

Crime and Courts Bill [HL]

COMMONS AMENDMENTS

[The page and line references are to Bill 115, the bill as first printed for the Commons.]

After Clause 1

1 Insert the following new Clause –

“Modification of NCA functions

- (1) The Secretary of State may, by order, make –
 - (a) provision about NCA counter-terrorism functions (and, in particular, may make provision conferring, removing, or otherwise modifying such functions); and
 - (b) other provision which the Secretary of State considers necessary in consequence of provision made under paragraph (a) (and, in particular, may make provision about the functions of any person other than the NCA, including provision conferring or otherwise modifying, but not removing, such functions).
- (2) If an order under this section confers an NCA counter-terrorism function, an NCA officer may only carry out activities in Northern Ireland for the purpose of the discharge of the function if the NCA officer does so with the agreement of the Chief Constable of the Police Service of Northern Ireland.
- (3) That includes cases where an order under this section confers an NCA counter-terrorism function by the modification of a function.
- (4) An order under this section may amend or otherwise modify this Act or any other enactment.
- (5) An order under this section is subject to the super-affirmative procedure (see section 39 and Schedule 19).
- (6) In this section “NCA counter-terrorism function” means an NCA function relating to terrorism (and for this purpose “terrorism” has the same meaning as in the Terrorism Act 2000 – see section 1 of that Act).”

Clause 2

2 Page 2, line 40, leave out “may” and insert “must”

After Clause 17

3 Insert the following new Clause –

“Varying designations of authorities responsible for remanded young persons

- (1) Section 102 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (where child remanded to youth detention accommodation, court must designate local authority to look after child and meet costs) is amended as follows.
- (2) In subsection (7)(a) (authority that already looks after child to be designated) after “being looked after by a local authority” insert “otherwise than by virtue of section 104(1)”.
- (3) In subsection (7)(b) (in other cases, court must designate authority for area where child habitually resides or offence committed) for “, the local authority” substitute “but subject to subsection (7B), a local authority”.
- (4) After subsection (7) insert –
 - “(7A) In a case to which subsection (7)(b) applies, the court is to designate a local authority in whose area it appears to the court that the child habitually resides (a “home authority”) except where the court –
 - (a) considers as respects the home authority, or each home authority, that it is inappropriate to designate that authority, or
 - (b) is unable to identify any place in England and Wales where the child habitually resides.
 - (7B) If in a case to which subsection (7)(b) applies –
 - (a) the court is not required by subsection (7A) to designate a home authority, but
 - (b) it appears to the court that the offence was not, or none of the offences was, committed in England and Wales,
 the court is to designate a local authority which it considers appropriate in the circumstances of the case.”
- (5) After subsection (7B) insert –
 - “(7C) Where a child has been remanded to youth detention accommodation, the court –
 - (a) which remanded the child, or
 - (b) to which the child was remanded,
 may designate a local authority (“B”) as the designated authority for the child in substitution for the authority previously designated (whether that previous designation was made when the child was remanded or under this subsection).
 - (7D) Where a child has at any one time been subject to two or more remands to youth detention accommodation, a court which has

jurisdiction to make a replacement designation under subsection (7C) in connection with one or some of the remands also has jurisdiction to make such a replacement designation in connection with each of the other remands.

- (7E) Where a replacement designation is made under subsection (7C) after the end of the period of remand concerned, the substitution of B for the previously-designated authority has effect only for the purposes of regulations under section 103.
- (7F) Where a replacement designation is made under subsection (7C) during the period of remand concerned, the substitution of B for the previously-designated authority –
- (a) has effect, as respects the part of that period ending with the making of the replacement designation, only for the purposes of regulations under section 103, and
 - (b) has effect, as respects the remainder of that period, for all of the purposes listed in subsection (6).
- (7G) A court may make a replacement designation under subsection (7C) only if it considers that, had everything it knows been known by the court which made the previous designation, that court would have designated B instead.
- (7H) Where a replacement designation is made under subsection (7C) in relation to a remand, the previously-designated authority is to be repaid any sums it paid in respect of the remand pursuant to regulations under section 103.
- (7J) A court which has jurisdiction to make a replacement direction under subsection (7C) may exercise that jurisdiction on an application by a local authority or of its own motion.”
- (6) A replacement designation under the new section 102(7C) may be made in respect of a remand ordered before this section comes into force, and the amendments made by this section have effect for the purpose of making a replacement designation in any such case; but, in such a case, the substitution of B for the previously-designated authority (and any entitlement to repayment under new section 102(7H)) does not have effect as respects any time before this section comes into force.
- (7) Except as provided by subsection (6), the amendments made by this section have effect only in relation to remands ordered after this section comes into force.”

Clause 18

4 Page 17, line 21, at end insert –

“Part 4A amends the selection procedure for certain senior judicial appointments until Part 4 of the Schedule is in force,”

After Clause 22

5 Insert the following new Clause –

“Enforcement by taking control of goods

- (1) Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (procedure for taking control of goods) is amended as follows.
- (2) In paragraph 17 (enforcement agent may use reasonable force to enter etc where paragraph 18 or 19 applies) for “or 19” substitute “, 18A, 19 or 19A”.
- (3) After paragraph 18 insert—
 - “18A(1) This paragraph applies if these conditions are met—
 - (a) the enforcement agent has power to enter the premises under paragraph 14;
 - (b) the enforcement agent reasonably believes that the debtor carries on a trade or business on the premises;
 - (c) the enforcement agent is acting under a writ or warrant of control issued for the purpose of recovering a sum payable under a High Court or county court judgment;
 - (d) the sum so payable is not a traffic contravention debt.
 - (2) “Traffic contravention debt” has the meaning given by section 82(2) of the Traffic Management Act 2004.”
- (4) After paragraph 19 insert—
 - “19A(1) This paragraph applies if these conditions are met—
 - (a) the enforcement agent has power to enter the premises under paragraph 16;
 - (b) the enforcement agent has taken control of the goods by entering into a controlled goods agreement with the debtor;
 - (c) the debtor has failed to comply with any provision of the controlled goods agreement relating to the payment by the debtor of the debt;
 - (d) the debtor has been given notice of the intention of the enforcement agent to enter the premises to inspect the goods or to remove them for storage or sale;
 - (e) neither paragraph 18 nor paragraph 19 applies.
 - (2) For the purposes of a notice under sub-paragraph (1)(d), regulations must state—
 - (a) the minimum period of notice;
 - (b) the form of the notice;
 - (c) what it must contain;
 - (d) how it must be given;
 - (e) who must give it.
 - (3) The enforcement agent must keep a record of the time when a notice under sub-paragraph (1)(d) is given.
 - (4) If regulations authorise it, the court may order in prescribed circumstances that the notice given may be less than the minimum period.
 - (5) The order may be subject to conditions.”

- (5) In paragraphs 24(2) and 31(5) (no power to use force against persons except to extent provided in regulations) omit “, except to the extent that regulations provide that it does”.
- (6) Omit paragraph 53(2) (controlled goods to be treated as abandoned if unsold after a sale).
- (7) Omit paragraph 56(2) (securities to be treated as abandoned if not disposed of in accordance with notice of disposal).
- (8) In consequence of the repeals in subsection (5), in section 90 of the Tribunals, Courts and Enforcement Act 2007 (regulations under Part 3) –
 - (a) omit subsection (4) (procedure for regulations under paragraphs 24(2) and 31(5) of Schedule 12), and
 - (b) in subsection (5) omit “In any other case”.
- (9) In Schedule 13 to that Act (taking control of goods: amendments) –
 - (a) in paragraph 37 (repeal in section 66(2) of the Criminal Justice Act 1972) for the words after “etc.,” substitute “omit subsection (2).”,
 - (b) in paragraph 74 (repeal of sections 93 to 100 of the County Courts Act 1984) after “93 to” insert “98 and”,
 - (c) in paragraph 85 (amendment of section 436 of the Insolvency Act 1986) for “436” substitute “436(1)”,
 - (d) in paragraph 125 (amendment of section 15 of the Employment Tribunals Act 1996) for ““by execution issued from the county court”” substitute “the words from “by execution”, to “court” in the first place after “by execution”,”, and
 - (e) in paragraph 134 (which amends Schedule 17 to the Financial Services and Markets Act 2000) for “paragraph 16(a)” substitute “paragraphs 16(a) and 16D(a)”.

Clause 26

- 6 Leave out Clause 26

Before Clause 27

- 7 Insert the following new Clause –

“Supreme Court chief executive, officers and staff

- (1) For section 48(2) of the Constitutional Reform Act 2005 (chief executive of the Supreme Court to be appointed by Lord Chancellor after consulting President of the Court) substitute –

“(2) It is for the President of the Court to appoint the chief executive.”
- (2) Section 49 of that Act (officers and staff of the Supreme Court) is amended as follows.
- (3) In subsection (2) (number of officers and staff, and their terms, are for the chief executive but subject to the provision in subsection (3) about application of civil service pension arrangements) –
 - (a) for “these matters with the agreement of the Lord Chancellor –” substitute “the following matters –”, and

- (b) for “subsection” substitute “subsections (2A) and”.
- (4) After subsection (2) insert –
 - “(2A) Service as the chief executive of the Court, and service as an officer or staff appointed under subsection (1), is service in the civil service of the State.”
- (5) In subsection (3) (civil service pension arrangements apply to chief executive, officers and staff) for “The” at the beginning substitute “Accordingly, the”.

After Clause 27

- 8 Insert the following new Clause –

“Making and use of recordings of Supreme Court proceedings

- (1) Section 9 of the Contempt of Court Act 1981 (recording of court proceedings) is amended as follows.
- (2) After subsection (1) insert –
 - “(1A) In the case of a recording of Supreme Court proceedings, subsection (1)(b) does not apply to its publication or disposal with the leave of the Court.”
- (3) In subsection (2) (leave under subsection (1)(a): grant, refusal, conditions, withdrawal and amendment) –
 - (a) after “paragraph (a) of subsection (1)” insert “, or under subsection (1A),”;
 - (b) for “if granted may” substitute “if granted –
 - (a) may, in the case of leave under subsection (1)(a),”
 - and
 - (c) after “leave; and” insert –
 - “(b) may, in the case of leave under subsection (1A), be granted subject to such conditions as the Supreme Court thinks proper with respect to publication or disposal of any recording to which the leave relates; and”.
- (4) In subsection (1) (activities which are contempt of court) after paragraph (c) insert –
 - “(d) to publish or dispose of any recording in contravention of any conditions of leave granted under subsection (1A).”

Clause 28

- 9 Page 30, line 18, leave out from “In” to end of line 20 and insert “the case of any particular proceedings of a court or tribunal, the court or tribunal may in the interests of justice or in order to ensure that a person is not unduly prejudiced –”
- 10 Page 30, line 36, at end insert –

“(5A) The preceding provisions of this section do not apply in relation to Supreme Court proceedings.”

After Clause 29

11 Insert the following new Clause –

“Awards of exemplary damages

- (1) This section applies where –
 - (a) a relevant claim is made against a person (“the defendant”),
 - (b) the defendant was a relevant publisher at the material time,
 - (c) the claim is related to the publication of news-related material, and
 - (d) the defendant is found liable in respect of the claim.
- (2) Exemplary damages may not be awarded against the defendant in respect of the claim if the defendant was a member of an approved regulator at the material time.
- (3) But the court may disregard subsection (2) if –
 - (a) the approved regulator imposed a penalty on the defendant in respect of the defendant’s conduct or decided not to do so,
 - (b) the court considers, in light of the information available to the approved regulator when imposing the penalty or deciding not to impose one, that the regulator was manifestly irrational in imposing the penalty or deciding not to impose one, and
 - (c) the court is satisfied that, but for subsection (2), it would have made an award of exemplary damages under this section against the defendant.
- (4) Where the court is not prevented from making an award of exemplary damages by subsection (2) (whether because that subsection does not apply or the court is permitted to disregard that subsection as a result of subsection (3)), the court –
 - (a) may make an award of exemplary damages if it considers it appropriate to do so in all the circumstances of the case, but
 - (b) may do so only under this section.
- (5) Exemplary damages may be awarded under this section only if they are claimed.
- (6) Exemplary damages may be awarded under this section only if the court is satisfied that –
 - (a) the defendant’s conduct has shown a deliberate or reckless disregard of an outrageous nature for the claimant’s rights,
 - (b) the conduct is such that the court should punish the defendant for it, and
 - (c) other remedies would not be adequate to punish that conduct.
- (7) Exemplary damages may be awarded under this section whether or not another remedy is granted.
- (8) The decision on the question of –

- (a) whether exemplary damages are to be awarded under this section, or
- (b) the amount of such damages, must not be left to a jury.”

12 Insert the following new Clause –

“Relevant considerations

- (1) This section applies where the court is deciding whether the circumstances of the case make it appropriate for exemplary damages to be awarded under section (*Awards of exemplary damages*).
- (2) The court must have regard to the principle that exemplary damages must not usually be awarded if, at any time before the decision comes to be made, the defendant has been convicted of an offence involving the conduct complained of.
- (3) The court must take account of the following –
 - (a) whether membership of an approved regulator was available to the defendant at the material time;
 - (b) if such membership was available, the reasons for the defendant not being a member;
 - (c) so far as relevant in the case of the conduct complained of, whether internal compliance procedures of a satisfactory nature were in place and, if so, the extent to which they were adhered to in that case.
- (4) The reference in subsection (3)(c) to “internal compliance procedures” being in place is a reference to any procedures put in place by the defendant for the purpose of ensuring that –
 - (a) material is not obtained by or on behalf of the defendant in an inappropriate way, and
 - (b) material is not published by the defendant in inappropriate circumstances.
- (5) The court may regard deterring the defendant and others from similar conduct as an object of punishment.
- (6) This section is not to be read as limiting the power of the court to take account of any other matters it considers relevant to its decision.”

13 Insert the following new Clause –

“Amount of exemplary damages

- (1) This section applies where the court decides to award exemplary damages under section (*Awards of exemplary damages*).
- (2) The court must have regard to these principles in determining the amount of exemplary damages –
 - (a) the amount must not be more than the minimum needed to punish the defendant for the conduct complained of;
 - (b) the amount must be proportionate to the seriousness of the conduct.

- (3) The court must take account of these matters in determining the amount of exemplary damages –
 - (a) the nature and extent of any loss or harm caused, or intended to be caused, by the defendant's conduct;
 - (b) the nature and extent of any benefit the defendant derived or intended to derive from such conduct.
- (4) The court may regard deterring the defendant and others from similar conduct as an object of punishment.
- (5) This section is not to be read as limiting the power of the court to take account of any other matters it considers relevant to its decision."

14 Insert the following new Clause –

“Multiple claimants

- (1) This section applies where a relevant publisher –
 - (a) is a defendant to a relevant claim, and
 - (b) is found liable to two or more persons in respect of the claim (“the persons affected”).
- (2) In deciding whether to award exemplary damages under section (*Awards of exemplary damages*) or the amount of such damages to award (whether to one or more of the persons affected), the court must take account of any settlement or compromise by any persons of a claim in respect of the conduct.
- (3) But the court may take account of any such settlement or compromise only if the defendant agrees.
- (4) If the court awards exemplary damages under section (*Awards of exemplary damages*) to two or more of the persons affected, the total amount awarded must be such that it does not punish the defendant excessively.
- (5) If the court awards exemplary damages under section (*Awards of exemplary damages*) to one or more of the persons affected, no later claim may be made for exemplary damages as regards the conduct.”

15 Insert the following new Clause –

“Multiple defendants

- (1) Any liability of two or more persons for exemplary damages awarded under section (*Awards of exemplary damages*) is several (and not joint or joint and several).
- (2) Subsection (1) has effect subject to the law relating to the liability of a partner for the conduct of another partner.
- (3) Where the liability of two or more persons for exemplary damages is several, no contribution in respect of the damages may be recovered by any of them under section 1 of the Civil Liability (Contribution) Act 1978.”

16 Insert the following new Clause –

“Awards of aggravated damages

- (1) This section applies where—
 - (a) a relevant claim is made against a person (“the defendant”),
 - (b) the defendant was a relevant publisher at the material time,
 - (c) the claim is related to the publication of news-related material, and
 - (d) the defendant is found liable in respect of the claim.
- (2) Aggravated damages may be awarded against the defendant only to compensate for mental distress and not for purposes of punishment.
- (3) In this section, “aggravated damages” means damages that were commonly called aggravated before the passing of this Act and which—
 - (a) are awarded against a person in respect of the person’s motive or exceptional conduct, but
 - (b) are not exemplary damages or restitutionary damages.
- (4) Nothing in this section is to be read as implying that, in cases where this section does not apply, aggravated damages may be awarded for purposes of punishment.”

17 Insert the following new Clause –

“Awards of costs

- (1) This section applies where—
 - (a) a relevant claim is made against a person (“the defendant”),
 - (b) the defendant was a relevant publisher at the material time, and
 - (c) the claim is related to the publication of news-related material.
- (2) If the defendant was a member of an approved regulator at the time when the claim was commenced (or was unable to be a member at that time for reasons beyond the defendant’s control or it would have been unreasonable in the circumstances for the defendant to have been a member at that time), the court must not award costs against the defendant unless satisfied that—
 - (a) the issues raised by the claim could have been resolved by using an arbitration scheme of the approved regulator, or
 - (b) it is just and equitable in all the circumstances of the case to award costs against the defendant.
- (3) If the defendant was not a member of an approved regulator at the time when the claim was commenced (but would have been able to be a member at that time and it would have been reasonable in the circumstances for the defendant to have been a member at that time), the court must award costs against the defendant unless satisfied that—
 - (a) the issues raised by the claim could not have been resolved by using an arbitration scheme of the approved regulator (had the defendant been a member), or
 - (b) it is just and equitable in all the circumstances of the case to make a different award of costs or make no award of costs.
- (4) For the purposes of subsections (2) and (3), a claim could have been resolved by using an arbitration scheme of an approved regulator if, at the

time when the claim was commenced, the approved regulator had arrangements in place for an arbitration scheme under which the claim could have been referred for determination by an arbitrator appointed under the scheme.

- (5) The Secretary of State must take steps to put in place arrangements for protecting the position in costs of parties to relevant claims who have entered into agreements under section 58 of the Courts and Legal Services Act 1990.
- (6) This section is not to be read as limiting any power to make rules of court.
- (7) This section does not apply until such time as a body is first recognised as an approved regulator.”

18 Insert the following new Clause –

“Meaning of “relevant publisher”

- (1) In sections (*Awards of exemplary damages*) to (*Awards of costs*), “relevant publisher” means a person who, in the course of a business (whether or not carried on with a view to profit), publishes news-related material –
 - (a) which is written by different authors, and
 - (b) which is to any extent subject to editorial control.This is subject to subsections (5) and (6).
- (2) News-related material is “subject to editorial control” if there is a person (whether or not the publisher of the material) who has editorial or equivalent responsibility for –
 - (a) the content of the material,
 - (b) how the material is to be presented, and
 - (c) the decision to publish it.
- (3) A person who is the operator of a website is not to be taken as having editorial or equivalent responsibility for the decision to publish any material on the site, or for content of the material, if the person did not post the material on the site.
- (4) The fact that the operator of the website may moderate statements posted on it by others does not matter for the purposes of subsection (3).
- (5) A person is not a “relevant publisher” if the person is specified by name in Schedule (*Exclusions from definition of “relevant publisher”*).
- (6) A person is not a “relevant publisher” in so far as the person’s publication of news-related material is in a capacity or case of a description specified in Schedule (*Exclusions from definition of “relevant publisher”*).

19 Insert the following new Clause –

“Other interpretative provisions

- (1) This section applies for the purposes of sections (*Awards of exemplary damages*) to (*Meaning of “relevant publisher”*).
- (2) “Approved regulator” means a body recognised as a regulator of relevant publishers.

- (3) For the purposes of subsection (2), a body is “recognised” as a regulator of relevant publishers if it is so recognised by any body established by Royal Charter (whether established before or after the coming into force of this section) with the purpose of carrying on activities relating to the recognition of independent regulators of relevant publishers.
- (4) “Relevant claim” means a civil claim made in respect of any of the following—
- (a) libel;
 - (b) slander;
 - (c) breach of confidence;
 - (d) misuse of private information;
 - (e) malicious falsehood;
 - (f) harassment.
- (5) For the purposes of subsection (4)—
- (a) the reference to a claim made in respect of the misuse of private information does not include a reference to a claim made by virtue of section 13 of the Data Protection Act 1998 (damage or distress suffered as a result of a contravention of a requirement of that Act);
 - (b) the reference to a claim made in respect of harassment is a reference to a claim made under the Protection from Harassment Act 1997.
- (6) The “material time”, in relation to a relevant claim, is the time of the events giving rise to the claim.
- (7) “News-related material” means—
- (a) news or information about current affairs,
 - (b) opinion about matters relating to the news or current affairs, or
 - (c) gossip about celebrities, other public figures or other persons in the news.
- (8) A relevant claim is related to the publication of news-related material if the claim results from—
- (a) the publication of news-related material, or
 - (b) activities carried on in connection with the publication of such material (whether or not the material is in fact published).
- (9) A reference to the “publication” of material is a reference to publication—
- (a) on a website,
 - (b) in hard copy, or
 - (c) by any other means;
- and references to a person who “publishes” material are to be read accordingly.
- (10) A reference to “conduct” includes a reference to omissions; and a reference to a person’s conduct includes a reference to a person’s conduct after the events giving rise to the claim concerned.”

After Clause 32

20 Insert the following new Clause—

“Restraint orders and legal aid

- (1) Section 41 of the Proceeds of Crime Act 2002 (confiscation in England and Wales: restraint orders) is amended in accordance with subsections (2) to (6).
- (2) After subsection (2) insert –
 - “(2A) A restraint order must be made subject to an exception enabling relevant legal aid payments to be made (a legal aid exception).
 - (2B) A relevant legal aid payment is a payment that the specified person is obliged to make –
 - (a) by regulations under section 23 or 24 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012, and
 - (b) in connection with services provided in relation to an offence which falls within subsection (5),
whether the obligation to make the payment arises before or after the restraint order is made.”
- (3) In subsection (3) –
 - (a) after “subject to” insert “other”, and
 - (b) omit paragraph (c).
- (4) In subsection (4), for “But an exception to a restraint order” substitute “But where an exception to a restraint order is made under subsection (3), it”.
- (5) After subsection (5) insert –
 - “(5A) A legal aid exception –
 - (a) must be made subject to prescribed restrictions (if any) on –
 - (i) the circumstances in which payments may be made in reliance on the exception, or
 - (ii) the amount of the payments that may be made in reliance on the exception,
 - (b) must be made subject to other prescribed conditions (if any), and
 - (c) may be made subject to other conditions.
 - (5B) Any other exception to a restraint order may be made subject to conditions.”
- (6) After subsection (9) insert –
 - “(10) In this section “prescribed” means prescribed by regulations made by the Secretary of State.”
- (7) In section 459 of that Act (orders and regulations) –
 - (a) in subsection (4)(a), after “section” insert “41(5A),”, and
 - (b) in subsection (6)(a), after “section” insert “41(5A),”.

21 Insert the following new Clause –

“Restraint orders and legal aid: supplementary

- (1) The Secretary of State may by regulations –

- (a) make provision about the making of relevant legal aid payments out of property that is the subject of a restraint order under Part 2 of the Proceeds of Crime Act 2002 (“the 2002 Act”), and
 - (b) make provision in connection with cases in which such payments are or may be made out of such property,
- whether by modifying the operation of Part 2 of the 2002 Act or Chapter 1, 2 or 4 of Part 8 of that Act or otherwise.
- (2) The provision that may be made by regulations under this section includes—
- (a) provision about how much property may be subject to a restraint order, including provision made by reference to the amount or estimated amount of relevant legal aid payments;
 - (b) provision for a restraint order or other order under Part 2 of the 2002 Act to remain in force, where a relevant legal aid payment remains unpaid, in circumstances in which the order would otherwise have to be discharged;
 - (c) provision about powers of investigation for the purpose of identifying property that may be used to make relevant legal aid payments, including powers exercisable where an order continues in force in accordance with provision described in paragraph (b);
 - (d) provision about the use of property in cases in which there is or has been a restraint order, including provision about the order in which different obligations to make payments may or must be satisfied in such cases;
 - (e) provision about powers of entry, search and seizure;
 - (f) provision about the payment of compensation by the Lord Chancellor;
 - (g) provision about the disclosure and use of documents, information and other evidence.
- (3) The provision that may be made by regulations under this section (whether by virtue of this section or section 39(12)) includes—
- (a) provision conferring, removing or otherwise modifying a function;
 - (b) provision amending, repealing, revoking or otherwise modifying provision made by or under any enactment (including provision inserted or amended by this Act).
- (4) In this section—
- “function” means a function of any description, including a power or duty (whether conferred by an enactment or arising otherwise);
 - “property” has the same meaning as in Part 2 of the 2002 Act;
 - “relevant legal aid payment” means—
 - (a) a payment that is a relevant legal aid payment for the purposes of section 41 of the 2002 Act, and
 - (b) a payment that would be such a payment if a restraint order were made.
- (5) In subsection (2)(a) and (c) the references to relevant legal aid payments include any payment that is likely to be a relevant legal aid payment when the obligation to make the payment arises.”

“Civil recovery of the proceeds etc of unlawful conduct

- (1) Part 5 of the Proceeds of Crime Act 2002 (civil recovery of the proceeds etc of unlawful conduct) is amended as follows.
- (2) After section 282 insert –

*“Scope of powers***282A Scope of powers**

- (1) An order under this Chapter may be made by the High Court in England and Wales or the Court of Session –
 - (a) in respect of property wherever situated, and
 - (b) in respect of a person wherever domiciled, resident or present,
 subject to subsection (2).
 - (2) Such an order may not be made by the High Court in England and Wales or the Court of Session in respect of –
 - (a) property that is outside the United Kingdom, or
 - (b) property that is in the United Kingdom but outside the relevant part of the United Kingdom,
 unless there is or has been a connection between the case and the relevant part of the United Kingdom.
 - (3) The circumstances in which there is or has been such a connection include those described in Schedule 7A.
 - (4) “The relevant part of the United Kingdom” means –
 - (a) in relation to an order made by the High Court in England and Wales, England and Wales, and
 - (b) in relation to an order made by the Court of Session, Scotland.”
- (3) After Schedule 7 insert –

“SCHEDULE 7A

Section 282A

CONNECTION WITH RELEVANT PART OF UNITED KINGDOM*Unlawful conduct*

- 1 There is a connection where the unlawful conduct occurred entirely or partly in the relevant part of the United Kingdom.

Property

- 2 There has been a connection where the property in question has been in the relevant part of the United Kingdom, but only if it was recoverable property in relation to the unlawful conduct for some or all of the time it was there.
- 3 There is a connection where there is other property in the relevant part of the United Kingdom that is recoverable property in relation to the unlawful conduct.

- 4 There has been a connection where, at any time, there has been other property in the relevant part of the United Kingdom that, at the time, was recoverable property in relation to the unlawful conduct.

Person

- 5 (1) There is or has been a connection where a person described in sub-paragraph (2) –
- (a) is linked to the relevant part of the United Kingdom,
 - (b) was linked to that part of the United Kingdom at a time when the unlawful conduct, or some of the unlawful conduct, was taking place, or
 - (c) has been linked to that part of the United Kingdom at any time since that conduct took place.
- (2) Those persons are –
- (a) a person whose conduct was, or was part of, the unlawful conduct;
 - (b) a person who was deprived of property by the unlawful conduct;
 - (c) a person who holds the property in question;
 - (d) a person who has held the property in question, but only if it was recoverable property in relation to the unlawful conduct at the time;
 - (e) a person who holds other property that is recoverable property in relation to the unlawful conduct;
 - (f) a person who, at any time, has held other property that was recoverable property in relation to the unlawful conduct at the time.
- (3) A person is linked to the relevant part of the United Kingdom if the person is –
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
 - (b) a person who, under the British Nationality Act 1981, is a British subject,
 - (c) a British protected person within the meaning of that Act,
 - (d) a body incorporated or constituted under the law of any part of the United Kingdom, or
 - (e) a person domiciled, resident or present in the relevant part of the United Kingdom.

Property held on trust

- 6 (1) There is a connection where the property in question is property held on trust, or an interest in property held on trust, and –
- (a) the trust arises under the law of any part of the United Kingdom,
 - (b) the trust is entirely or partly governed by the law of any part of the United Kingdom,

- (c) one or more of the trustees is linked to the relevant part of the United Kingdom, or
 - (d) one or more of the beneficiaries of the trust is linked to the relevant part of the United Kingdom.
- (2) A person is linked to the relevant part of the United Kingdom if the person falls within paragraph 5(3).
- (3) “Beneficiaries” includes beneficiaries with a contingent interest in the trust property and potential beneficiaries.

Interpretation

- 7 “The relevant part of the United Kingdom” has the meaning given in section 282A(4).
- 8 “The unlawful conduct” means—
- (a) in a case in which the property in question was obtained through unlawful conduct, that conduct,
 - (b) in a case in which the property in question represents property obtained through unlawful conduct, that conduct, or
 - (c) in a case in which it is shown that the property in question was obtained through unlawful conduct of one of a number of kinds or represents property so obtained (see section 242(2)(b)), one or more of those kinds of conduct.”
- (4) Omit section 286 (scope of powers: Scotland).
- (5) In section 316 (general interpretation), after subsection (8A) insert—
- “(8B) An enforcement authority in relation to England and Wales or Scotland may take proceedings there for an order under Chapter 2 of this Part in respect of any property or person, whether or not the property or person is (or is domiciled, resident or present) in that part of the United Kingdom.”
- (6) In Schedule (*Proceeds of crime: civil recovery of the proceeds etc of unlawful conduct*) (proceeds of crime: civil recovery of the proceeds etc of unlawful conduct)—
- (a) Part 1 makes provision about the enforcement of interim orders in the United Kingdom, and
 - (b) Part 2 makes provision about enforcement where property or evidence is outside the United Kingdom.
- (7) The amendments made by this section and Part 2 of Schedule (*Proceeds of crime: civil recovery of the proceeds etc of unlawful conduct*) are deemed always to have had effect.
- (8) The amendments made by this section and Schedule (*Proceeds of crime: civil recovery of the proceeds etc of unlawful conduct*) do not affect the extent to which provisions of the Proceeds of Crime Act 2002 (other than Chapter 2 of Part 5), or of any other enactment, apply in respect of persons or property outside the United Kingdom or outside a particular part of the United Kingdom.”

“Investigations

In Schedule (*Proceeds of crime: investigations*) (proceeds of crime: investigations) –

- (a) Part 1 makes provision about orders and warrants sought under Part 8 of the Proceeds of Crime Act 2002 in connection with civil recovery investigations,
- (b) Part 2 makes provision about obtaining evidence overseas, and
- (c) Part 3 makes consequential amendments relating to immigration officers and to the National Crime Agency.”

24 Insert the following new Clause –

“Extradition

Schedule (*Extradition*) (extradition) has effect.”

After Clause 35

25 Insert the following new Clause –

“Deportation on national security grounds: appeals

- (1) Section 97A of the Nationality, Immigration and Asylum Act 2002 (deportation on national security grounds: appeal rights) is amended as follows.
- (2) After subsection (1) insert –
 - “(1A) This section also applies where the Secretary of State certifies, in the case of a person in respect of whom a deportation order has been made which states that it is made in accordance with section 32(5) of the UK Borders Act 2007, that the person’s removal from the United Kingdom would be in the interests of national security.”
- (3) For subsection (2)(c) substitute –
 - “(c) section 2(5) of the Special Immigration Appeals Commission Act 1997 (whether appeals brought against decisions certified under section 97 may be brought from within the United Kingdom) does not apply, but see instead the following provisions of this section.”
- (4) After subsection (2) insert –
 - “(2A) The person while in the United Kingdom may not bring or continue an appeal under section 2 of the Special Immigration Appeals Commission Act 1997 –
 - (a) against the decision to make the deportation order, or
 - (b) against any refusal to revoke the deportation order,
 unless the person has made a human rights claim while in the United Kingdom.
 - (2B) Subsection (2A) does not allow the person while in the United Kingdom to bring or continue an appeal if the Secretary of State certifies that removal of the person –

- (a) to the country or territory to which the person is proposed to be removed, and
 - (b) despite the appeals process not having been begun or not having been exhausted,would not breach the United Kingdom's obligations under the Human Rights Convention.
- (2C) The grounds upon which a certificate may be given under subsection (2B) include (in particular) –
 - (a) that the person would not, before the appeals process is exhausted, face a real risk of serious irreversible harm if removed to the country or territory to which the person is proposed to be removed;
 - (b) that the whole or part of any human rights claim made by the person is clearly unfounded.
- (2D) Subsection (2A) does not allow the person while in the United Kingdom to bring an appeal on a non-human-rights ground, or to continue an appeal so far as brought on non-human-rights grounds, if the Secretary of State certifies that removal of the person –
 - (a) to the country or territory to which the person is proposed to be removed, and
 - (b) despite the appeals process, so far as relating to appeal on non-human-rights grounds, not having been begun or not having been exhausted,would not breach the United Kingdom's obligations under the Human Rights Convention.
- (2E) In subsection (2D) “non-human-rights ground” means any ground other than the ground that removal of the person from the United Kingdom in consequence of the decision to make the deportation order would be unlawful under section 6 of the Human Rights Act 1998 as being incompatible with a person's Convention rights.
- (2F) If a certificate in respect of a person is given under subsection (2B), the person may apply to the Special Immigration Appeals Commission to set aside the certificate.
- (2G) If a person makes an application under subsection (2F) then the Commission, in determining whether the certificate should be set aside, must apply the principles that would be applied in judicial review proceedings.
- (2H) The Commission's determination of a review under subsection (2F) is final.
- (2J) The Commission may direct that a person who has made and not withdrawn an application under subsection (2F) is not to be removed from the United Kingdom at a time when the review has not been finally determined by the Commission.
- (2K) Sections 5 and 6 of the Special Immigration Appeals Commission Act 1997 apply in relation to reviews under subsection (2F) (and to applicants for such reviews) as they apply in relation to appeals under section 2 or 2B of that Act (and to persons bringing such appeals).

(2L) Any exercise of power to make rules under section 5 of that Act in relation to reviews under subsection (2F) is to be with a view to securing that proceedings on such reviews are handled expeditiously.”

(5) In subsection (3) (appeal against certificate under subsection (2)(c)(iii)) for “(2)(c)(iii)” substitute “(2D)”.

Clause 39

- 26 Page 41, line 5, leave out “2” and insert “(*Modification of NCA functions*)”
- 27 Page 41, line 21, at end insert –
 “() regulations under section (*Restraint orders and legal aid: supplementary*);”
- 28 Page 41, line 27, at end insert –
 “() an order under paragraph 5 of Schedule (*The NCA: Northern Ireland*).”
- 29 Page 41, line 37, at end insert –
 “() an order under paragraph 1, 2, 3 or 4 of Schedule (*The NCA: Northern Ireland*);”
- 30 Page 41, line 37, at end insert –
 “() an order under Schedule (*Proceeds of crime provisions: Northern Ireland*).”

Clause 42

- 31 Page 43, line 13, after “18” insert “to 22, (*Enforcement by taking control of goods*) and 23”
- 32 Page 43, line 13, after first “to” insert “(*Supreme Court chief executive, officers and staff*) and”
- 33 Page 43, line 13, before “28” insert “27 and”
- 34 Page 43, line 13, leave out “(except section 23(2))”
- 35 Page 43, line 15, at end insert –
 “() Subsection (3) does not apply to –
 (a) Part 4A of Schedule 13, or section 18 so far as relating to that Part;
 (b) section 23(2).”
- 36 Page 43, line 15, at end insert –
 “() Section (*Varying designations of authorities responsible for remanded young persons*) comes into force on the day after the day on which this Act is passed.”
- 37 Page 43, line 16, after “23(2)” insert “, (*Making and use of recordings of Supreme Court proceedings*)”
- 38 Page 43, line 17, at end insert –

- “() Sections (*Awards of exemplary damages*) to (*Awards of aggravated damages*) come into force at the end of the period of one year beginning with the day on which a body is established by Royal Charter with the purpose of carrying on activities relating to the recognition of independent regulators of relevant publishers (as defined by section (*Meaning of “relevant publisher”*)).”
- 39 Page 43, line 26, at end insert –
- “() An order which includes provision for the commencement of section (*Investigations*) or Schedule (*Proceeds of crime: investigations*) may not be made unless the Secretary of State has consulted the Scottish Ministers.”
- 40 Page 43, line 27, after “Sections” insert “(*Civil recovery of the proceeds etc of unlawful conduct*) (except subsection (6)(a)),”
- 41 Page 43, line 27, after “section” insert “and Part 2 of Schedule (*Proceeds of crime: civil recovery of the proceeds etc of unlawful conduct*)”
- 42 Page 43, line 28, at end insert –
- “() Part 4A of Schedule 13, and section 18 so far as relating to that Part, come into force on the day on which this Act is passed.”
- 43 Page 43, line 28, at end insert –
- “() Section 30 comes into force on the day on which this Act is passed.”
- 44 Page 43, line 28, at end insert –
- “() Schedule (*The NCA: Northern Ireland*) comes into force on the day on which this Act is passed.”
- 45 Page 43, line 28, at end insert –
- “() Schedule (*Proceeds of crime provisions: Northern Ireland*) comes into force on the day on which this Act is passed.”
- 46 Page 43, line 34, at end insert –
- “() sections (*Awards of exemplary damages*) to (*Other interpretative provisions*);”
- 47 Page 44, line 11, at end insert –
- “() This section is subject to Schedule (*The NCA: Northern Ireland*) (the NCA: Northern Ireland).”
- 48 Page 44, line 11, at end insert –
- “() This section is subject to Schedule (*Proceeds of crime provisions: Northern Ireland*) (*proceeds of crime provisions: Northern Ireland*).”
- 49 Page 44, line 13, leave out “or 35” and insert “, 35 or (*Deportation on national security grounds: appeals*)”
- 50 Page 44, line 24, at end insert –
- “() The power conferred by section 52(2) of the Civil Jurisdiction and Judgments Act 1982 (power to extend to Channel Islands, Isle of Man and British overseas territories) is exercisable in relation to any amendment of that Act that is made by or under this Act.”

51 Page 44, line 25, leave out subsection (17)

Schedule 8

52 Page 91, line 5, leave out “under a staff transfer scheme”

53 Page 98, line 14, at end insert –

“(aa) in paragraph (bfa) (inserted by Schedule 1 to the Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013), in sub-paragraph (vi), for “member of staff of SOCA” substitute “National Crime Agency officer;”

54 Page 98, line 18, leave out paragraph (a) and insert –

“(a) for paragraph (c) substitute –

“(c) in relation to any such service as is mentioned in subsection (1)(bfa)(vi) or subsection (1)(ca) above, or any service of the kind described in section 97(1)(cj) of the Police Act 1996, “police pension authority” means the Director General of the National Crime Agency and “pension supervising authority” means the Secretary of State;”

55 Page 109, line 15, at end insert –

“() In section 195S (Codes of practice: Secretary of State), in subsection (1)(c), for “members of staff of SOCA” substitute “NCA officers.”

56 Page 110, line 24, at end insert –

“() In section 339ZA (disclosures to SOCA) –

(a) in the title, for “SOCA” substitute “**the NCA**”;

(b) for “Director General of the Serious Organised Crime Agency” substitute “Director General of the National Crime Agency.”

57 Page 112, line 16, at end insert –

“() In subsection (6) –

(a) for “a member of SOCA’s staff” substitute “an NCA officer”;

(b) for “SOCA” substitute “the Director General of the NCA.”

58 Page 112, line 29, at end insert –

“(2) In Schedule 3 to that Act (handling of complaints and conduct matters etc), in paragraph 19F(7), for paragraph (b) substitute –

“(b) the National Crime Agency.”

59 Page 115, line 26, leave out “officer” and insert “agency”

60 Page 115, line 28, leave out from beginning to end of line 30 and insert –

“(b) the National Crime Agency;”

Schedule 10

61 Page 150, line 28, leave out “legal adviser or assistant legal adviser” and insert “justices’ clerk or an assistant to a justices’ clerk”

62 Page 157, line 40, leave out from “31O” to end of line 3 on page 158 and insert

“Justices’ clerks and assistants: functions”

- 63 Page 158, line 8, leave out “legal adviser” and insert “justices’ clerk”
- 64 Page 158, line 9, leave out from “a” to end of line 11 and insert “justices’ clerk given under paragraph (a), or specified in subsection (5), to be carried out by an assistant to a justices’ clerk.”
- 65 Page 158, line 12, leave out “legal adviser” and insert “justices’ clerk”
- 66 Page 158, line 17, leave out “adviser” and insert “clerk”
- 67 Page 158, line 18, leave out “adviser thinks that the adviser” and insert “clerk thinks that the clerk”
- 68 Page 158, line 25, leave out “legal adviser” and insert “justices’ clerk”
- 69 Page 158, line 27, leave out “legal adviser” and insert “justices’ clerk”
- 70 Page 158, line 28, leave out “legal adviser” and insert “justices’ clerk”
- 71 Page 158, line 32, leave out “legal adviser” and insert “to a justices’ clerk”
- 72 Page 158, line 33, leave out “legal adviser” and insert “justices’ clerk”
- 73 Page 158, line 37, leave out “legal adviser or assistant legal adviser” and insert “justices’ clerk or an assistant to a justices’ clerk”
- 74 Page 158, line 43, leave out “legal adviser or assistant legal adviser” and insert “justices’ clerk or an assistant to a justices’ clerk”
- 75 Page 159, line 11, leave out from beginning to end of line 13 on page 160
- 76 Page 160, line 22, leave out “regulations under section 31P(4) or”
- 77 Page 160, line 24, leave out “regulations or”
- 78 Page 161, line 19, after “court” insert “and to be varied by that court”
- 79 Page 162, line 22, leave out paragraph 8 and insert—
- “8 (1) Section 4 (variation etc of orders registered in a magistrates’ court) is amended as follows.
 - (2) In subsection (1) (orders in relation to which section 4 applies) for “orders registered in magistrates’ courts” substitute “High Court orders registered in the family court”.
 - (3) In subsection (2)(a) (court of registration may vary rate of payments specified by order)—
 - (a) for “court of registration” substitute “family court”, and
 - (b) for “original court” substitute “High Court”.
 - (4) In subsection (2)(b) (general rule that variation of rate of payments specified by registered order is to be by court of registration) for the words from “court of registration” to the end substitute “family court.”
 - (5) Omit subsections (2A) to (2C), (5A), (5B) and (7).
 - (6) In subsection (4) (power of court of registration to remit application for variation of rate of payments to original court)—

- (a) omit “it appears to the court to which”,
 - (b) after “registered order” insert “and it appears to the family court”,
 - (c) for “original court”, in both places, substitute “High Court”, and
 - (d) for “first-mentioned court” substitute “family court”.
- (7) In subsection (5) (other circumstances in which original court has jurisdiction to vary rate of payments) for “original court” substitute “High Court”.
- (8) In subsection (6A) (with the exception of power to make provision as to means of payment, magistrates’ courts in England and Wales have no power to vary certain orders made by Court of Session or by High Court in Northern Ireland) –
- (a) for the words before “variation” substitute “Although such an order as is mentioned in this subsection may be varied under section 1 of the Maintenance Enforcement Act 1991 as applied by section 4A(2) of this Act, no application for any other”,
 - (b) for “any court” substitute “the family court”,
 - (c) for “that court” substitute “the family court”, and
 - (d) for “section 1(2)” substitute “sections 1(2) and 2(6A)”.
- (9) In subsection (6B) (no application to be made to a magistrates’ court for variation of certain orders) for “any court” substitute “the family court”.

80 Page 163, line 1, leave out “or an officer of that court”

81 Page 163, line 4, leave out “or an officer of that court”

82 Page 169, line 2, at end insert –

“51A In section 144 (procedure rules for civil proceedings in magistrates’ courts and before justices’ clerks) after subsection (1) insert –

“(1ZA) Subsection (1) does not apply in relation to functions of justices’ clerks given under section 31O(4)(a), or specified in section 31O(5), of the Matrimonial and Family Proceedings Act 1984 (functions in the family court).”

83 Page 172, line 37, leave out “or an officer of the court”

84 Page 172, line 40, leave out “, or an officer of the court,”

85 Page 174, line 14, at end insert –

“() After subsection (2) insert –

“(2A) Subsection (2) does not apply in relation to functions of a justices’ clerk given under section 31O(4)(a), or specified in section 31O(5), of the Matrimonial and Family Proceedings Act 1984 (functions in the family court, but see section 31O(4)(b) of that Act).”

86 Page 174, line 20, at end insert –

“87A In section 34(2) (no order for costs in legal proceedings to be made against justices’ clerk or assistant in respect of acts or omissions in exercising functions of a single justice of the peace) after “function of a

single justice of the peace” insert “or a function of the family court or of a judge of that court.”

- 87 Page 176, leave out lines 16 and 17
- 88 Page 176, line 18, leave out “paragraphs 3 and” and insert “paragraph”
- 89 Page 177, line 2, leave out “paragraphs 4 and 5” and insert “paragraph 4”
- 90 Page 177, line 47, leave out “22,” and insert “22(2),”

Schedule 11

- 91 Page 183, line 9, leave out sub-paragraphs (3) to (7) and insert –
- “() For subsections (1A) to (1E) (powers of magistrates’ courts in England and Wales to vary registered orders) substitute –
- “(1A) The family court may exercise the same powers in relation to an order registered in the family court under this Part of this Act as are exercisable by the family court under section 1 of the Maintenance Enforcement Act 1991 in relation to a qualifying periodical maintenance order (within the meaning of that section) which has been made by the family court, including the power under subsection (7) of that section to revoke, suspend, revive or vary any means of payment order (within the meaning of that subsection) made by virtue of this subsection.”
- 92 Page 211, line 37, column 2, at end insert –

“In Schedule 2, paragraph 3(3).”

Schedule 13

- 93 Page 219, line 12, at end insert –
- “8A In section 27 of the Constitutional Reform Act 2005 (selection for appointment to Supreme Court to be on merit etc) after subsection (5) insert –
- “(5A) Where two persons are of equal merit –
- (a) section 159 of the Equality Act 2010 (positive action: recruitment etc) does not apply in relation to choosing between them, but
- (b) Part 5 of that Act (public appointments etc) does not prevent the commission from preferring one of them over the other for the purpose of increasing diversity within the group of persons who are the judges of the Court.”
- 94 Page 221, line 41, leave out “Wales, of some other” and insert “a particular geographical”
- 95 Page 221, line 44, at end insert –
- “6B The powers to make regulations under this Part of this Schedule are to be exercised with a view to ensuring, so far as

may be practicable, that the Commissioners who are lay members include at any time at least one person who appears to have special knowledge of Wales.””

- 96 Page 224, line 44, leave out sub-paragraphs (2) to (5)
- 97 Page 225, line 31, leave out “subsections (4) to” and insert “subsection (4) or”
- 98 Page 226, line 14, leave out “Chief Justice” and insert “Chancellor”
- 99 Page 226, line 26, at end insert “,
but only with any agreement of the Lord Chief Justice, or a nominee of the Lord Chief Justice, that may be required by those terms.”
- 100 Page 226, line 36, leave out “, (5A)(a), (5B) or (5C)(c)” and insert “or (5A)(a)”
- 101 Page 227, line 20, leave out “Chief Justice” and insert “Chancellor”
- 102 Page 227, line 31, at end insert “,
but only with any agreement of the Lord Chief Justice, or a nominee of the Lord Chief Justice, that may be required by those terms.”
- 103 Page 227, line 40, leave out “, (6A)(a), (6B) or (6C)(c)” and insert “or (6A)(a)”
- 104 Page 228, line 25, leave out “Chief Justice” and insert “Chancellor”
- 105 Page 228, line 33, at end insert “,
but only with any agreement of the Lord Chief Justice, or a nominee of the Lord Chief Justice, that may be required by those terms.”
- 106 Page 228, line 42, leave out “, (5ZA)(a), (5ZB) or (5ZC)(c)” and insert “or (5ZA)(a)”
- 107 Page 229, line 27, leave out “Chief Justice” and insert “Chancellor”
- 108 Page 229, line 35, at end insert “,
but only with any agreement of the Lord Chief Justice, or a nominee of the Lord Chief Justice, that may be required by those terms.”
- 109 Page 229, line 43, leave out “, (3A)(a), (3B) or (3C)(c)” and insert “or (3A)(a)”
- 110 Page 230, line 22, leave out “Chief Justice” and insert “Chancellor”
- 111 Page 230, line 31, at end insert “,
but only with any agreement of the Lord Chief Justice, or a nominee of the Lord Chief Justice, that may be required by those terms.”
- 112 Page 230, line 40, leave out “, (4)(a), (4A) or (4B)(c)” and insert “or (4)(a)”
- 113 Page 232, leave out line 34
- 114 Page 232, leave out line 36
- 115 Page 232, line 37, leave out “7(3A)(a)” and insert “7(1)”
- 116 Page 232, leave out line 38

- 117 Page 232, leave out line 44
- 118 Page 232, line 44, at end insert—
- “(3) In section 46 (delegation of functions by Lord Chief Justice etc) after subsection (6) insert—
- “(7) In Schedules 2 to 4 “senior judge” means—
- (a) the Lord Chief Justice of England and Wales,
- (b) the Lord President of the Court of Session,
- (c) the Lord Chief Justice of Northern Ireland, or
- (d) the Senior President of Tribunals.””
- 119 Page 233, line 29, leave out “Senior President of Tribunals” and insert “Lord Chancellor”
- 120 Page 233, line 40, at end insert “,
- but only with any agreement of a senior judge (see section 46(7)), or a nominee of a senior judge, that may be required by those terms.”
- 121 Page 234, line 30, leave out “Senior President of Tribunals” and insert “Lord Chancellor”
- 122 Page 234, line 41, at end insert “,
- but only with any agreement of a senior judge (see section 46(7)), or a nominee of a senior judge, that may be required by those terms.”
- 123 Page 235, line 24, leave out “Senior President of Tribunals” and insert “Lord Chancellor”
- 124 Page 235, line 35, at end insert “,
- but only with any agreement of a senior judge (see section 46(7)), or a nominee of a senior judge, that may be required by those terms.”
- 125 Page 237, line 23, leave out “Senior President of Tribunals” and insert “Lord Chancellor”
- 126 Page 237, line 34, at end insert “,
- but only with any agreement of a senior judge (see section 46(7)), or a nominee of a senior judge, that may be required by those terms.”
- 127 Page 238, line 33, at end insert—
- “(5) In the entry in Part 3 for Deputy Chief Coroner appointed under paragraph 2(5) of Schedule 8 to the Coroners and Justice Act 2009, for “2(5)” substitute “2(6)”.
- (6) In paragraph 51 of Schedule 21 to the Coroners and Justice Act 2009 (which inserts entries at the end of Part 3 of Schedule 14 to the 2005 Act)—
- (a) after “at the end of” insert “Table 1 of”, and
- (b) for “2(5)” substitute “2(6)”.

(Accordingly, the power to commence that paragraph 51 becomes a power to commence it as amended by this sub-paragraph.)”

128 Page 242, line 32, at end insert –

“(3A) Omit subsection (2A) (steps that are to be part of selection process).”

129 Page 249, line 16, at end insert –

“Changes in relation to selection process: consequential repeals

80A Omit Part 4A of this Schedule (amendments which come into force on the passing of this Act, but which are superseded on amendments made by this Part of this Schedule being brought into force).

PART 4A

SELECTION OF LORD CHIEF JUSTICE AND HEADS OF DIVISION: TRANSITORY PROVISION

80B (1) The Constitutional Reform Act 2005 is amended as follows.

(2) In section 70 (selection process for appointment of Lord Chief Justice or Head of Division) after subsection (2) insert –

“(2A) In determining the selection process to be applied, the panel must ensure that the process –

- (a) includes consultation of the Lord Chancellor, and
- (b) if the request relates to a recommendation for an appointment to the office of Lord Chief Justice, also includes consultation of the First Minister for Wales.”

(3) For section 71 of the Constitutional Reform Act 2005 (selection panel for appointment of Lord Chief Justice or Head of Division) substitute –

“71 Selection panel for appointment of Lord Chief Justice

- (1) This section applies where the request relates to a recommendation for an appointment to the office of Lord Chief Justice.
- (2) The selection panel must consist of five members.
- (3) The first member is the chairman of the Commission, unless there is no chairman of the Commission or the chairman of the Commission is incapacitated.
- (4) If there is no chairman of the Commission or the chairman of the Commission is incapacitated, the first member is a lay member of the Commission selected by the lay members of the Commission other than the chairman.
- (5) The second member is the most senior England and Wales Supreme Court judge who is neither disqualified nor incapacitated, or that judge’s nominee.
- (6) The third member is a lay member of the Commission designated by the first member.

- (7) The fourth member is a member of the Commission designated by the first member.
- (8) The fifth member is a person designated by the Lord Chief Justice, unless subsection (10) applies.
- (9) Subsection (10) applies if—
 - (a) there is no Lord Chief Justice, or
 - (b) the Lord Chief Justice is incapacitated.
- (10) In those cases the most senior England and Wales Supreme Court judge who is neither disqualified nor incapacitated must, after consulting the first member, designate a person as the fifth member.
- (11) Only the following may be a nominee under subsection (5) or designated under subsection (8) or (10)—
 - (a) an England and Wales Supreme Court judge,
 - (b) a Head of Division, or
 - (c) an ordinary judge of the Court of Appeal in England and Wales.
- (12) A person may not be a nominee under subsection (5), or be designated under this section, if the person is disqualified.
- (13) Before designating a person under subsection (7) as the fourth member, the first member must, if practicable, consult the Lord Chief Justice.
- (14) The first member is the chairman of the panel.
- (15) A person is disqualified for the purposes of this section if—
 - (a) the person is the Lord Chief Justice,
 - (b) the office of Lord Chief Justice is vacant and the person is the immediate previous holder of that office, or
 - (c) the person is willing to be considered for selection.

71A Selection panel for appointment of Head of Division

- (1) This section applies where the request relates to a recommendation for an appointment to one of the following offices—
 - (a) Master of the Rolls;
 - (b) President of the Queen’s Bench Division;
 - (c) President of the Family Division;
 - (d) Chancellor of the High Court.
- (2) The selection panel must consist of five members.
- (3) The first member is the Lord Chief Justice or the Lord Chief Justice’s nominee, unless subsection (9) applies.
- (4) Unless subsection (9) applies, the second member is the most senior England and Wales Supreme Court judge who is neither disqualified nor incapacitated, or that judge’s nominee.

- (5) The third member is the chairman of the Commission or the chairman's nominee, unless subsection (11) applies.
- (6) The fourth member is a lay member of the Commission designated by the third member.
- (7) The fifth member is a person designated by the first member after consulting the third member.
- (8) Subsection (9) applies if –
 - (a) there is no Lord Chief Justice,
 - (b) the Lord Chief Justice is disqualified, or
 - (c) the Lord Chief Justice is incapacitated.
- (9) In those cases –
 - (a) the most senior England and Wales Supreme Court judge who is neither disqualified nor incapacitated, or that judge's nominee, is the first member, and
 - (b) the second member is a person designated by the first member.
- (10) Subsection (11) applies if –
 - (a) there is no chairman of the Commission, or
 - (b) the chairman of the Commission is incapacitated.
- (11) In those cases the third member of the Commission is a lay member of the Commission selected by the lay members of the Commission other than the chairman.
- (12) Only the following may be a nominee under subsection (3), (4) or (9)(a) or designated under subsection (9)(b) –
 - (a) an England and Wales Supreme Court judge,
 - (b) a Head of Division, or
 - (c) an ordinary judge of the Court of Appeal in England and Wales.
- (13) Only a lay member of the Commission may be a nominee under subsection (5).
- (14) Only the following may be designated under subsection (7) –
 - (a) an England and Wales Supreme Court judge,
 - (b) a senior judge (as defined by section 109(5)),
 - (c) the holder of an office listed in Schedule 14, or
 - (d) a member of the Commission.
- (15) A person may not be a nominee under this section, or be designated under this section, if the person is disqualified.
- (16) The first member is the chairman of the panel.
- (17) A person is disqualified for the purposes of this section if –
 - (a) the person is the current holder of the office for which a selection is to be made, or
 - (b) the person is willing to be considered for selection.

71B Sections 71 and 71A: diversity and interpretation

- (1) Subsection (2) applies where a person chooses a person to be a member of a selection panel under section 71 or 71A (whether as a nominee, as a designated member or otherwise).
 - (2) The person making the choice must, in doing so, have regard (alongside all other relevant considerations) to the fact that it is desirable that the members of the panel should include –
 - (a) both women and men, and
 - (b) members drawn from a range of different racial groups; and in this subsection “racial group” has the same meaning as in section 9 of the Equality Act 2010.
 - (3) Section 16 does not apply to functions of the Lord Chief Justice under section 71 or 71A; and references in sections 71 and 71A to a person being incapacitated are to the person being incapacitated in the opinion of the Lord Chancellor.
 - (4) Seniority amongst the judges of the Supreme Court who are England and Wales Supreme Court judges is to be determined for the purposes of sections 71 and 71A as follows –
 - (a) the President of the Supreme Court, if an England and Wales Supreme Court judge, is senior to all other England and Wales Supreme Court judges;
 - (b) the Deputy President of the Supreme Court, if an England and Wales Supreme Court judge, is senior to all ordinary England and Wales Supreme Court judges;
 - (c) one ordinary England and Wales Supreme Court judge is senior to another if that first judge has served longer as a judge of the Supreme Court (whether over one or more periods and whether or not including one or more previous periods as President or Deputy President of the Court).
 - (5) In subsection (4) “ordinary England and Wales Supreme Court judge” means an England and Wales Supreme Court judge who is neither the President of the Court nor the Deputy President.
 - (6) Service as a Lord of Appeal in Ordinary counts as service as a judge of the Supreme Court for the purposes of subsection (4)(c).
 - (7) In sections 71 and 71A and this section “England and Wales Supreme Court judge” means a judge of the Supreme Court who has held high judicial office in England and Wales before appointment to the Court.”
- (4) In paragraph 11(3) of Schedule 12 (functions of the chairman of the Judicial Appointments Commission which, in the chairman’s absence, are not exercisable by the vice-chairman) after paragraph (b) insert –
 - “(ba) section 71A;”.
 - (5) An amendment made by this paragraph does not have effect in relation to a request under section 69 of the Constitutional Reform Act 2005 received by the Judicial Appointments Commission before the amendment comes into force.”

Schedule 14

130 Page 255, line 28, leave out paragraph 4

After Schedule 14

131 Insert the following new Schedule –

“EXCLUSIONS FROM DEFINITION OF “RELEVANT PUBLISHER”

Broadcasters

- 1 The British Broadcasting Corporation.
- 2 Sianel Pedwar Cymru.
- 3 The holder of a licence under the Broadcasting Act 1990 or 1996 who publishes news-related material in connection with the broadcasting activities authorised under the licence.

Special interest titles

- 4 A person who publishes a title that –
 - (a) relates to a particular pastime, hobby, trade, business, industry or profession, and
 - (b) only contains news-related material on an incidental basis that is relevant to the main content of the title.

Scientific or academic journals

- 5 A person who publishes a scientific or academic journal that only contains news-related material on an incidental basis that is relevant to the scientific or academic content.

Public bodies and charities

- 6 (1) A public body or charity that publishes news-related material in connection with the carrying out of its functions.
(2) “Public body” means a person or body whose functions are of a public nature.

Company news publications etc

- 7 A person who publishes a newsletter, circular or other document which –
 - (a) relates to a business carried on by the person, and
 - (b) only contains news-related material on an incidental basis that is relevant to the person’s business.

Book publishers

- 8 (1) A person who is the publisher of a book.

- (2) “Book” does not include any title published on a periodic basis with substantially different content.”

Schedule 15

132 Page 263, line 2, at end insert—

“(5A) In a case where there is such a restorative justice requirement, a person running the activity concerned must in doing that have regard to any guidance that is issued, with a view to encouraging good practice in connection with such an activity, by the Secretary of State.”

133 Page 269, line 16, leave out paragraph 29

After Schedule 16

134 Insert the following new Schedule—

“PROCEEDS OF CRIME: CIVIL RECOVERY OF THE PROCEEDS ETC OF UNLAWFUL CONDUCT

PART 1

ENFORCEMENT OF INTERIM ORDERS IN THE UNITED KINGDOM

- 1 Section 18 of the Civil Jurisdiction and Judgments Act 1982 (enforcement of UK judgments in other parts of UK) is amended as follows.
- 2 In subsection (5)(d) (provisional measures), at the end insert “or an interim order made in connection with the civil recovery of proceeds of unlawful conduct”.
- 3 After subsection (6) insert—
 - “(6A) In subsection (5)(d), “an interim order made in connection with the civil recovery of proceeds of unlawful conduct” means any of the following made under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002—
 - (a) a property freezing order or prohibitory property order;
 - (b) an order under section 245E or 245F of that Act (order relating to receivers in connection with property freezing order);
 - (c) an interim receiving order or interim administration order.”

PART 2

PROPERTY OR EVIDENCE OUTSIDE THE UNITED KINGDOM

- 4 Part 5 of the Proceeds of Crime Act 2002 (civil recovery of the proceeds etc of unlawful conduct) is amended as follows.
- 5 In section 280 (applying realised proceeds), in subsection (1), for “This section applies to” substitute “Subsection (2) applies to sums which are in the hands of the trustee for civil recovery if they are”.

6 After section 282A insert—

“Enforcement outside the United Kingdom

282B Enforcement abroad before recovery order: enforcement authority

- (1) This section applies if—
 - (a) the property freezing conditions are met in relation to property,
 - (b) the property is not property to which a recovery order applies, and
 - (c) an enforcement authority in relation to England and Wales or Scotland believes that the property is in a country outside the United Kingdom (the receiving country).
- (2) The property freezing conditions are—
 - (a) in England and Wales, the conditions in section 245A(5) and (6), and
 - (b) in Scotland, the conditions in section 255A(5) and (6),and, for the purposes of this subsection, the references in those provisions to property to which the application for the order relates are to be read as references to the property mentioned in subsection (1)(a).
- (3) The enforcement authority may send a request for assistance in relation to the property to the Secretary of State with a view to it being forwarded under this section.
- (4) The Secretary of State may forward the request for assistance to the government of the receiving country.
- (5) A request for assistance under this section is a request to the government of the receiving country—
 - (a) to secure that any person is prohibited from dealing with the property;
 - (b) for assistance in connection with the management of the property, including with securing its detention, custody or preservation.

282C Enforcement abroad before recovery order: receiver or administrator

- (1) This section applies if—
 - (a) a property freezing order made by the High Court in England and Wales has effect in relation to property, and
 - (b) the receiver appointed under section 245E in respect of the property believes that it is in a country outside the United Kingdom (the receiving country).
- (2) This section also applies if—
 - (a) an interim receiving order made by the High Court in England and Wales or an interim administration order has effect in relation to property, and

- (b) the interim receiver or interim administrator believes that the property is in a country outside the United Kingdom (the receiving country).
- (3) The receiver or administrator may send a request for assistance in relation to the property to the Secretary of State with a view to it being forwarded under this section.
- (4) The Secretary of State must forward the request for assistance to the government of the receiving country.
- (5) A request for assistance under this section is a request to the government of the receiving country –
 - (a) to secure that any person is prohibited from dealing with the property;
 - (b) for assistance in connection with the management of the property, including with securing its detention, custody or preservation.

282D Evidence overseas: interim receiver or interim administrator

- (1) This section applies if –
 - (a) an interim receiving order made by the High Court in England and Wales or an interim administration order has effect in relation to property, and
 - (b) the order requires the interim receiver or interim administrator to take steps to establish a matter described in section 247(2)(a) or (b) or 257(2)(a) or (b).
- (2) The interim receiver or interim administrator may request assistance under this section if the interim receiver or interim administrator thinks that there is relevant evidence in a country outside the United Kingdom.
- (3) A judge of the High Court in England and Wales may request assistance under this section if –
 - (a) an application is made by the interim receiver or by a person subject to investigation by the interim receiver, and
 - (b) the judge thinks that there is relevant evidence in a country outside the United Kingdom.
- (4) A judge of the Court of Session may request assistance under this section if –
 - (a) an application is made by the interim administrator or by a person subject to investigation by the interim administrator, and
 - (b) the judge thinks that there is relevant evidence in a country outside the United Kingdom.
- (5) The assistance that may be requested under this section is assistance in obtaining outside the United Kingdom relevant evidence specified in the request.
- (6) Relevant evidence is –

- (a) in relation to an application or request made for the purposes of an investigation by an interim receiver, evidence as to a matter described in section 247(2)(a) or (b);
 - (b) in relation to an application or request made for the purposes of an investigation by an interim administrator, evidence as to a matter described in section 257(2)(a) or (b).
- (7) A request for assistance under this section may be sent –
- (a) to a court or tribunal which is specified in the request and which exercises jurisdiction in the place where the evidence is to be obtained,
 - (b) to the government of the country concerned, or
 - (c) to an authority recognised by the government of the country concerned as the appropriate authority for receiving requests for assistance of that kind.
- (8) Alternatively, a request for assistance under this section may be sent to the Secretary of State with a view to it being forwarded to a court, tribunal, government or authority mentioned in subsection (7).
- (9) The Secretary of State must forward the request for assistance to the court, tribunal, government or authority.
- (10) In a case of urgency, a request for assistance under this section may be sent to –
- (a) the International Criminal Police Organisation, or
 - (b) any person competent to receive it under any provisions adopted under the EU Treaties,
- for forwarding to the court, tribunal, government or authority mentioned in subsection (7).
- (11) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to requests for assistance made by a judge under this section.
- (12) “Evidence” includes documents, information in any other form and material.

282E Evidence overseas: restrictions on use

- (1) This section applies to evidence obtained by means of a request for assistance under section 282D.
- (2) The evidence must not be used for any purpose other than –
 - (a) for the purposes of carrying out the functions of the interim receiver or interim administrator, or
 - (b) for the purposes of proceedings under this Chapter of this Part in respect of property described in subsection (3) or any proceedings arising out of such proceedings.
- (3) That property is –

- (a) the property that is the subject of the interim receiving order or interim administration order, or
 - (b) other property that is recoverable property in respect of the same unlawful conduct.
- (4) Subsection (2) does not apply if the court, tribunal, government or authority to whom the request for assistance was sent consents to the use.
- (5) In Scotland, the evidence may be received in evidence without being sworn to by anyone, so far as that may be done without unfairness to any party.

282F Enforcement abroad: after recovery order

- (1) This section applies if—
- (a) a recovery order made by the High Court in England and Wales or the Court of Session has effect in relation to property, and
 - (b) the enforcement authority or the trustee for civil recovery believes that the property is in a country outside the United Kingdom (the receiving country).
- (2) The enforcement authority or trustee for civil recovery may send a request for assistance in relation to the property to the Secretary of State with a view to it being forwarded under this section.
- (3) The Secretary of State may forward a request for assistance from the enforcement authority to the government of the receiving country.
- (4) The Secretary of State must forward a request for assistance from the trustee for civil recovery to the government of the receiving country.
- (5) A request for assistance is a request to the government of the receiving country for assistance in connection with the management and disposal of the property and includes a request—
- (a) to secure the detention, custody or preservation of the property;
 - (b) in the case of money, to secure that it is applied in accordance with the law of the receiving country;
 - (c) in the case of property other than money, to secure that the property is realised and the proceeds are applied in accordance with the law of the receiving country.
- (6) A certificate purporting to be issued by or on behalf of the government of the receiving country is admissible as evidence of the facts it states if it states—
- (a) that property has been realised in pursuance of a request under this section,
 - (b) the date of realisation, and
 - (c) the proceeds of realisation.”

“PROCEEDS OF CRIME: INVESTIGATIONS

PART 1

CIVIL RECOVERY INVESTIGATIONS

- 1 Part 8 of the Proceeds of Crime Act 2002 (investigations) is amended as follows.

Meaning of “civil recovery investigation”

- 2 In section 341 (investigations), for subsections (2) and (3) substitute—
- “(2) For the purposes of this Part a civil recovery investigation is an investigation for the purpose of identifying recoverable property or associated property and includes investigation into—
- (a) whether property is or has been recoverable property or associated property,
 - (b) who holds or has held property,
 - (c) what property a person holds or has held, or
 - (d) the nature, extent or whereabouts of property.
- (3) But an investigation is not a civil recovery investigation to the extent that it relates to—
- (a) property in respect of which proceedings for a recovery order have been started,
 - (b) property to which an interim receiving order applies,
 - (c) property to which an interim administration order applies, or
 - (d) property detained under section 295.”

- 3 After that section insert—

“341A Orders and warrants sought for civil recovery investigations

Where an application under this Part for an order or warrant specifies property that is subject to a civil recovery investigation, references in this Part to the investigation for the purposes of which the order or warrant is sought include investigation into—

- (a) whether a person who appears to hold or to have held the specified property holds or has held other property,
- (b) whether the other property is or has been recoverable property or associated property, and
- (c) the nature, extent or whereabouts of the other property.”

Production orders: England and Wales and Northern Ireland

- 4 In section 345 (production orders), in subsection (2)(a), after “confiscation investigation” insert “, a civil recovery investigation”.
- 5 In section 346 (requirements for making of production order), in subsection (2), for paragraph (b) substitute—
- “(b) in the case of a civil recovery investigation—

- (i) the person the application for the order specifies as being subject to the investigation holds recoverable property or associated property,
- (ii) that person has, at any time, held property that was recoverable property or associated property at the time, or
- (iii) the property the application for the order specifies as being subject to the investigation is recoverable property or associated property;”.

Search and seizure warrants: England and Wales and Northern Ireland

- 6 In section 352 (search and seizure warrants), in subsection (2)(a), after “confiscation investigation” insert “, a civil recovery investigation”.
- 7 (1) Section 353 (requirements where production order not available) is amended as follows.
- (2) In subsection (2), for paragraph (b) substitute—
- “(b) in the case of a civil recovery investigation—
- (i) the person specified in the application for the warrant holds recoverable property or associated property,
 - (ii) that person has, at any time, held property that was recoverable property or associated property at the time, or
 - (iii) the property specified in the application for the warrant is recoverable property or associated property;”.
- (3) In subsection (7), for paragraph (a) substitute—
- “(a) relates to the person or property specified in the application or to any of the questions listed in subsection (7ZA), and”.
- (4) After that subsection insert—
- “(7ZA) Those questions are—
- (a) where a person is specified in the application, any question as to—
 - (i) what property the person holds or has held,
 - (ii) whether the property is or has been recoverable property or associated property, or
 - (iii) the nature, extent or whereabouts of the property, and
 - (b) where property is specified in the application, any question as to—
 - (i) whether the property is or has been recoverable property or associated property,
 - (ii) who holds it or has held it,
 - (iii) whether a person who appears to hold or to have held it holds or has held other property,

- (iv) whether the other property is or has been recoverable property or associated property, or
- (v) the nature, extent or whereabouts of the specified property or the other property.”

Disclosure orders: England and Wales and Northern Ireland

- 8 In section 357 (disclosure orders), in subsection (3)(b), at the beginning insert “a person specified in the application or”.
- 9 In section 358 (requirements for making of disclosure order), in subsection (2), for paragraph (b) substitute—
- “(b) in the case of a civil recovery investigation—
 - (i) the person specified in the application for the order holds recoverable property or associated property,
 - (ii) that person has, at any time, held property that was recoverable property or associated property at the time, or
 - (iii) the property specified in the application for the order is recoverable property or associated property;”.

Customer information orders: England and Wales and Northern Ireland

- 10 In section 363 (customer information orders), in subsection (2)—
- (a) after “confiscation investigation” insert “, a civil recovery investigation”, and
 - (b) omit paragraph (b) (and the “or” before it).
- 11 In section 365 (requirements for making of customer information order), for subsection (3) substitute—
- “(3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application—
- (a) holds recoverable property or associated property, or
 - (b) has, at any time, held property that was recoverable property or associated property at the time.”

Account monitoring orders: England and Wales and Northern Ireland

- 12 In section 370 (account monitoring orders), in subsection (2)—
- (a) after “confiscation investigation” insert “, a civil recovery investigation”, and
 - (b) omit paragraph (b) (and the “or” before it).
- 13 In section 371 (requirements for making of account monitoring order), for subsection (3) substitute—
- “(3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application holds recoverable property or associated property.”

Production orders: Scotland

- 14 (1) Section 380 (production orders) is amended as follows.
- (2) In subsection (2), omit “property subject to”.
- (3) In subsection (3)(a), after “confiscation investigation” insert “, a civil recovery investigation”.
- 15 (1) In section 381 (requirements for making of production order), in subsection (2), for paragraph (b) substitute—
- “(b) in the case of a civil recovery investigation—
- (i) the person the application for the order specifies as being subject to the investigation holds recoverable property or associated property,
- (ii) that person has, at any time, held property that was recoverable property or associated property at the time, or
- (iii) the property the application for the order specifies as being subject to the investigation is recoverable property or associated property;”.

Search warrants: Scotland

- 16 (1) Section 387 (search warrants) is amended as follows.
- (2) In subsection (2), omit “property subject to”.
- (3) In subsection (3)(a), after “confiscation investigation” insert “, a civil recovery investigation”.
- 17 (1) Section 388 (requirements where production order not available) is amended as follows.
- (2) In subsection (2), for paragraph (b) substitute—
- “(b) in the case of a civil recovery investigation—
- (i) the person specified in the application for the warrant holds recoverable property or associated property,
- (ii) that person has, at any time, held property that was recoverable property or associated property at the time, or
- (iii) the property specified in the application for the warrant is recoverable property or associated property;”.
- (3) In subsection (7), for paragraph (a) substitute—
- “(a) relates to the person or property specified in the application or to any of the questions listed in subsection (7ZA), and”.
- (4) After that subsection insert—
- “(7ZA) Those questions are—
- (a) where a person is specified in the application, any question as to—

- (i) what property the person holds or has held,
- (ii) whether the property is or has been recoverable property or associated property, or
- (iii) the nature, extent or whereabouts of the property, and
- (b) where property is specified in the application, any question as to—
 - (i) whether the property is or has been recoverable property or associated property,
 - (ii) who holds it or has held it,
 - (iii) whether a person who appears to hold or to have held it holds or has held other property,
 - (iv) whether the other property is or has been recoverable property or associated property, or
 - (v) the nature, extent or whereabouts of the specified property or the other property.”

Disclosure orders: Scotland

- 18 In section 391 (disclosure orders), in subsection (3)(b), at the beginning insert “a person specified in the application or”.
- 19 In section 392 (requirements for making of disclosure order), in subsection (2), for paragraph (b) substitute—
- “(b) in the case of a civil recovery investigation—
- (i) the person specified in the application for the order holds recoverable property or associated property,
 - (ii) that person has, at any time, held property that was recoverable property or associated property at the time, or
 - (iii) the property specified in the application for the order is recoverable property or associated property;”.

Customer information orders: Scotland

- 20 (1) Section 397 (customer information orders) is amended as follows.
- (2) In subsection (2), omit “property subject to”.
- (3) In subsection (3)—
- (a) after “confiscation investigation” insert “, a civil recovery investigation”, and
 - (b) omit paragraph (b) (and the “or” before it).
- 21 In section 399 (requirements for making of customer information order), for subsection (3) substitute—
- “(3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application—
- (a) holds recoverable property or associated property, or

- (b) has, at any time, held property that was recoverable property or associated property at the time.”

Account monitoring orders: Scotland

- 22 (1) Section 404 (account monitoring orders) is amended as follows.
- (2) In subsection (2), omit “property subject to”.
- (3) In subsection (3) –
- (a) after “confiscation investigation” insert “, a civil recovery investigation”, and
- (b) omit paragraph (b) (and the “or” before it).
- 23 In section 405 (requirements for making of account monitoring order), for subsection (3) substitute –
- “(3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application holds recoverable property or associated property.”

PART 2

EVIDENCE OVERSEAS

- 24 Part 8 of the Proceeds of Crime Act 2002 (investigations) is amended as follows.
- 25 In section 341(3A) (definition of detained cash investigation) –
- (a) after “investigation is” insert “an investigation for the purposes of Chapter 3 of Part 5 into –”, and
- (b) in paragraphs (a) and (b), omit “an investigation for the purposes of Chapter 3 of Part 5 into”.
- 26 In Chapter 2 (England and Wales and Northern Ireland), after section 375 and the heading “Evidence overseas” insert –

“375A Evidence overseas

- (1) This section applies if a person or property is subject to a civil recovery investigation, a detained cash investigation or an exploitation proceeds investigation.
- (2) A judge may request assistance under this section if –
- (a) an application is made by an appropriate officer or a person subject to the investigation, and
- (b) the judge thinks that there is relevant evidence in a country or territory outside the United Kingdom.
- (3) The relevant Director or a senior appropriate officer may request assistance under this section if the Director or officer thinks that there is relevant evidence in a country or territory outside the United Kingdom.

- (4) The assistance that may be requested under this section is assistance in obtaining outside the United Kingdom relevant evidence specified in the request.
- (5) Relevant evidence is—
 - (a) in relation to an application or request made for the purposes of a civil recovery investigation, evidence relevant for the purpose of identifying recoverable property or associated property, including evidence as to a matter described in section 341(2)(a) to (d);
 - (b) in relation to an application or request made for the purposes of a detained cash investigation, evidence as to a matter described in section 341(3A)(a) or (b);
 - (c) in relation to an application or request made for the purposes of an exploitation proceeds investigation, evidence as to a matter described in section 341(5)(a) to (d).
- (6) A request for assistance under this section may be sent—
 - (a) to a court or tribunal which is specified in the request and which exercises jurisdiction in the place where the evidence is to be obtained,
 - (b) to the government of the country or territory concerned, or
 - (c) to an authority recognised by the government of the country or territory concerned as the appropriate authority for receiving requests for assistance of that kind.
- (7) Alternatively, a request for assistance under this section may be sent to the Secretary of State with a view to it being forwarded to a court, tribunal, government or authority mentioned in subsection (6).
- (8) The Secretary of State must forward the request for assistance to the court, tribunal, government or authority.
- (9) In a case of urgency, a request for assistance under this section may be sent to—
 - (a) the International Criminal Police Organisation, or
 - (b) any person competent to receive it under any provisions adopted under the EU Treaties,for forwarding to the court, tribunal, government or authority mentioned in subsection (6).
- (10) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to requests for assistance made by a judge under this section.
- (11) “Evidence” includes documents, information in any other form and material.

375B Evidence overseas: restrictions on use

- (1) This section applies to evidence obtained by means of a request for assistance under section 375A.
 - (2) The evidence must not be used for any purpose other than—
 - (a) for the purposes of the investigation for which it was obtained, or
 - (b) for the purposes of proceedings described in subsection (3) or any proceedings arising out of such proceedings.
 - (3) Those proceedings are—
 - (a) if the request was made for the purposes of a civil recovery investigation, proceedings under Chapter 2 of Part 5 of this Act arising out of the investigation;
 - (b) if the request was made for the purposes of a detained cash investigation, proceedings under Chapter 3 of Part 5 of this Act arising out of the investigation;
 - (c) if the request was made for the purposes of an exploitation proceeds investigation, proceedings under Part 7 of the Coroners and Justice Act 2009 arising out of the investigation.
 - (4) Subsection (2) does not apply if the court, tribunal, government or authority to whom the request for assistance was sent consents to the use.”
- 27 (1) Section 378 (officers) is amended as follows.
- (2) After subsection (3A) insert—
- “(3AA) In relation to a detained cash investigation these are senior appropriate officers—
- (a) a police officer who is not below the rank of superintendent;
 - (b) an accredited financial investigator who falls within a description specified in an order made for the purposes of this paragraph by the Secretary of State under section 453;
 - (c) an officer of Revenue and Customs who is not below such grade as is designated by the Commissioners for Her Majesty’s Revenue and Customs as equivalent to that rank.”
- (3) In subsection (6A)—
- (a) after “investigation” insert “—
 - (a) ”, and
 - (b) at the end insert—
- “(b) a senior member of SOCA’s staff is a senior appropriate officer.”
- 28 In Chapter 3 (Scotland), after section 408 insert—

*“Evidence overseas***408A Evidence overseas**

- (1) This section applies if a person or property is subject to a civil recovery investigation or a detained cash investigation.
- (2) A judge of the Court of Session may request assistance under this section if –
 - (a) an application is made by an appropriate person or a person subject to the investigation, and
 - (b) the judge thinks that there is relevant evidence in a country or territory outside the United Kingdom.
- (3) An appropriate person may request assistance under this section if the person thinks that there is relevant evidence in a country or territory outside the United Kingdom.
- (4) The assistance that may be requested under this section is assistance in obtaining outside the United Kingdom relevant evidence specified in the request.
- (5) Relevant evidence is –
 - (a) in relation to an application or request made for the purposes of a civil recovery investigation, evidence relevant for the purpose of identifying recoverable property or associated property, including evidence as to a matter described in section 341(2)(a) to (d);
 - (b) in relation to an application or request made for the purposes of a detained cash investigation, evidence as to a matter described in section 341(3A)(a) or (b).
- (6) A request for assistance under this section may be sent –
 - (a) to a court or tribunal which is specified in the request and which exercises jurisdiction in the place where the evidence is to be obtained,
 - (b) to the government of the country or territory concerned, or
 - (c) to an authority recognised by the government of the country or territory concerned as the appropriate authority for receiving requests for assistance of that kind.
- (7) Alternatively, a request for assistance under this section may be sent to the Secretary of State with a view to it being forwarded to a court, tribunal, government or authority mentioned in subsection (6).
- (8) The Secretary of State must forward the request for assistance to the court, tribunal, government or authority.
- (9) In a case of urgency, a request for assistance under this section may be sent to –
 - (a) the International Criminal Police Organisation, or
 - (b) any person competent to receive it under any provisions adopted under the EU Treaties,

for forwarding to the court, tribunal, government or authority mentioned in subsection (6).

- (10) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to requests for assistance made by a judge under this section.
- (11) “Evidence” includes documents, information in any other form and material.

408B Evidence overseas: restrictions on use

- (1) This section applies to evidence obtained by means of a request for assistance under section 408A.
- (2) The evidence must not be used for any purpose other than—
 - (a) for the purposes of the investigation for which it was obtained, or
 - (b) for the purposes of proceedings described in subsection (3) or any proceedings arising out of such proceedings.
- (3) Those proceedings are—
 - (a) if the request was made for the purposes of a civil recovery investigation, proceedings under Chapter 2 of Part 5 of this Act arising out of the investigation;
 - (b) if the request was made for the purposes of a detained cash investigation, proceedings under Chapter 3 of Part 5 of this Act arising out of the investigation.
- (4) Subsection (2) does not apply if the court, tribunal, government or authority to whom the request for assistance was sent consents to the use.
- (5) The evidence may be received in evidence without being sworn to by anyone, so far as that may be done without unfairness to any party.”

PART 3

CONSEQUENTIAL AMENDMENTS: IMMIGRATION OFFICERS AND NATIONAL CRIME AGENCY

Immigration officers

- 29 In section 378 of the Proceeds of Crime Act 2002 (investigations: appropriate officers etc), in subsection (3AA) (inserted by this Schedule), after paragraph (c) insert—
- “(d) an immigration officer who is not below such grade as is designated by the Secretary of State as equivalent to that rank.”

National Crime Agency

- 30 In section 378 of the Proceeds of Crime Act 2002 (investigations: appropriate officers etc), in subsection (6A)(b) (inserted by this

Schedule), for “senior member of SOCA’s staff” substitute “senior National Crime Agency officer”.”

136 Insert the following new Schedule –

“EXTRADITION

PART 1

FORUM

Extradition to category 1 territories

- 1 Part 1 of the Extradition Act 2003 (extradition to category 1 territories) is amended as follows.
- 2 In section 11 (bars to extradition) –
 - (a) at the end of subsection (1) insert –
 - “(j) forum.”;
 - (b) after subsection (1) insert –
 - “(1A) But the judge is to decide whether the person’s extradition is barred by reason of forum only in a case where the Part 1 warrant contains the statement referred to in section 2(3) (warrant issued for purposes of prosecution for offence in category 1 territory).”;
 - (c) in subsection (2), for the words from “12” to “apply” substitute “12 to 19F apply”.
- 3 After section 19A insert –

“19B Forum

- (1) The extradition of a person (“D”) to a category 1 territory is barred by reason of forum if the extradition would not be in the interests of justice.
- (2) For the purposes of this section, the extradition would not be in the interests of justice if the judge –
 - (a) decides that a substantial measure of D’s relevant activity was performed in the United Kingdom; and
 - (b) decides, having regard to the specified matters relating to the interests of justice (and only those matters), that the extradition should not take place.
- (3) These are the specified matters relating to the interests of justice –
 - (a) the place where most of the loss or harm resulting from the extradition offence occurred or was intended to occur;
 - (b) the interests of any victims of the extradition offence;
 - (c) any belief of a prosecutor that the United Kingdom, or a particular part of the United Kingdom, is not the most appropriate jurisdiction in which to prosecute D in respect of the conduct constituting the extradition offence;

- (d) were D to be prosecuted in a part of the United Kingdom for an offence that corresponds to the extradition offence, whether evidence necessary to prove the offence is or could be made available in the United Kingdom;
 - (e) any delay that might result from proceeding in one jurisdiction rather than another;
 - (f) the desirability and practicability of all prosecutions relating to the extradition offence taking place in one jurisdiction, having regard (in particular) to—
 - (i) the jurisdictions in which witnesses, co-defendants and other suspects are located, and
 - (ii) the practicability of the evidence of such persons being given in the United Kingdom or in jurisdictions outside the United Kingdom;
 - (g) D's connections with the United Kingdom.
- (4) In deciding whether the extradition would not be in the interests of justice, the judge must have regard to the desirability of not requiring the disclosure of material which is subject to restrictions on disclosure in the category 1 territory concerned.
- (5) If, on an application by a prosecutor, it appears to the judge that the prosecutor has considered the offences for which D could be prosecuted in the United Kingdom, or a part of the United Kingdom, in respect of the conduct constituting the extradition offence, the judge must make that prosecutor a party to the proceedings on the question of whether D's extradition is barred by reason of forum.
- (6) In this section "D's relevant activity" means activity which is material to the commission of the extradition offence and which is alleged to have been performed by D.

19C Effect of prosecutor's certificates on forum proceedings

- (1) The judge hearing proceedings under section 19B (the "forum proceedings") must decide that the extradition is not barred by reason of forum if (at a time when the judge has not yet decided the proceedings) the judge receives a prosecutor's certificate relating to the extradition.
- (2) That duty to decide the forum proceedings in that way is subject to the determination of any question relating to the prosecutor's certificate raised in accordance with section 19E.
- (3) A designated prosecutor may apply for the forum proceedings to be adjourned for the purpose of assisting that or any other designated prosecutor—
 - (a) in considering whether to give a prosecutor's certificate relating to the extradition,
 - (b) in giving such a certificate, or
 - (c) in sending such a certificate to the judge.
- (4) If such an application is made, the judge must—

- (a) adjourn the forum proceedings until the application is decided; and
 - (b) continue the adjournment, for such period as appears to the judge to be reasonable, if the application is granted.
- (5) But the judge must end the adjournment if the application is not granted.

19D Prosecutor's certificates

- (1) A "prosecutor's certificate" is a certificate given by a designated prosecutor which—
- (a) certifies both matter A and matter B, and
 - (b) certifies either matter C or matter D.
- (2) Matter A is that a responsible prosecutor has considered the offences for which D could be prosecuted in the United Kingdom, or a part of the United Kingdom, in respect of the conduct constituting the extradition offence.
- (3) Matter B is that the responsible prosecutor has decided that there are one or more such offences that correspond to the extradition offence (the "corresponding offences").
- (4) Matter C is that—
- (a) the responsible prosecutor has made a formal decision as to the prosecution of D for the corresponding offences,
 - (b) that decision is that D should not be prosecuted for the corresponding offences, and
 - (c) the reason for that decision is a belief that—
 - (i) there would be insufficient admissible evidence for the prosecution; or
 - (ii) the prosecution would not be in the public interest.
- (5) Matter D is that the responsible prosecutor believes that D should not be prosecuted for the corresponding offences because there are concerns about the disclosure of sensitive material in—
- (a) the prosecution of D for the corresponding offences, or
 - (b) any other proceedings.
- (6) In relation to the extradition of any person to a category 1 territory, neither this section nor any other rule of law (whether or not contained in an enactment) may require a designated prosecutor—
- (a) to consider any matter relevant to giving a prosecutor's certificate; or
 - (b) to consider whether to give a prosecutor's certificate.
- (7) In this section "sensitive material" means material which appears to the responsible prosecutor to be sensitive, including material appearing to be sensitive on grounds relating to—
- (a) national security,
 - (b) international relations, or

- (c) the prevention or detection of crime (including grounds relating to the identification or activities of witnesses, informants or any other persons supplying information to the police or any other law enforcement agency who may be in danger if their identities are revealed).

19E Questioning of prosecutor's certificate

- (1) No decision of a designated prosecutor relating to a prosecutor's certificate in respect of D's extradition (a "relevant certification decision") may be questioned except on an appeal under section 26 against an order for that extradition.
- (2) In England and Wales, and Northern Ireland, for the purpose of—
 - (a) determining whether to give permission for a relevant certification decision to be questioned, and
 - (b) determining any such question (if that permission is given),the High Court must apply the procedures and principles which would be applied by it on an application for judicial review.
- (3) In Scotland, for the purpose of determining any questioning of a relevant certification decision, the High Court must apply the procedures and principles that would be applied by it on an application for judicial review.
- (4) In a case where the High Court quashes a prosecutor's certificate, the High Court is to decide the question of whether or not the extradition is barred by reason of forum.
- (5) Where the High Court is required to decide that question by virtue of subsection (4)—
 - (a) sections 19B to 19D and this section apply in relation to that decision (with the appropriate modifications) as they apply to a decision by a judge; and
 - (b) in particular—
 - (i) a reference in this section to an appeal under section 26 has effect as a reference to an appeal under section 32 to the Supreme Court;
 - (ii) a reference in this section to the High Court has effect as a reference to the Supreme Court.

19F Interpretation of sections 19B to 19E

- (1) This section applies for the purposes of sections 19B to 19E (and this section).
- (2) These expressions have the meanings given—
 - “D” has the meaning given in section 19B(1);
 - “designated prosecutor” means—
 - (a) a member of the Crown Prosecution Service, or
 - (b) any other person who—

- (i) is a prosecutor designated for the purposes of this section by order made by the Secretary of State, or
 - (ii) is within a description of prosecutors so designated;
- “extradition offence” means the offence specified in the Part 1 warrant (including the conduct that constitutes the extradition offence);
- “forum proceedings” has the meaning given in section 19C(1);
- “part of the United Kingdom” means—
- (a) England and Wales;
 - (b) Scotland;
 - (c) Northern Ireland;
- “prosecutor” means a person who has responsibility for prosecuting offences in any part of the United Kingdom (whether or not the person also has other responsibilities);
- “prosecutor’s certificate” has the meaning given in section 19D(1);
- “responsible prosecutor”, in relation to a prosecutor’s certificate, means—
- (a) the designated prosecutor giving the certificate, or
 - (b) another designated prosecutor.
- (3) In determining for any purpose whether an offence corresponds to the extradition offence, regard must be had, in particular, to the nature and seriousness of the two offences.
- (4) A reference to a formal decision as to the prosecution of D for an offence is a reference to a decision (made after complying with, in particular, any applicable requirement concerning a code of practice) that D should, or should not, be prosecuted for the offence.”

Extradition to category 2 territories

- 4 Part 2 of the Extradition Act 2003 (extradition to category 2 territories) is amended as follows.
- 5 In section 79 (bars to extradition)—
- (a) at the end of subsection (1) insert—
 - “(e) forum.”;
 - (b) after subsection (1) insert—
 - “(1A) But the judge is to decide whether the person’s extradition is barred by reason of forum only in a case where the request for extradition contains the statement referred to in section 70(4) (warrant issued for purposes of prosecution for offence in category 2 territory).”;
 - (c) in subsection (2), for “Sections 80 to 83” substitute “Sections 80 to 83E”.

6 After section 83 insert –

“83A Forum

- (1) The extradition of a person (“D”) to a category 2 territory is barred by reason of forum if the extradition would not be in the interests of justice.
- (2) For the purposes of this section, the extradition would not be in the interests of justice if the judge –
 - (a) decides that a substantial measure of D’s relevant activity was performed in the United Kingdom; and
 - (b) decides, having regard to the specified matters relating to the interests of justice (and only those matters), that the extradition should not take place.
- (3) These are the specified matters relating to the interests of justice –
 - (a) the place where most of the loss or harm resulting from the extradition offence occurred or was intended to occur;
 - (b) the interests of any victims of the extradition offence;
 - (c) any belief of a prosecutor that the United Kingdom, or a particular part of the United Kingdom, is not the most appropriate jurisdiction in which to prosecute D in respect of the conduct constituting the extradition offence;
 - (d) were D to be prosecuted in a part of the United Kingdom for an offence that corresponds to the extradition offence, whether evidence necessary to prove the offence is or could be made available in the United Kingdom;
 - (e) any delay that might result from proceeding in one jurisdiction rather than another;
 - (f) the desirability and practicability of all prosecutions relating to the extradition offence taking place in one jurisdiction, having regard (in particular) to –
 - (i) the jurisdictions in which witnesses, co-defendants and other suspects are located, and
 - (ii) the practicability of the evidence of such persons being given in the United Kingdom or in jurisdictions outside the United Kingdom;
 - (g) D’s connections with the United Kingdom.
- (4) In deciding whether the extradition would not be in the interests of justice, the judge must have regard to the desirability of not requiring the disclosure of material which is subject to restrictions on disclosure in the category 2 territory concerned.
- (5) If, on an application by a prosecutor, it appears to the judge that the prosecutor has considered the offences for which D could be prosecuted in the United Kingdom, or a part of the United Kingdom, in respect of the conduct constituting the extradition offence, the judge must make that prosecutor a party to the proceedings on the question of whether D’s extradition is barred by reason of forum.

- (6) In this section “D’s relevant activity” means activity which is material to the commission of the extradition offence and is alleged to have been performed by D.

83B Effect of prosecutor’s certificates on forum proceedings

- (1) The judge hearing proceedings under section 83A (the “forum proceedings”) must decide that the extradition is not barred by reason of forum if (at a time when the judge has not yet decided the proceedings) the judge receives a prosecutor’s certificate relating to the extradition.
- (2) That duty to decide the forum proceedings in that way is subject to the determination of any question relating to the prosecutor’s certificate raised in accordance with section 83D.
- (3) A designated prosecutor may apply for the forum proceedings to be adjourned for the purpose of assisting that or any other designated prosecutor –
- (a) in considering whether to give a prosecutor’s certificate relating to the extradition,
 - (b) in giving such a certificate, or
 - (c) in sending such a certificate to the judge.
- (4) If such an application is made, the judge must –
- (a) adjourn the forum proceedings until the application is decided; and
 - (b) continue the adjournment, for such period as appears to the judge to be reasonable, if the application is granted.
- (5) But the judge must end the adjournment if the application is not granted.

83C Prosecutor’s certificates

- (1) A “prosecutor’s certificate” is a certificate given by a designated prosecutor which –
- (a) certifies both matter A and matter B, and
 - (b) certifies either matter C or matter D.
- (2) Matter A is that a responsible prosecutor has considered the offences for which D could be prosecuted in the United Kingdom, or a part of the United Kingdom, in respect of the conduct constituting the extradition offence.
- (3) Matter B is that the responsible prosecutor has decided that there are one or more such offences that correspond to the extradition offence (the “corresponding offences”).
- (4) Matter C is that –
- (a) the responsible prosecutor has made a formal decision as to the prosecution of D for the corresponding offences,
 - (b) that decision is that D should not be prosecuted for the corresponding offences, and
 - (c) the reason for that decision is a belief that –

- (i) there would be insufficient admissible evidence for the prosecution; or
 - (ii) the prosecution would not be in the public interest.
- (5) Matter D is that the responsible prosecutor believes that D should not be prosecuted for the corresponding offences because there are concerns about the disclosure of sensitive material in –
 - (a) the prosecution of D for the corresponding offences, or
 - (b) any other proceedings.
- (6) In relation to the extradition of any person to a category 2 territory, neither this section nor any other rule of law (whether or not contained in an enactment) may require a designated prosecutor –
 - (a) to consider any matter relevant to giving a prosecutor’s certificate; or
 - (b) to consider whether to give a prosecutor’s certificate.
- (7) In this section “sensitive material” means material which appears to the responsible prosecutor to be sensitive, including material appearing to be sensitive on grounds relating to –
 - (a) national security,
 - (b) international relations, or
 - (c) the prevention or detection of crime (including grounds relating to the identification or activities of witnesses, informants or any other persons supplying information to the police or any other law enforcement agency who may be in danger if their identities are revealed).

83D Questioning of prosecutor’s certificate

- (1) No decision of a designated prosecutor relating to a prosecutor’s certificate in respect of D’s extradition (a “relevant certification decision”) may be questioned except on an appeal under section 103 or 108 against an order for that extradition.
- (2) In England and Wales, and Northern Ireland, for the purpose of –
 - (a) determining whether to give permission for a relevant certification decision to be questioned, and
 - (b) determining any such question (if that permission is given),the High Court must apply the procedures and principles which would be applied by it on an application for judicial review.
- (3) In Scotland, for the purpose of determining any questioning of a relevant certification decision, the High Court must apply the procedures and principles that would be applied by it on an application for judicial review.
- (4) In a case where the High Court quashes a prosecutor’s certificate, the High Court is to decide the question of whether or not the extradition is barred by reason of forum.

- (5) Where the High Court is required to decide that question by virtue of subsection (4)—
- (a) sections 83A to 83C and this section apply in relation to that decision (with the appropriate modifications) as they apply to a decision by a judge; and
 - (b) in particular—
 - (i) a reference in this section to an appeal under section 103 or 108 has effect as a reference to an appeal under section 114 to the Supreme Court;
 - (ii) a reference in this section to the High Court has effect as a reference to the Supreme Court.

83E Interpretation of sections 83A to 83D

- (1) This section applies for the purposes of sections 83A to 83D (and this section).
- (2) These expressions have the meanings given—

“D” has the meaning given in section 83A(1);

“designated prosecutor” means—

 - (a) a member of the Crown Prosecution Service, or
 - (b) any other person who—
 - (i) is a prosecutor designated for the purposes of this section by order made by the Secretary of State, or
 - (ii) is within a description of prosecutors so designated;

“extradition offence” means the offence specified in the request for extradition (including the conduct that constitutes the extradition offence);

“forum proceedings” has the meaning given in section 83B(1);

“part of the United Kingdom” means—

 - (a) England and Wales;
 - (b) Scotland;
 - (c) Northern Ireland;

“prosecutor” means a person who has responsibility for prosecuting offences in any part of the United Kingdom (whether or not the person also has other responsibilities);

“prosecutor’s certificate” has the meaning given in section 83C(1);

“responsible prosecutor”, in relation to a prosecutor’s certificate, means—

 - (a) the designated prosecutor giving the certificate, or
 - (b) another designated prosecutor.
- (3) In determining for any purpose whether an offence corresponds to the extradition offence, regard must be had, in particular, to the nature and seriousness of the two offences.

- (4) A reference to a formal decision as to the prosecution of D for an offence is a reference to a decision (made after complying with, in particular, any applicable requirement concerning a code of practice) that D should, or should not, be prosecuted for the offence.”

Transitional provision, saving and repeals

- 7 (1) In a case where the Part 1 warrant, or the request for the person’s extradition, has been issued before the time when the amendments made by this Part of this Schedule come into force, those amendments apply to the extradition concerned only if, at that time, the judge has not yet decided all of the existing extradition bar questions.
- (2) For that purpose—
- “existing extradition bar questions” means—
- (a) the questions in section 11(1) of the Extradition Act 2003 (in the case of a Part 1 warrant), or
- (b) the questions in section 79(1) of that Act (in the case of a request for the person’s extradition),
- as those questions stand before their amendment by this Part of this Schedule;
- “Part 1 warrant” and “request for a person’s extradition” have the same meanings as in the Extradition Act 2003.
- 8 The powers conferred by section 177, 178 and 222 of the Extradition Act 2003 are exercisable in relation to any amendment of that Act made by this Part of this Schedule.
- 9 In the Police and Justice Act 2006, in Schedule 13 (extradition), in Part 1 (amendments to the Extradition Act 2003), omit paragraphs 4 to 6 (and the italic heading preceding paragraph 4).

PART 2

HUMAN RIGHTS ISSUES

Extradition to category 2 territories

- 10 Part 2 of the Extradition Act 2003 (extradition to category 2 territories) is amended as follows.
- 11 In section 70 (extradition request and certificate), after subsection (9) insert—
- “(10) Subsection (11) applies at all times after the Secretary of State issues a certificate under this section.
- (11) The Secretary of State is not to consider whether the extradition would be compatible with the Convention rights within the meaning of the Human Rights Act 1998.”
- 12 In section 108 (appeal against extradition order) after subsection (4) insert—

- “(5) But notice of an appeal under this section may be given after the end of the permitted period if it is an appeal on human rights grounds.
- (6) Notice of any such appeal must be given in accordance with rules of court at a time before the person is extradited to the category 2 territory in accordance with section 117.
- (7) Where notice of an appeal is given in accordance with subsections (5) and (6), the High Court is to consider the appeal only if it appears to the High Court that –
 - (a) the appeal is necessary to avoid real injustice, and
 - (b) the circumstances are exceptional and make it appropriate to consider the appeal.
- (8) In this section “appeal on human rights grounds” means an appeal against the order for the person’s extradition on the grounds (and only on the grounds) that the extradition would not be compatible with the Convention rights within the meaning of the Human Rights Act 1998.”

- 13 In section 117 (extradition where no appeal), after subsection (4) insert –
- “(5) If a person brings an appeal under section 108 by virtue of subsection (5) of that section, this section ceases to apply (but section 118 applies instead).”

Transitional provision and saving

- 14 (1) In a case where a request for a person’s extradition has been issued before the time when the amendments made by this Part of this Schedule come into force, those amendments apply to the extradition concerned only if –
- (a) the person concerned has not made any human rights representations to the Secretary of State during the relevant period, or
 - (b) the person concerned has made such representations during that period and the Secretary of State has finished considering them by the end of that period.
- (2) For that purpose –
- “human rights representations” means representations that the extradition would not be compatible with the Convention rights within the meaning of the Human Rights Act 1998;
- “relevant period” means the period that –
- (a) begins when the Secretary of State issues a certificate under section 70 of the Extradition Act 2003 in relation to the extradition, and
 - (b) when the amendments made by this Part of this Schedule come into force;
- “request for a person’s extradition” has the same meaning as in the Extradition Act 2003.

- 15 The powers conferred by section 177, 178 and 222 of the Extradition Act 2003 are exercisable in relation to any amendment of that Act made by this Part of this Schedule.

PART 3

DEVOLUTION ISSUES IN SCOTLAND

Extradition to category 1 territories

- 16 Part 1 of the Extradition Act 2003 (extradition to category 1 territories) is amended as follows.

- 17 (1) In section 30 (detention pending conclusion of appeal under section 28), for subsection (5) substitute –

“(5) The preceding provisions of this section do not apply to Scotland.”

- (2) After section 30 insert –

**“30A Detention pending conclusion of appeal under section 28:
Scotland**

- (1) This section applies if immediately after the judge orders the person’s discharge the judge is informed by the authority which issued the Part 1 warrant (“the issuing authority”) that it intends to appeal under section 28 (“the High Court appeal”).
- (2) The judge must remand the person in custody or on bail while the High Court appeal is pending.
- (3) The High Court appeal ceases to be pending at the earliest of these times –
- (a) when the proceedings on the appeal are abandoned;
 - (b) when the High Court –
 - (i) allows the appeal, or
 - (ii) dismisses the appeal.
- (4) If –
- (a) the High Court appeal is dismissed, and
 - (b) immediately after dismissing it, the High Court is informed by the issuing authority that it intends to bring an appeal to the Supreme Court against a determination of a relevant devolution issue (“the Supreme Court appeal”),
- the High Court must remand the person in custody or on bail while the Supreme Court appeal is pending.
- (5) The Supreme Court appeal ceases to be pending at the earliest of these times –
- (a) the end of the period of 28 days starting with the day when the High Court appeal is dismissed (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);

- (b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);
- (c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);
- (d) the time when the proceedings on the Supreme Court appeal are abandoned;
- (e) the time when there is no further step that can be taken in relation to the Supreme Court appeal by the issuing authority (ignoring any power of a court to grant leave to take a step out of time).

- (6) If the person is remanded in custody by the judge or the High Court, the High Court may later grant bail.
- (7) In this section “relevant devolution issue” means a devolution issue relating to the person’s extradition.
- (8) This section applies only to Scotland.”

18 After section 33 insert –

“33ZA Scottish devolution issue: remand in custody or on bail

- (1) This section applies where, on an appeal to the Supreme Court against a determination of a devolution issue relating to a person’s extradition under this Part, the Supreme Court –
 - (a) remits the case to the High Court, or
 - (b) orders the person’s extradition.
- (2) The Supreme Court must remand the person in custody or on bail pending the person’s extradition.
- (3) If the Supreme Court remands the person in custody it may later grant bail.”

19 After section 33A insert –

“33B Detention pending conclusion of appeals relating to devolution issues

- (1) This section applies if immediately after the High Court orders the person’s discharge the court is informed by the authority which issued the Part 1 warrant (“the issuing authority”) that it intends to bring an appeal to the Supreme Court against a determination of a relevant devolution issue (“the Supreme Court appeal”).
- (2) The High Court must remand the person in custody or on bail while the Supreme Court appeal is pending.
- (3) If the court remands the person in custody it may later grant bail.
- (4) The Supreme Court appeal ceases to be pending at the earliest of these times –

- (a) the end of the period of 28 days starting with the day when the High Court orders the person's discharge (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);
 - (b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);
 - (c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);
 - (d) the time when the proceedings on the Supreme Court appeal are abandoned;
 - (e) the time when there is no further step that can be taken in relation to the Supreme Court appeal by the issuing authority (ignoring any power of a court to grant permission to take a step out of time).
- (5) In this section "relevant devolution issue" means a devolution issue relating to the person's extradition.
- (6) This section applies only to Scotland."
- 20 In section 34 (appeals: general), at the beginning insert "(1)" and at the end insert –
- "(2) Subsection (1) does not prevent an appeal against a determination of a devolution issue.
- (3) In this Part "devolution issue" has the same meaning as in Schedule 6 to the Scotland Act 1998."
- 21 (1) In section 36 (extradition following appeal), for subsection (9) substitute –
- "(9) The preceding provisions of this section do not apply to Scotland."
- (2) After that section insert –
- "36A Extradition following appeal: Scotland**
- (1) This section applies if –
- (a) there is an appeal to the High Court under section 26 against an order for a person's extradition to a category 1 territory, and
 - (b) the effect of the decision in the relevant proceedings is that the person must be extradited to the category 1 territory.
- (2) The "relevant proceedings" are –
- (a) the proceedings on the appeal under section 26 if –
 - (i) no Supreme Court devolution appeal is made, or

- (ii) a Supreme Court devolution appeal is made and the Supreme Court remits the case to the High Court, or
 - (b) the proceedings on a Supreme Court devolution appeal if such an appeal is made and the Supreme Court does not remit the case to the High Court.
- (3) The person must be extradited to the category 2 territory before the end of the required period, which is 28 days starting with—
 - (a) the day on which the decision in the relevant proceedings becomes final, or
 - (b) the day on which the relevant proceedings are abandoned.
- (4) In a case where the relevant proceedings are proceedings on the appeal under section 26 (except where the case has been remitted to the High Court on a Supreme Court devolution appeal), the decision in those proceedings becomes final—
 - (a) at the end of the period of 28 days starting with the day of the decision (unless, within that period, an application is made to the High Court for permission to make a Supreme Court devolution appeal);
 - (b) at the end of the period of 28 days starting with the day when the High Court refuses permission to make a Supreme Court devolution appeal (unless, within that period, an application is made to the Supreme Court for permission to make that appeal);
 - (c) when the Supreme Court refuses permission to make a Supreme Court devolution appeal;
 - (d) at the end of the permitted period, which is 28 days starting with the day on which permission to make a Supreme Court devolution appeal is granted, if no such appeal is brought before the end of that period.
- (5) These must be ignored for the purposes of subsection (4)—
 - (a) any power of a court to extend the period permitted for applying for permission to appeal;
 - (b) any power of a court to grant permission to take a step out of time.
- (6) In a case where—
 - (a) the relevant proceedings are proceedings on the appeal under section 26, and
 - (b) the case has been remitted to the High Court on a Supreme Court devolution appeal,the decision in those proceedings becomes final when it is made.
- (7) In a case where—
 - (a) the relevant proceedings are proceedings on a Supreme Court devolution appeal, and
 - (b) the decision is not to remit the case to the High Court,the decision in those proceedings becomes final when it is made.

- (8) If subsection (3) is not complied with and the person applies to the appropriate judge to be discharged, the judge must order the person's discharge, unless reasonable cause is shown for the delay.
- (9) In this section "Supreme Court devolution appeal" means an appeal to the Supreme Court against a determination of a devolution issue relating to a person's extradition.
- (10) This section applies only to Scotland."

Extradition to category 2 territories

22 Part 2 of the Extradition Act 2003 (extradition to category 2 territories) is amended as follows.

23 (1) In section 107 (detention pending conclusion of appeal under section 105), for subsection (5) substitute –

“(5) The preceding provisions of this section do not apply to Scotland.”

(2) After section 107 insert –

**“107A Detention pending conclusion of appeal under section 105:
Scotland**

- (1) This section applies if immediately after the judge orders the person's discharge the judge is informed on behalf of the category 2 territory of an intention to appeal under section 105 (“the High Court appeal”).
- (2) The judge must remand the person in custody or on bail while the High Court appeal is pending.
- (3) The High Court appeal ceases to be pending at the earliest of these times –
 - (a) when the proceedings on the appeal are abandoned;
 - (b) when the High Court –
 - (i) allows the appeal,
 - (ii) makes a direction under section 106(1)(b), or
 - (iii) dismisses the appeal.
- (4) If –
 - (a) the High Court appeal is dismissed, and
 - (b) immediately after dismissing it, the High Court is informed of an intention to bring an appeal to the Supreme Court against a determination of a relevant devolution issue (“the Supreme Court appeal”),
 the High Court must remand the person in custody or on bail while the Supreme Court appeal is pending.
- (5) The Supreme Court appeal ceases to be pending at the earliest of these times –
 - (a) the end of the period of 28 days starting with the day when the High Court appeal is dismissed (unless, within

- that period, an application is made to the High Court for permission to make the Supreme Court appeal);
- (b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);
 - (c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);
 - (d) the time when the proceedings on the Supreme Court appeal are abandoned;
 - (e) the time when there is no further step that can be taken in relation to the Supreme Court appeal by the category 2 territory (ignoring any power of a court to grant leave to take a step out of time).
- (6) If the person is remanded in custody by the judge or the High Court, the appropriate judge may later grant bail.
 - (7) In this section “relevant devolution issue” means a devolution issue relating to the person’s extradition.
 - (8) This section applies only to Scotland.”
- 24 (1) In section 112 (detention pending conclusion of appeal under section 110), for subsection (5) substitute –
- “(5) The preceding provisions of this section do not apply to Scotland.”
- (2) After section 112 insert –
- “112A Detention pending conclusion of appeal under section 110:
Scotland**
- (1) This section applies in a case where the Scottish Ministers order the person’s discharge under this Part.
 - (2) Subject to subsection (6) –
 - (a) the order made by the appropriate judge under section 92(4) (“the remand order”) remains in force until the end of the period of three days beginning with the day on which the person’s discharge is ordered;
 - (b) if within that period the Scottish Ministers are informed in writing on behalf of the category 2 territory of an intention to appeal under section 110 (“the High Court appeal”), the remand order remains in force while the appeal is pending.
 - (3) The High Court appeal ceases to be pending at the earliest of these times –
 - (a) when the proceedings on the appeal are abandoned;
 - (b) when the High Court –
 - (i) allows the appeal, or
 - (ii) dismisses the appeal.

- (4) If—
- (a) the High Court appeal is dismissed,
 - (b) immediately after dismissing it, the High Court is informed of an intention to bring an appeal to the Supreme Court against a determination of a relevant devolution issue (“the Supreme Court appeal”), and
 - (c) the remand order has remained in force until that time,
- then, subject to subsection (6), the remand order continues to remain in force while the Supreme Court appeal is pending.
- (5) The Supreme Court appeal ceases to be pending at the earliest of these times—
- (a) the end of the period of 28 days starting with the day when the High Court appeal is dismissed (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);
 - (b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);
 - (c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);
 - (d) the time when the proceedings on the Supreme Court appeal are abandoned;
 - (e) the time when there is no further step that can be taken in relation to the Supreme Court appeal by the category 2 territory (ignoring any power of a court to grant leave to take a step out of time).
- (6) If the person is remanded in custody under section 92(4), the appropriate judge may later grant bail.
- (7) In this section “relevant devolution issue” means a devolution issue relating to the person’s extradition.
- (8) This section applies only to Scotland.”

25 After section 115A insert—

“115B Detention pending conclusion of appeals relating to devolution issues

- (1) This section applies if—
- (a) on an appeal under section 103 or 108 the High Court orders the person’s discharge;
 - (b) immediately after ordering the person’s discharge, the High Court is informed of an intention to bring an appeal to the Supreme Court against a determination of a relevant devolution issue (“the Supreme Court appeal”).
- (2) The High Court must remand the person in custody or on bail while the Supreme Court appeal is pending.

- (3) If the court remands the person in custody it may later grant bail.
- (4) The Supreme Court appeal ceases to be pending at the earliest of these times –
- (a) the end of the period of 28 days starting with the day when the High Court orders the person’s discharge (unless, within that period, an application is made to the High Court for permission to make the Supreme Court appeal);
 - (b) the end of the period of 28 days starting with the day when the High Court refuses permission to make the Supreme Court appeal (unless, within that period, an application is made to the Supreme Court for permission to make the Supreme Court appeal);
 - (c) the end of the period of 28 days starting with the day on which permission is given to bring the Supreme Court appeal (unless the appeal is brought within that period);
 - (d) the time when the proceedings on the Supreme Court appeal are abandoned;
 - (e) the time when there is no further step that can be taken in relation to the Supreme Court appeal (ignoring any power of a court to grant leave to take a step out of time).
- (5) In this section “relevant devolution issue” means a devolution issue relating to the person’s extradition.
- (6) This section applies only to Scotland.”
- 26 In section 116 (appeals: general), at the beginning insert “(1)” and at the end insert –
- “(2) Subsection (1) does not prevent an appeal against a determination of a devolution issue.
- (3) In this Part “devolution issue” has the same meaning as in Schedule 6 to the Scotland Act 1998.”
- 27 (1) In section 118 (extradition following appeal), for subsection (8) substitute –
- “(8) The preceding provisions of this section do not apply to Scotland.”
- (2) After that section insert –
- “118A Extradition following appeal: Scotland**
- (1) This section applies if –
- (a) there is an appeal to the High Court under section 103, 108 or 110 against a decision or order relating to a person’s extradition to a category 2 territory, and
 - (b) the effect of the decision in the relevant proceedings is that the person must be extradited to the category 2 territory.
- (2) The “relevant proceedings” are –

- (a) the proceedings on the appeal under section 103, 108 or 110 if—
 - (i) no Supreme Court devolution appeal is made, or
 - (ii) a Supreme Court devolution appeal is made and the Supreme Court remits the case to the High Court, or
 - (b) the proceedings on a Supreme Court devolution appeal if such an appeal is made and the Supreme Court does not remit the case to the High Court.
- (3) The person must be extradited to the category 2 territory before the end of the required period, which is 28 days starting with—
- (a) the day on which the decision in the relevant proceedings becomes final, or
 - (b) the day on which the relevant proceedings are abandoned.
- (4) In a case where the relevant proceedings are proceedings on the appeal under section 103, 108 or 110 (except the case has been remitted to the High Court on a Supreme Court devolution appeal), the decision in those proceedings becomes final—
- (a) at the end of the period of 28 days starting with the day of the High Court’s decision on the appeal (unless, within that period, an application is made to the High Court for permission to make a Supreme Court devolution appeal);
 - (b) at the end of the period of 28 days starting with the day when the High Court refuses permission to make a Supreme Court devolution appeal (unless, within that period, an application is made to the Supreme Court for permission to make the appeal);
 - (c) when the Supreme Court refuses permission to make a Supreme Court devolution appeal;
 - (d) at the end of the permitted period, which is 28 days starting with the day on which permission to make a Supreme Court devolution appeal is granted, if no such appeal is brought before the end of that period.
- (5) These must be ignored for the purposes of subsection (4)—
- (a) any power of a court to extend the period permitted for applying for permission to appeal;
 - (b) any power of a court to grant permission to take a step out of time.
- (6) In a case where—
- (a) the relevant proceedings are proceedings on the appeal under section 103, 108 or 110, and
 - (b) the case has been remitted to the High Court on a Supreme Court devolution appeal,
- the decision in those proceedings becomes final when it is made.
- (7) In a case where—
- (a) the relevant proceedings are proceedings on a Supreme Court devolution appeal, and

- (b) the decision is not to remit the case to the High Court, the decision in those proceedings becomes final when it is made.
- (8) If subsection (3) is not complied with and the person applies to the appropriate judge to be discharged, the judge must order the person's discharge, unless reasonable cause is shown for the delay.
- (9) In this section "Supreme Court devolution appeal" means an appeal to the Supreme Court against a determination of a devolution issue relating to a person's extradition.
- (10) This section applies only to Scotland."
- 28 After section 118A (inserted by paragraph 27) insert—
- "118B Scottish devolution issue: remand in custody or on bail**
- (1) This section applies where, on an appeal to the Supreme Court against a determination of a devolution issue relating to a person's extradition under this Part, the Supreme Court—
- (a) remits the case to the High Court, or
- (b) orders the person's extradition.
- (2) The Supreme Court must remand the person in custody or on bail pending the person's extradition.
- (3) If the Supreme Court remands the person in custody, the High Court may later grant bail."

Saving

- 29 The powers conferred by section 177, 178 and 222 of the Extradition Act 2003 are exercisable in relation to any amendment of that Act made by this Part of this Schedule."

Schedule 19

- 137 Page 298, line 26, leave out "2" and insert "(Modification of NCA functions)"

After Schedule 19

- 138 Insert the following new Schedule—

"THE NCA: NORTHERN IRELAND

Provisions that do not extend to Northern Ireland

- 1 (1) The relevant NCA provisions do not extend to Northern Ireland.
- (2) The Secretary of State may, by order, provide that any other provision of Part 1 of this Act is not to extend to Northern Ireland.
- (3) This paragraph is subject to paragraph 2.

Power to provide for provisions to extend to Northern Ireland

- 2 The Secretary of State may, by order, provide for any of the following to extend to Northern Ireland—
- (a) any relevant NCA provision;
 - (b) any provision in respect of which an order has been made under paragraph 1(2).

Provisions extended to Northern Ireland: consequential provision

- 3 The Secretary of State may, by order, make such provision as the Secretary of State considers appropriate in consequence of, or in connection with, a provision of this Act extending to Northern Ireland by virtue of an order under paragraph 2.

Provisions not extending to Northern Ireland: consequential provision

- 4 The Secretary of State may, by order, make such provision as the Secretary of State considers appropriate in consequence of, or in connection with, a provision of this Act not extending to Northern Ireland by virtue of—
- (a) paragraph 1(1), or
 - (b) an order under paragraph 1(2).

NCA functions in Northern Ireland

- 5 The Secretary of State may, by order, make such provision as the Secretary of State considers appropriate for modifying the ways in which—
- (a) NCA functions are exercised in Northern Ireland, or
 - (b) the exercise of NCA functions in Northern Ireland is planned or supervised.

Consent of Northern Ireland Assembly to transferred provision

- 6 (1) The Secretary of State may not make an order under this Schedule which makes transferred provision unless the Northern Ireland Assembly consents to the making of that provision.
- (2) In this paragraph “transferred provision” means provision which, if it were contained in an Act of the Northern Ireland Assembly—
- (a) would be within the legislative competence of the Assembly, and
 - (b) would deal with a transferred matter without being ancillary to other provision (whether in the Act or previously enacted) which deals with an excepted matter or reserved matter.

Orders under this Schedule: particular provision

- 7 (1) The provision that may be made by an order under paragraph 2, 3, 4 or 5 (whether by virtue of that paragraph or section 39(12)) includes—
- (a) provision conferring, removing or otherwise modifying a function (whether or not exercisable in, or in relation to, Northern Ireland);

- (b) provision amending, repealing, revoking or otherwise modifying any enactment (including an enactment contained in, or amended by, this Act).
- (2) The making of an order under any provision of this Schedule does not prevent—
 - (a) a further order from being made under that provision, or
 - (b) an order from being made under any other provision of this Schedule.
 - (3) An order under paragraph 2 or 3 may modify or reverse the effects of an order made under paragraph 4.
 - (4) Sub-paragraphs (1) to (3) do not limit the powers conferred by paragraphs 2, 3, 4 and 5.
 - (5) In this paragraph “function” includes—
 - (a) an NCA function, and
 - (b) a function of the Secretary of State.

Interpretation

- 8 Expressions used in this Schedule and in Part 1 of this Act have the same meanings in this Schedule as in that Part.
- 9 For the purposes of this Schedule, each of the provisions of this Act specified in the following table (including any amendment, repeal or revocation made by such a provision) is a “relevant NCA provision”.

The relevant NCA provisions

Section 2	– subsection (2)(a) so far as it requires consultation with the Department of Justice in Northern Ireland
Section 3	– subsection (6)(a) so far as it requires consultation with the Department of Justice in Northern Ireland – subsection (7)(b) – subsection (8)(c)
Section 10	– subsection (8)
Schedule 1	– paragraph 7(1)(b) – paragraph 8(3)(b)
Schedule 2	– paragraph 5(b) – paragraph 6(2)(b)(ii), (4) and (5) – paragraph 8(4) and (5)

The relevant NCA provisions

Schedule 3	<ul style="list-style-type: none"> – paragraph 1(2) so far as it imposes a duty on: <ul style="list-style-type: none"> (a) a member of the Police Service of Northern Ireland, or (b) a person operating in Northern Ireland who falls within paragraph 1(3)(f) – paragraph 3 so far as it relates to the Chief Constable of the Police Service of Northern Ireland – paragraph 14 – paragraph 15 – paragraph 25 – paragraph 26(3)(b)
Schedule 5	<ul style="list-style-type: none"> – paragraph 11(1)(c) – paragraph 11(6) to (8) – in paragraph 11(9), the definitions of “Northern Ireland general authorisation” and “Northern Ireland operational authorisation” – paragraph 13 – in paragraph 30, the definition of “powers and privileges of a Northern Ireland constable”
Schedule 6	– paragraph 19
Schedule 8	– the provisions of Part 2 and Part 3 so far as they relate to transferred matters

- 10 In this Schedule—
- “ancillary” has the meaning given in section 6(3) of the Northern Ireland Act 1998;
 - “excepted matter”, “reserved matter” and “transferred matter” have the meanings given by section 4(1) of the Northern Ireland Act 1998.”

139 Insert the following new Schedule—

“PROCEEDS OF CRIME PROVISIONS: NORTHERN IRELAND

PART 1

CIVIL RECOVERY PROVISIONS

Meaning of “relevant civil recovery provision”

- 1 For the purposes of this Part of this Schedule, each of the following is a “relevant civil recovery provision”—
- (a) section (*Civil recovery of the proceeds etc of unlawful conduct*)(2), (3), (5) and (6);
 - (b) section (*Civil recovery of the proceeds etc of unlawful conduct*)(7) so far as it relates to amendments made by section (*Civil recovery of the proceeds etc of unlawful conduct*)(2), (3) and (5) and Part 2 of

Schedule (*Proceeds of crime: civil recovery of the proceeds etc of unlawful conduct*);

- (c) each provision in Schedule (*Proceeds of crime: civil recovery of the proceeds etc of unlawful conduct*);
- (d) each amendment or repeal made by the provisions mentioned in paragraphs (a) and (c).

Relevant civil recovery provisions not to extend to Northern Ireland unless order made

- 2 (1) The relevant civil recovery provisions do not extend to Northern Ireland.
- (2) But that is subject to paragraph 3.

Power to provide for relevant civil recovery provisions to extend to Northern Ireland

- 3 The Secretary of State may, by order, provide for one or more of the relevant civil recovery provisions to extend to Northern Ireland.

Relevant civil recovery provision extending to Northern Ireland

- 4 (1) The Secretary of State may, by order, make such provision as the Secretary of State considers appropriate in consequence of, or in connection with, a relevant civil recovery provision extending to Northern Ireland.
- (2) An order under this paragraph may, in particular –
 - (a) provide for section 282A of the Proceeds of Crime Act 2002 to have effect in relation to orders made by the High Court in Northern Ireland;
 - (b) provide for an enforcement authority in relation to Northern Ireland to make requests for assistance under section 282B of that Act;
 - (c) provide for a receiver appointed under an order made by the High Court in Northern Ireland to make requests for assistance under section 282C of that Act;
 - (d) provide for the High Court in Northern Ireland or a receiver appointed by an order made by that court to make requests for assistance under section 282D of that Act;
 - (e) provide for an enforcement authority or trustee for civil recovery to make a request for assistance under section 282F of that Act where a recovery order has been made by the High Court in Northern Ireland;
 - (f) provide for section 316(8B) of that Act to have effect in relation to an enforcement authority in relation to Northern Ireland.

Relevant civil recovery provision not extending to Northern Ireland

- 5 The Secretary of State may, by order, make such provision as the Secretary of State considers appropriate in consequence of, or in connection with, a relevant civil recovery provision not extending to Northern Ireland.

Consent of Northern Ireland Assembly to transferred provision

- 6 (1) The Secretary of State may not make an order under this Part of this Schedule which makes transferred provision unless the Northern Ireland Assembly consents to the making of that provision.
- (2) In this paragraph “transferred provision” means provision which, if it were contained in an Act of the Northern Ireland Assembly –
- (a) would be within the legislative competence of the Assembly, and
 - (b) would deal with a transferred matter without being ancillary to other provision (whether in the Act or previously enacted) which deals with an excepted or reserved matter.
- (3) In sub-paragraph (2) –
- “ancillary” has the meaning given in section 6(3) of the Northern Ireland Act 1998;
 - “excepted matter”, “reserved matter” and “transferred matter” have the meanings given by section 4(1) of the Northern Ireland Act 1998.

Orders under this Part of this Schedule: particular provision

- 7 (1) The provision that may be made by an order under paragraph 3, 4 or 5 (whether by virtue of that paragraph or section 39(12)) includes –
- (a) provision conferring, removing or otherwise modifying a function (whether or not exercisable in, or in relation to, Northern Ireland);
 - (b) provision amending, repealing, revoking or otherwise modifying any enactment (including an enactment contained in, or amended by, this Act).
- (2) Such an order may provide for provision amending, repealing or otherwise modifying Chapter 2 or 4 of Part 5 of the Proceeds of Crime Act 2002 to have retrospective effect.
- (3) The making of an order under any provision of this Part of this Schedule does not prevent –
- (a) a further order from being made under that provision, or
 - (b) an order from being made under any other provision of this Part of this Schedule.
- (4) An order under paragraph 3 or 4 may modify or reverse the effects of an order made under paragraph 5.
- (5) Sub-paragraphs (1) to (4) do not limit the powers conferred by paragraphs 3, 4 and 5.
- (6) In this paragraph –
- “enactment” means any enactment, whenever passed or made, contained in –
- (a) an Act of Parliament;
 - (b) an Act of the Scottish Parliament;
 - (c) Northern Ireland legislation;
 - (d) a Measure or Act of the National Assembly for Wales;

- (e) an instrument made under any such Act, legislation or Measure;
 - (f) any other subordinate legislation (within the meaning of the Interpretation Act 1978);
- “function” means a function of any description, including a power or duty (whether conferred by an enactment or arising otherwise).

PART 2

INVESTIGATION PROVISIONS

Meaning of “relevant investigation provision”

- 8 For the purposes of this Part of this Schedule, each of the following is a “relevant investigation provision” –
- (a) each provision in paragraphs 2 to 13, 25 to 27, 29 and 30 of Schedule (*Proceeds of crime: investigations*) (including each amendment or repeal made by those provisions), and
 - (b) section (*Investigations*) so far as it relates to each of those provisions.

Relevant investigation provisions not to extend to Northern Ireland unless order made

- 9 (1) The relevant investigation provisions do not extend to Northern Ireland.
 (2) But that is subject to paragraph 10.

Power to provide for relevant investigation provisions to extend to Northern Ireland

- 10 The Secretary of State may, by order, provide for one or more of the relevant investigation provisions to extend to Northern Ireland.

Relevant investigation provision extending to Northern Ireland

- 11 The Secretary of State may, by order, make such provision as the Secretary of State considers appropriate in consequence of, or in connection with, a relevant investigation provision extending to Northern Ireland.

Relevant investigation provision not extending to Northern Ireland

- 12 The Secretary of State may, by order, make such provision as the Secretary of State considers appropriate in consequence of, or in connection with, a relevant investigation provision not extending to Northern Ireland.

Consent of Northern Ireland Assembly to transferred provision

- 13 (1) The Secretary of State may not make an order under this Part of this Schedule which makes transferred provision unless the Northern Ireland Assembly consents to the making of that provision.

- (2) In this paragraph “transferred provision” means provision which, if it were contained in an Act of the Northern Ireland Assembly –
- (a) would be within the legislative competence of the Assembly, and
 - (b) would deal with a transferred matter without being ancillary to other provision (whether in the Act or previously enacted) which deals with an excepted matter or a reserved matter.
- (3) In sub-paragraph (2) –
- “ancillary” has the meaning given in section 6(3) of the Northern Ireland Act 1998;
- “excepted matter”, “reserved matter” and “transferred matter” have the meanings given by section 4(1) of the Northern Ireland Act 1998.

Orders under this Part of this Schedule: particular provision

- 14 (1) The provision that may be made by an order under paragraph 10, 11 or 12 (whether by virtue of that paragraph or section 39(12)) includes –
- (a) provision conferring, removing or otherwise modifying a function (whether or not exercisable in, or in relation to, Northern Ireland);
 - (b) provision amending, repealing, revoking or otherwise modifying any enactment (including an enactment contained in, or amended by, this Act).
- (2) The making of an order under any provision of this Part of this Schedule does not prevent –
- (a) a further order from being made under that provision, or
 - (b) an order from being made under any other provision of this Part of this Schedule.
- (3) An order under paragraph 10 or 11 may modify or reverse the effects of an order made under paragraph 12.
- (4) Sub-paragraphs (1) to (3) do not limit the powers conferred by paragraphs 10, 11 and 12.
- (5) In this paragraph –
- “enactment” means any enactment, whenever passed or made, contained in –
- (a) an Act of Parliament;
 - (b) an Act of the Scottish Parliament;
 - (c) Northern Ireland legislation;
 - (d) a Measure or Act of the National Assembly for Wales;
 - (e) an instrument made under any such Act, legislation or Measure;
 - (f) any other subordinate legislation (within the meaning of the Interpretation Act 1978);
- “function” means a function of any description, including a power or duty (whether conferred by an enactment or arising otherwise).”

