
- (6) In this section –
 - “information” and “public authority” have the same meaning as in section 63;
 - “relevant public authority” has the meaning given by section 63(6); and
 - “specified anti-fraud organisation” means any person which is a specified anti-fraud organisation for the purposes of section 63.”

Before Clause 76

38 Insert the following new Clause –

“Powers of management receivers and enforcement receivers

- (1) After section 49(8) of the Proceeds of Crime Act 2002 (c. 29) (opportunity for persons to make representations before powers conferred on management receivers to manage or otherwise deal with property: England and Wales) insert –

“(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—
(a) is perishable; or
(b) ought to be disposed of before its value diminishes.”

- (2) After section 51(8) of that Act (opportunity for persons to make representations before powers conferred on enforcement receivers to manage or otherwise deal with property: England and Wales) insert—

“(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—
(a) is perishable; or
(b) ought to be disposed of before its value diminishes.”

- (3) After section 197(8) of that Act (opportunity for persons to make representations before powers conferred on management receivers to manage or otherwise deal with property: Northern Ireland) insert—

“(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—
(a) is perishable; or
(b) ought to be disposed of before its value diminishes.”

- (4) After section 199(8) of that Act (opportunity for persons to make representations before powers conferred on enforcement receivers to manage or otherwise deal with property: Northern Ireland) insert—

“(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—
(a) is perishable; or
(b) ought to be disposed of before its value diminishes.””

39 Insert the following new Clause—

“Civil recovery management receivers

- (1) After section 245D of the Proceeds of Crime Act 2002 (c. 29) (property freezing orders) insert—

“245E Receivers in connection with property freezing orders

- (1) Subsection (2) applies if—
(a) the High Court makes a property freezing order on an application by an enforcement authority, and
(b) the authority applies to the court to proceed under subsection (2) (whether as part of the application for the property freezing order or at any time afterwards).
- (2) The High Court may by order appoint a receiver in respect of any property to which the property freezing order applies.
- (3) An application for an order under this section may be made without notice if the circumstances are such that notice of the application would prejudice any right of the enforcement authority to obtain a recovery order in respect of any property.

- (4) In its application for an order under this section, the enforcement authority must nominate a suitably qualified person for appointment as a receiver.
- (5) Such a person may be a member of staff of the enforcement authority.
- (6) The enforcement authority may apply a sum received by it under section 280(2) in making payment of the remuneration and expenses of a receiver appointed under this section.
- (7) Subsection (6) does not apply in relation to the remuneration of the receiver if he is a member of the staff of the enforcement authority (but it does apply in relation to such remuneration if the receiver is a person providing services under arrangements made by the enforcement authority).

245F Powers of receivers appointed under section 245E

- (1) If the High Court appoints a receiver under section 245E on an application by an enforcement authority, the court may act under this section on the application of the authority.
- (2) The court may by order authorise or require the receiver –
 - (a) to exercise any of the powers mentioned in paragraph 5 of Schedule 6 (management powers) in relation to any property in respect of which the receiver is appointed,
 - (b) to take any other steps the court thinks appropriate in connection with the management of any such property (including securing the detention, custody or preservation of the property in order to manage it).
- (3) The court may by order require any person in respect of whose property the receiver is appointed –
 - (a) to bring the property to a place (in England and Wales or, as the case may be, Northern Ireland) specified by the receiver or to place it in the custody of the receiver (if, in either case, he is able to do so),
 - (b) to do anything he is reasonably required to do by the receiver for the preservation of the property.
- (4) The court may by order require any person in respect of whose property the receiver is appointed to bring any documents relating to the property which are in his possession or control to a place (in England and Wales or, as the case may be, Northern Ireland) specified by the receiver or to place them in the custody of the receiver.
- (5) In subsection (4) “document” means anything in which information of any description is recorded.
- (6) Any prohibition on dealing with property imposed by a property freezing order does not prevent a person from complying with any requirements imposed by virtue of this section.
- (7) If –
 - (a) the receiver deals with any property which is not property in respect of which he is appointed under section 245E, and

- (b) at the time he deals with the property he believes on reasonable grounds that he is entitled to do so by virtue of his appointment,

the receiver is not liable to any person in respect of any loss or damage resulting from his dealing with the property except so far as the loss or damage is caused by his negligence.

245G Supervision of section 245E receiver and variations

- (1) Any of the following persons may at any time apply to the High Court for directions as to the exercise of the functions of a receiver appointed under section 245E –
- (a) the receiver,
 - (b) any party to the proceedings for the appointment of the receiver or the property freezing order concerned,
 - (c) any person affected by any action taken by the receiver,
 - (d) any person who may be affected by any action proposed to be taken by the receiver.
- (2) Before giving any directions under subsection (1), the court must give an opportunity to be heard to –
- (a) the receiver,
 - (b) the parties to the proceedings for the appointment of the receiver and for the property freezing order concerned,
 - (c) any person who may be interested in the application under subsection (1).
- (3) The court may at any time vary or set aside the appointment of a receiver under section 245E, any order under section 245F or any directions under this section.
- (4) Before exercising any power under subsection (3), the court must give an opportunity to be heard to –
- (a) the receiver,
 - (b) the parties to the proceedings for the appointment of the receiver, for the order under section 245F or, as the case may be, for the directions under this section,
 - (c) the parties to the proceedings for the property freezing order concerned,
 - (d) any person who may be affected by the court’s decision.”
- (2) In sections 273(4)(b) and 277(7)(b) of that Act (recovery orders and consent orders: recovery of costs of pension scheme trustees or managers) after “enforcement authority,” insert “receiver appointed under section 245E,”.
- (3) In paragraph 1 of Schedule 10 to that Act (disapplication of special income tax and capital gains tax rules for receivers), after paragraph (c), insert –
- “(ca) a receiver appointed under section 245E;”.

40 Insert the following new Clause –

“Powers for prosecutors to appear in cash recovery proceedings

- (1) After section 302 of the Proceeds of Crime Act 2002 (c. 29) (recovery of cash in summary proceedings: compensation) insert –

“302A Powers for prosecutors to appear in proceedings

- (1) The Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland may appear for a constable in proceedings under this Chapter if the Director –
 - (a) is asked by, or on behalf of, a constable to do so, and
 - (b) considers it appropriate to do so.
 - (2) The Director of Revenue and Customs Prosecutions may appear for the Commissioners for Her Majesty’s Revenue and Customs or an officer of Revenue and Customs in proceedings under this Chapter if the Director –
 - (a) is asked by, or on behalf of, the Commissioners for Her Majesty’s Revenue and Customs or (as the case may be) an officer of Revenue and Customs to do so, and
 - (b) considers it appropriate to do so.
 - (3) The Directors may charge fees for the provision of services under this section.”
- (2) After section 2C(3) of that Act (prosecuting authorities) (as inserted by Schedule 8 to this Act) insert –
- “(3A) Subsection (3) does not apply to the functions of the Director of Public Prosecutions for Northern Ireland and the Director of Revenue and Customs Prosecutions under section 302A.”
- (3) After section 38(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (conduct of prosecutions on behalf of the Office) insert –
- “(1A) An individual who is not a member of the Office may be appointed by the Director to appear in –
 - (a) specified proceedings, or
 - (b) a specified class or description of proceedings,in which the Director or a Prosecutor would otherwise appear by virtue of section 302A of the Proceeds of Crime Act 2002 (c. 29) (cash recovery proceedings).”
- (4) After section 39(1) of that Act (designation of non-legal staff) insert –
- “(1A) The Director may designate a member of the Office to appear in –
 - (a) specified proceedings, or
 - (b) a specified class or description of proceedings,in which the Director or a Prosecutor would otherwise appear by virtue of section 302A of the Proceeds of Crime Act 2002 (c. 29) (cash recovery proceedings).”

41 Insert the following new Clause –

“Disclosure of information by Revenue and Customs

- (1) This section applies to information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (confidentiality).
- (2) Information to which this section applies may be disclosed by or with the authority of the Commissioners of Revenue and Customs –

- (a) to the Criminal Assets Bureau in Ireland (“the CAB”) for the purpose of enabling or assisting the CAB to exercise any of its functions in connection with any matter within subsection (3); or
 - (b) to any specified public authority (in the United Kingdom or elsewhere) –
 - (i) for the purpose of enabling or assisting the public authority to exercise any of its functions in connection with any matter within subsection (3); or
 - (ii) (if the specifying order so provides) for the purpose of enabling or assisting the public authority to exercise any of its functions in connection with any matter within that subsection that is specified, or of a description specified, in the order.
- (3) The matters within this subsection are –
- (a) the identification of proceeds of crime;
 - (b) the bringing of civil proceedings for enforcement purposes in relation to proceeds of crime; and
 - (c) the taking of other action in relation to proceeds of crime.
- (4) Information disclosed in accordance with subsection (2) must not be further disclosed except –
- (a) in connection with the exercise of any of the functions of the CAB or a specified public authority in connection with any matter within subsection (3) (or, in a subsection (2)(b)(ii) case, any such matter as is mentioned there); and
 - (b) with the consent of the Commissioners of Revenue and Customs or an authorised officer of the Commissioners of Revenue and Customs.
- (5) For the purposes of this section any consent or authorisation may be general or specific.
- (6) If a person in the United Kingdom discloses, in contravention of subsection (4), any revenue and customs information relating to a person whose identity –
- (a) is specified in the disclosure; or
 - (b) can be deduced from it;
- section 19 of the 2005 Act (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act.
- (7) Any reference in this section to a disclosure to the CAB or a specified public authority is a reference to a disclosure to such person, or to persons of such description, as may be specified in relation to the CAB or the public authority (as the case may be).
- (8) Nothing in this section authorises any disclosure of information which –
- (a) contravenes the Data Protection Act 1998 (c. 29); or
 - (b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23).
- (9) In this section –
- “the 2005 Act” means the Commissioners for Revenue and Customs Act 2005 (c. 11);
 - “assets” means property of any description, wherever situated;

- “civil proceedings” means civil proceedings of whatever nature and whether brought in the United Kingdom or elsewhere;
- “Commissioners of Revenue and Customs” means the Commissioners for Her Majesty’s Revenue and Customs;
- “enforcement purposes”, in relation to the proceeds of crime, means with a view to –
- (a) recovering, forfeiting or freezing assets constituting proceeds of crime; or
 - (b) otherwise depriving persons (to any extent) of, or of access to, such assets or the benefit of such assets;
- “functions” includes powers, duties and objectives, and references to the exercise of functions include the pursuit of objectives;
- “proceeds of crime” means assets derived, or suspected to be derived, directly or indirectly from criminal conduct (wherever occurring);
- “public authority” means any body or person discharging functions of a public nature;
- “revenue and customs information relating to a person” has the meaning given by section 19(2) of the 2005 Act;
- “specified” means specified in an order made by the Treasury; and
- “the specifying order”, in relation to a specified public authority, means the order specifying the authority for the purposes of this section.”

Before Clause 77

42 Insert the following new Clause –

“Incidents involving serious violence: powers to stop and search

- (1) In section 60(1) of the Criminal Justice and Public Order Act 1994 (c. 33) (powers to authorise stop and search if reasonable belief that there may be incidents involving serious violence etc.), before the word “or” at the end of paragraph (a), insert –
 - “(aa) that –
 - (i) an incident involving serious violence has taken place in England and Wales in his police area;
 - (ii) a dangerous instrument or offensive weapon used in the incident is being carried in any locality in his police area by a person; and
 - (iii) it is expedient to give an authorisation under this section to find the instrument or weapon;”.
- (2) In section 60(9) of that Act (authorisation must be in writing), at the beginning, insert “Subject to subsection (9ZA),”.
- (3) After section 60(9) of that Act insert –

“(9ZA) An authorisation under subsection (1)(aa) need not be given in writing where it is not practicable to do so but any oral authorisation must state the matters which would otherwise have to be specified under subsection (9) and must be recorded in writing as soon as it is practicable to do so.”
- (4) In section 60(9A) of that Act (application to British Transport Police) –
 - (a) after “place” insert “in England and Wales”; and

- (b) after “2003” insert “and as if the reference in subsection (1)(aa)(i) above to his police area were a reference to any place falling within section 31(1)(a) to (f) of the Act of 2003”.
- (5) In section 60(11) of that Act (definitions), in the definition of “offensive weapon”, after “1995” insert “; but in subsections (1)(aa), (4), (5) and (6) above and subsection (11A) below includes, in the case of an incident of the kind mentioned in subsection (1)(aa)(i) above, any article used in the incident to cause or threaten injury to any person or otherwise to intimidate”.
- (6) In the heading to section 60 of that Act after “of” insert “, or after,”

Clause 78

43 Page 43, line 8, leave out Clause 78

Clause 79

- 44 Page 43, line 18, after “Secretary of State”, insert “, the Treasury”
- 45 Page 43, line 20, after “Secretary of State”, insert “or the Treasury”
- 46 Page 43, line 25, after “Secretary of State”, insert “or (as the case may be) the Treasury”
- 47 Page 43, line 34, after “8,”, insert “25(9),”
- 48 Page 43, line 34, after “29(6) or (11),”, insert “(*Powers to wind up: supplementary*),”
- 49 Page 43, line 34, after “33,”, insert “(*Costs in relation to authorised monitors*)”
- 50 Page 43, line 34, leave out “or 63” and insert “, 63 or (*Disclosure of information by Revenue and Customs*)”

Clause 83

- 51 Page 44, line 27, after “(2);”, insert –
“() section (*Powers of management receivers and enforcement receivers*) (1) and (2);”
- 52 Page 44, line 27, after “(2);”, insert –
“() section (*Incidents involving serious violence: powers to stop and search*);”
- 53 Page 44, line 32, leave out “29” and insert “(*Powers to wind up: supplementary*)”
- 54 Page 44, line 33, after “sections)”, insert “and paragraphs 10, 11 and 18A of Schedule 2”
- 55 Page 44, line 38, leave out “and”
- 56 Page 44, line 39, at end insert “and
(g) section (*Civil recovery management receivers*)(1) and (2)”
- 57 Page 45, line 1, at end insert –
“(ba) section (*Code of practice for disclosure of information to prevent fraud*)(4);”
- 58 Page 45, line 6, after “(4);”, insert –

“() section (*Powers of management receivers and enforcement receivers*)(3) and (4);”

Clause 84

59 Page 45, line 20, after “(4)”, insert “but, subject to this, including the Schedules”

Clause 85

60 Page 45, line 41, leave out subsection (2)

Schedule 1

61 Page 48, line 25, at end insert –

“Armed robbery etc.

4A (1) An offence under section 8(1) of the Theft Act 1968 (c. 60) (robbery) where the use or threat of force involves a firearm, an imitation firearm or an offensive weapon.

(2) An offence at common law of an assault with intent to rob where the assault involves a firearm, imitation firearm or an offensive weapon.

(3) In this paragraph –

“firearm” has the meaning given by section 57(1) of the Firearms Act 1968 (c. 27);

“imitation firearm” has the meaning given by section 57(4) of that Act;

“offensive weapon” means any weapon to which section 141 of the Criminal Justice Act 1988 (c. 33) (offensive weapons) applies.”

62 Page 48, line 27, leave out “either” and insert “any”

63 Page 48, line 31, at end insert –

“(c) section 329 (acquisition, use and possession of criminal property).”

64 Page 48, line 33, at beginning insert –

“() An offence under section 17 of the Theft Act 1968 (c. 60) (false accounting).”

65 Page 48, line 42, at end insert –

“Offences in relation to public revenue

6A (1) An offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (fraudulent evasion of duty etc.) so far as not falling within paragraph 1(2)(c) or 3(1)(b) above.

(2) An offence under section 72 of the Value Added Tax Act 1994 (c. 23) (fraudulent evasion of VAT etc.).

(3) An offence under section 144 of the Finance Act 2000 (c. 17) (fraudulent evasion of income tax).

(4) An offence under section 35 of the Tax Credits Act 2002 (c. 21) (tax credit fraud).

(5) An offence at common law of cheating in relation to the public revenue.”

66 Page 52, line 2, at end insert –

“Armed robbery etc.

18A (1) An offence under section 8(1) of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.)) (robbery) where the use or threat of force involves a firearm, an imitation firearm or an offensive weapon.

(2) An offence at common law of an assault with intent to rob where the assault involves a firearm, imitation firearm or an offensive weapon.

(3) In this paragraph –

“firearm” and “imitation firearm” have the meaning given by Article 2(2) of the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I.3));

“offensive weapon” means any weapon to which section 141 of the Criminal Justice Act 1988 (c. 33) (offensive weapons) applies.”

67 Page 52, line 4, leave out “either” and insert “any”

68 Page 52, line 8, at end insert –

“(c) section 329 (acquisition, use and possession of criminal property).”

69 Page 52, line 10, at beginning insert –

“() An offence under section 17 of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.)) (false accounting).”

70 Page 52, line 19, at end insert –

“Offences in relation to public revenue

20A (1) An offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (fraudulent evasion of duty etc.) so far as not falling within paragraph 15(2)(c) or 17(1)(b) above.

(2) An offence under section 72 of the Value Added Tax Act 1994 (c. 23) (fraudulent evasion of VAT etc.).

(3) An offence under section 144 of the Finance Act 2000 (c. 17) (fraudulent evasion of income tax).

(4) An offence under section 35 of the Tax Credits Act 2002 (c. 21) (tax credit fraud).

(5) An offence at common law of cheating in relation to the public revenue.”

Schedule 2

71 Page 57, line 15, at end insert –

“18A Sections 75(1) and (2) and 76(1) of, and Schedule 9 to, the Northern Ireland Act 1998 (c. 47) (duties of public authorities) do not apply to the

functions of the Director of Public Prosecutions for Northern Ireland under this Part.”

Schedule 3

72 Page 58, line 6, at end insert “consisting in attempting an act calculated or likely to cause sedition or disaffection in contravention of that subsection.”

73 Page 58, line 8, at end insert “consisting in attempting to promote industrial unrest in contravention of that subsection.”

74 Page 59, line 9, at end insert –

“Landmines Act 1998 (c. 33)

An offence under section 2(2) of the Landmines Act 1998 (encouraging, assisting or inducing an offence under section 2(1) of that Act).”

75 Page 59, line 9, at end insert –

“Terrorism Act 2006 (c. 11)

An offence under section 1(2) of the Terrorism Act 2006 (encouraging terrorism).

An offence under section 2(1) of that Act (disseminating terrorist publications).

An offence under section 5 of that Act (engaging in conduct in preparation for giving effect to intention to commit or assisting another to commit acts of terrorism).

An offence under section 6(1) of that Act (provision of instruction or training knowing that a person trained or instructed intends to use the skills obtained for or in connection with the commission of acts of terrorism or for assisting the commission or preparation of such acts by others).

An offence under section 6(2) of that Act as a result of paragraph (b)(ii) of that subsection (receipt of instruction or training intending to use the skills obtained for assisting the commission or preparation of acts of terrorism by others).”

76 Page 59, line 25, at end insert –

“Greater London Council (General Powers) Act 1973 (c. xxx)

An offence under section 13 of the Greater London Council (General Powers) Act 1973 (assaults etc. on officers) consisting in the aiding or inciting of any person to assault, resist or obstruct an officer of the Thames Water Authority duly exercising or performing any power or duty under a section or byelaw mentioned in that section.”

77 Page 59, line 25, at end insert –

“Greater London Council (General Powers) Act 1974 (c. xxiv)

An offence under section 21(6) of the Greater London Council (General Powers) Act 1974 (assaults etc. on officers of a borough council)

consisting in the aiding or inciting of any person to assault, resist or obstruct an officer of a borough council duly exercising or performing any power or duty under section 21 of that Act.”

78 Page 60, line 1, for “13(8)” substitute “13(9)”

79 Page 60, line 2, for “13(7)” substitute “13(8)”

Schedule 6

80 Page 66, line 25, at end insert –

“ In the Criminal Justice Act 1993 (c. 36) –
(a) section 1(3)(d) (Group B offences);
(b) section 5(4) (incitement to commit Group A offence).”

81 Page 66, line 27, at end insert –

“ Section 27 of the Antarctic Act 1994 (c. 15) (references to offences under the Act).”

82 Page 66, line 41, at end insert –

“ Section 29(6)(i) of the Criminal Procedure and Investigations Act 1996 (c. 25) (meaning of “terrorism offence” for purpose of requirement to hold preparatory hearing).”

83 Page 66, line 41, at end insert –

“ In the Sexual Offences (Conspiracy and Incitement) Act 1996 (c. 29) –
(a) section 2(1) and (2) (incitement to commit certain sexual acts outside the United Kingdom);
(b) section 3(8) (extended meaning of offence of incitement to commit a listed sexual offence).”

84 Page 67, line 7, at end insert –

“ In the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I.24)) –
(a) Article 38(3)(d) (Group B offences);
(b) Article 42(2) (incitement to commit Group A offence).”

85 Page 68, line 2, leave out “153(3)” and insert “153(a)”

86 Page 68, line 12, at end insert –

“ In the Terrorism Act 2006 (c. 11) –
(a) section 17(2)(f) (commission of offences abroad);
(b) paragraph 12(b) of Schedule 1 (Convention offences).”

87 Page 69, line 16, at end insert –

“Sexual Offences (Conspiracy and Incitement) Act 1996 (c. 29)

In section 2(3) of the Sexual Offences (Conspiracy and Incitement) Act 1996 for “of incitement” substitute “done”.

Schedule 7

88 Page 73, line 32, leave out from beginning to end of line 34 and insert –

“(iv) a body to which Article 90 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)) applies;”

89 Page 78, line 38, leave out from beginning to end of line 40 and insert –

“(iv) a body to which Article 90 of the Health and Personal Social Services (Northern Ireland) Order 1972 (S.I. 1972/1265 (N.I. 14)) applies;”

90 Page 84, line 25, leave out from beginning to end of line 27 and insert –

“(i) a body to which Article 90 of the Health and Personal Social Services (Northern Ireland) Order 1972 (N.I. 14) applies;”

Schedule 8

91 Page 94, line 6, at end insert –

“After section 272(6) (compensation for loss in relation to associated and joint property) insert –

“(7) In subsection (5) the reference to the enforcement authority is, in the case of an enforcement authority in relation to England and Wales or Northern Ireland, a reference to the enforcement authority which obtained the property freezing order or interim receiving order concerned.””

92 Page 94, line 13, at end insert –

“After section 283(9) (compensation) insert –

“(10) In the case of an enforcement authority in relation to England and Wales or Northern Ireland –

(a) the reference in subsection (5) to the enforcement authority is a reference to the enforcement authority which obtained the property freezing order or interim receiving order concerned, and

(b) the reference in subsection (8) to the enforcement authority is a reference to the enforcement authority which obtained the recovery order concerned.””

93 Page 97, line 14, leave out from beginning to “for” and insert –

“(1) Section 352 (search and seizure warrants) is amended as follows.

(2) In subsection (5)(b)”

94 Page 97, line 15, after second “staff”, insert “or of the staff of the relevant Director”.

(3) After subsection (5) insert –

“(5A) In this Part “relevant Director” –

(a) in relation to England and Wales, means the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions or the Director of the Serious Fraud Office; and

(b) in relation to Northern Ireland, means the Director of the Serious Fraud Office or the Director of Public Prosecutions for Northern Ireland.”

- 95 Page 97, line 17, after second “staff”, insert “or of the staff of the relevant Director”
- 96 Page 97, line 21, leave out “a member of SOCA’s staff” and insert “an appropriate officer”
- 97 Page 97, line 23, leave out “a member of SOCA’s staff” and insert “the relevant authority”
- 98 Page 97, line 23, at end insert –
“() After subsection (2) insert –
“(2A) The relevant authority may only make an application for a disclosure order in relation to a confiscation investigation if the relevant authority is in receipt of a request to do so from an appropriate officer.””
- 99 Page 97, line 24, leave out “a member of SOCA’s staff” and insert “an appropriate officer”
- 100 Page 97, line 26, leave out “a member of SOCA’s staff” and insert “an appropriate officer”
- 101 Page 97, line 29, leave out “member of SOCA’s staff” and insert “appropriate officer”
- 102 Page 97, line 30, leave out “member of SOCA’s staff” and insert “appropriate officer”
- 103 Page 97, line 31, at end insert –
“() After subsection (6) insert –
“(7) In this Part “relevant authority” means –
(a) in relation to a confiscation investigation, a prosecutor;
and
(b) in relation to a civil recovery investigation, a member of SOCA’s staff or the relevant Director.
(8) For the purposes of subsection (7)(a) a prosecutor is –
(a) in relation to a confiscation investigation carried out by a member of SOCA’s staff, the relevant Director or any specified person;
(b) in relation to a confiscation investigation carried out by an accredited financial investigator, the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland or any specified person;
(c) in relation to a confiscation investigation carried out by a constable, the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland, the Director of the Serious Fraud Office or any specified person; and
(d) in relation to a confiscation investigation carried out by an officer of Revenue and Customs, the Director of Revenue and Customs Prosecutions, the Director of Public Prosecutions for Northern Ireland or any specified person.

- (9) In subsection (8) “specified person” means any person specified, or falling within a description specified, by an order of the Secretary of State.”

104 Page 97, line 33, leave out “A member of SOCA’s staff” and insert “An appropriate officer”

105 Page 97, line 34, leave out “a member of SOCA’s staff” and insert “an appropriate officer”

106 Page 97, line 35, leave out from beginning to end of line 36 and insert –

“(1) Section 362 (supplementary) is amended as follows.

(2) In subsection (3)(a) for “Director” substitute “person who applied for the order”.

(3) After subsection (4) insert –

“(4A) If a member of SOCA’s staff or a person falling within a description of persons specified by virtue of section 357(9) applies for a disclosure order, an application to discharge or vary the order need not be by the same member of SOCA’s staff or (as the case may be) the same person falling within that description.

(4B) References to a person who applied for a disclosure order must be construed accordingly.”

(4) In subsection (5) for “(4)” substitute “(4B)”.

107 Page 98, line 9, leave out from beginning to end of line 20 and insert –

“Omit section 376 (evidence overseas).”

108 Page 98, line 21, leave out from beginning to end of line and insert –

“(1) Section 377 (code of practice) is amended as follows.

(2) In the heading after “practice” insert “of Secretary of State etc.”.

(3) In subsection (1) –”

109 Page 98, line 25, at end insert –

“(4) In subsection (9) –

(a) after “officer” insert “or the relevant authority”; and

(b) for “he” substitute “either”.”

110 Page 98, line 25, at end insert –

“After section 377 (code of practice of Secretary of State etc.) insert –

“377A Code of practice of Attorney General or Advocate General for Northern Ireland

(1) The Attorney General must prepare a code of practice as to –

(a) the exercise by the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions and the Director of the Serious Fraud Office of functions they have under this Chapter; and

(b) the exercise by any other person, who is the relevant authority by virtue of section 357(9) in relation to a

confiscation investigation, of functions he has under this Chapter in relation to England and Wales as the relevant authority.

- (2) The Advocate General for Northern Ireland must prepare a code of practice as to—
 - (a) the exercise by the Director of Public Prosecutions for Northern Ireland of functions he has under this Chapter; and
 - (b) the exercise by any other person, who is the relevant authority by virtue of section 357(9) in relation to a confiscation investigation, of functions he has under this Chapter in relation to Northern Ireland as the relevant authority.
- (3) After preparing a draft of the code the Attorney General or (as the case may be) the Advocate General for Northern Ireland—
 - (a) must publish the draft;
 - (b) must consider any representations made to him about the draft;
 - (c) may amend the draft accordingly.
- (4) After the Attorney General or the Advocate General for Northern Ireland has proceeded under subsection (3) he must lay the code before Parliament.
- (5) When the code has been so laid the Attorney General or (as the case may be) the Advocate General for Northern Ireland may bring the code into operation on such day as he may appoint by order.
- (6) A person specified in subsection (1)(a) or (b) or (2)(a) or (b) must comply with a code of practice which is in operation under this section in the exercise of any function he has under this Chapter to which the code relates.
- (7) If such a person fails to comply with any provision of such a code of practice the person is not by reason only of that failure liable in any criminal or civil proceedings.
- (8) But the code of practice is admissible in evidence in such proceedings and a court may take account of any failure to comply with its provisions in determining any question in the proceedings.
- (9) The Attorney General or (as the case may be) the Advocate General for Northern Ireland may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section apply to a revised code as they apply to the code as first prepared.
- (10) In this section references to the Advocate General for Northern Ireland are to be read, before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002 (c. 26), as references to the Attorney General for Northern Ireland.””

111 Page 98, line 32, after “staff”, insert “or the relevant Director”

112 Page 99, line 3, after “provisions)”, insert “ –

- (a) after the entry for production order insert –
“relevant authority: section 357(7) to (9)
relevant Director: section 352(5A)”; and
- (b) ”

113 Page 99, line 4, at end insert –

“114A After section 449 (pseudonyms) insert –

“449A Staff of relevant Directors: pseudonyms

- (1) This section applies to a member of the staff of the relevant Director if –
 - (a) the member is to exercise a function as a member of that staff under, or in relation to, Part 5 or 8; and
 - (b) it is necessary or expedient for the purpose of exercising that function for the member of staff to identify himself by name.
- (2) The relevant Director may direct that such a member of staff may for that purpose identify himself by means of a pseudonym.
- (3) For the purposes of any proceedings or application under this Act, a certificate signed by the relevant Director which sufficiently identifies the member of staff by reference to the pseudonym is conclusive evidence that that member of staff is authorised to use the pseudonym.
- (4) In any proceedings or application under this Act a member of the staff of the relevant Director in respect of whom a direction under this section is in force must not be asked (and if asked is not required to answer) any question which is likely to reveal his true identity.
- (5) The relevant Director may not delegate the exercise of his functions under this section or otherwise authorise another person to exercise those functions on his behalf.
- (6) In this section “relevant Director” has the meaning given by section 352(5A).”

114 Page 99, line 4, at end insert –

“114B(1) Section 459 (orders and regulations) is amended as follows.

- (2) In subsection (3) after “instrument” insert “(other than the power of the Advocate General for Northern Ireland to make an order under section 377A(5) which is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I.12)))”.
- (3) In subsection (4)(a) after “377(4)” insert “, 377A(5)”.
- (4) After subsection (6)(a) insert –
 - “(aa) by the Attorney General or the Advocate General for Northern Ireland under section 377A(5) unless a draft of the order has been laid before Parliament and approved by a resolution of each House;”.
- (5) After subsection (7) insert –

“(8) In this section references to the Advocate General for Northern Ireland are to be read, before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002 (c. 26), as references to the Attorney General for Northern Ireland.””

115 Page 99, line 10, after “Agency””, insert “and for “establish” substitute “provide””

116 Page 100, leave out lines 6 to 11

117 Page 100, line 12, leave out “References” and insert “The reference”

118 Page 100, line 13, leave out “are” and insert “is”

119 Page 100, line 14, leave out “references” and insert “a reference”

120 Page 100, line 29, leave out from beginning to end of line 35 and insert –

“(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.”

121 Page 100, line 31, after “Part 5”, insert “or 8”

122 Page 100, line 34, after “Part 5”, insert “or 8”

123 Page 100, line 36, after “Director”, insert “or a member of his staff”

124 Page 100, line 37, after “Part 5”, insert “or 8”

125 Page 101, line 13, leave out from beginning to end of line 14 and insert –

“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.”

131A(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.”

131B(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.”

131C(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 –

“(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.””

- 127 Page 101, line 23, leave out from “(f)” to “the exercise” in line 24
- 128 Page 101, line 28, after “5”, insert “or 8”
- 129 Page 101, line 29, leave out paragraph 129
- 130 Page 101, line 31, leave out from beginning to end of line 32 and insert –
- “(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).”
- 131 Page 101, line 36, after “SOCA”, insert “, the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland, the Director of Revenue and Customs Prosecutions”
- 132 Page 102, line 13, leave out paragraph 134
- 133 Page 102, line 35, leave out “Defence” and insert “Justice”
- 134 Page 103, line 6, at end insert –
- “In section 51(1A) of that Act (interpretation) omit “, subject to section 33(1A) of this Act.”
- 135 Page 103, line 32, leave out from “paragraph” to “conferred” in line 33 and insert “(fe), insert –
- (ff) to discharge such duties as are”
- 136 Page 103, line 34, after “Part 5”, insert “or 8”
- 137 Page 103, line 35, after “conduct”, insert “, civil recovery investigations and disclosure orders in relation to confiscation investigations”
- 138 Page 104, line 15, after “Part 5”, insert “or 8”
- 139 Page 104, line 16, after “conduct”, insert “, civil recovery investigations and disclosure orders in relation to confiscation investigations”
- 140 Page 105, line 1, leave out “(8)(a)” and insert “(8)”
- 141 Page 105, line 8, at end insert –
- “After section 60ZA(6) of that Act (SOCA) insert –
- “(7) An agreement or order under this section must not provide for procedures in relation to so much of any complaint or matter as relates to any functions of the Agency mentioned in section 2A of the Serious Organised Crime and Police Act 2005 (c. 15) (functions as to the recovery of assets).”
- 142 Page 105, line 8, at end insert –

“Northern Ireland Act 1998 (c. 47)

(1) In section 75(4A) of the Northern Ireland Act 1998 (c. 47) (statutory duty on public authorities) after “offences” insert “or any of the functions conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29) (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations)”.

(2) After section 76(10) of that Act (discrimination by public authorities) insert—

“(11) The reference in subsection (1) to the functions of the Director of Public Prosecutions for Northern Ireland does not include any of the functions conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations).”

143 Page 105, line 15, at end insert—

“Police Reform Act 2002 (c. 30)

After section 10(8) of the Police Reform Act 2002 (c. 30) (general functions of the Independent Police Complaints Commission) insert—

“(9) Nothing in this Part shall confer any function on the Commission in relation to so much of any complaint, conduct matter or DSI matter as relates to—

(a) any functions of the Serious Organised Crime Agency mentioned in section 2A of the Serious Organised Crime and Police Act 2005 (functions as to the recovery of assets); or

(b) the functions of the National Policing Improvement Agency under section 3 of the Proceeds of Crime Act 2002 (accreditation and training of financial investigators).”

After section 26A(4) of that Act (SOCA) insert—

“(4A) An agreement under this section must not provide for procedures in relation to so much of any complaint, conduct matter or DSI matter as relates to any functions of the Agency mentioned in section 2A of the Serious Organised Crime and Police Act 2005 (functions as to the recovery of assets).”

After section 26B(4) of that Act (National Policing Improvement Agency) insert—

“(4A) An agreement under this section must not provide for procedures in relation to so much of any complaint, conduct matter or DSI matter as relates to the functions of the Agency under section 3 of the Proceeds of Crime Act 2002 (accreditation and training of financial investigators).”

144 Page 105, line 24, leave out from beginning to end of line and insert—

152 In section 21(1)(b) of the Commissioners for Revenue and Customs Act 2005 (disclosure to prosecuting authority)—

(a) omit “or” at the end of sub-paragraph (i); and

- (b) after sub-paragraph (ii) insert “, or
 “(iii) in the case of the Director of Revenue and
 Customs Prosecutions, to exercise his
 functions under, or in relation to, Part 5 or
 8 of the Proceeds of Crime Act 2002.”
- 152A After section 35(4) of that Act”
- 145 Page 105, line 27, after “Part 5”, insert “or 8”
- 146 Page 105, line 28, after “conduct”, insert “, civil recovery investigations and
disclosure orders in relation to confiscation investigations”
- 147 Page 105, line 28, at end insert –
 “152A “In section 37(1) of that Act (prosecutors) after “section 35” insert
 “(excluding any function mentioned in subsection (4A) of that section).”
- 148 Page 106, line 2, after “5”, insert “or 8”
- 149 Page 106, line 31, at end insert –
 “(1) Section 5 of that Act (SOCA’s general powers) is amended as follows.
 (2) In subsection (2)(d) after “or 3” insert “or mentioned in section 2A,”.
 (3) In subsection (3) after “3” insert “or mentioned in section 2A”.
 (4) In subsection (4) after “section” insert “2A or”.”
- 150 Page 106, line 46, after “5”, insert “or 8”
- 151 Page 107, line 18, after “conduct).”, insert –
 “(2D) Subsections (1) and (2), so far as relating to disclosure for the
 purposes of the exercise of any functions of the Lord Advocate
 under Part 3 of the Proceeds of Crime Act 2002 or of the Scottish
 Ministers under, or in relation to, Part 5 of that Act, do not apply
 to information obtained by SOCA in connection with the exercise
 of any of its functions other than its functions under that Act.”
- 152 Page 107, line 18, at end insert –
 “157A After section 35(1) of that Act (restrictions on further disclosure) insert –
 “(1A) Subsection (1) does not apply to –
 (a) information disclosed by SOCA under section 33 to the
 Lord Advocate for the purpose of the exercise of any of
 his functions under Part 3 of the Proceeds of Crime Act
 2002; or
 (b) information disclosed by SOCA under section 33 to the
 Scottish Ministers for the purposes of the exercise of any
 of their functions under, or in relation to, Part 5 of that
 Act;
 but see instead section 441 of the Proceeds of Crime Act 2002.””
- 153 Page 108, line 15, at end insert –

“Corporate Manslaughter and Corporate Homicide Act 2007 (c. 19)

In Schedule 1 to the Corporate Manslaughter and Corporate Homicide Act 2007 (list of government departments etc.) omit “Assets Recovery Agency”.

Schedule 11

154 Page 115, line 27, at end insert –

“ (1) Section 302A (powers for prosecutors to appear in proceedings) (as inserted by section (*Powers for prosecutors to appear in cash recovery proceedings*)(1) above) is amended as follows.

(2) In subsection (1) –

(a) after “constable”, in the first place where it appears, insert “or an accredited financial investigator”; and

(b) after “constable”, in the second place where it appears, insert “or (as the case may be) an accredited financial investigator”.

(3) After subsection (3) insert –

“(4) The references in subsection (1) to an accredited financial investigator do not include an accredited financial investigator who is an officer of Revenue and Customs but the references in subsection (2) to an officer of Revenue and Customs do include an accredited financial investigator who is an officer of Revenue and Customs.”

Schedule 12

155 Page 116, line 32, after “Customs”, insert “who is a senior official within the meaning of the Regulation of Investigatory Powers Act 2000 and who is”

156 Page 116, line 37, after “Customs”, insert “who is a senior official within the meaning of the Regulation of Investigatory Powers Act 2000 and who is”

157 Page 117, line 20, after “Customs” insert “who is a senior official and who is”

158 Page 118, line 4, after “(4)(l),” insert “ –
(i) ”

159 Page 118, line 6, at end insert “, and
(ii) after “if he is” insert “a senior official”.

Schedule 13

160 Page 120, line 1, leave out Schedule 13

Schedule 14

161 Page 121, line 15, after “24(2)”, insert “or 25(5)”

162 Page 121, line 41, at end insert –

“ (1) This paragraph applies where, in any proceedings –

- (a) a person (“D”) is charged in respect of the same act both with an offence under section 41 and with the common law offence of inciting the commission of another offence;
 - (b) the only thing preventing D from being found guilty of the offence under section 41 is the fact that it has not been proved beyond reasonable doubt that the time when the act took place was after the coming into force of that section; and
 - (c) the only thing preventing D from being found guilty of the common law offence is that it has not been proved beyond reasonable doubt that that time was before the coming into force of section 55.
- (2) For the purpose of determining D’s guilt it shall be conclusively presumed that the time when the act took place was before the coming into force of section 41.”

Schedule 15

163	Page 122, line 33, column 2, at end insert –	
		“In section 51(1A), the words “, subject to section 33(1A) of this Act.””
164	Page 123, line 36, leave out “(8)(a)” and insert “(8)”	
165	Page 127, line 38, column 2, at end insert –	
		“Section 376.”
166	Page 128, line 13, column 2, leave out from beginning to end of line 15 and insert –	
		“Section 436(5)(b) and (ga). Section 438(2) to (4).”
167	Page 128, leave out line 17	
168	Page 128, line 23, at end insert –	
	“Crime (International Co-operation) Act 2003 (c. 32)	In Schedule 5, paragraphs 82 and 83.”
169	Page 128, line 27, column 2, at beginning insert –	
		“In section 21(1)(b), the word “or” at the end of sub-paragraph (i).”
170	Page 128, line 51, at end insert –	
	“Tribunals, Courts and Enforcement Act 2007 (c. 15)	In Schedule 13, paragraph 145.
	Corporate Manslaughter and Corporate Homicide Act 2007 (c. 19)	In Schedule 1, the words “Assets Recovery Agency”.”

In the Title

- 171 Line 3, after “fraud”, insert “or for purposes relating to proceeds of crime”
- 172 Line 9, after “investigators”, insert “, management receivers and enforcement receivers,”
- 173 Line 9, after “investigators”, insert “, cash recovery proceedings”
- 174 Line 9, after “warrants;”, insert “to extend stop and search powers in connection with incidents involving serious violence;”