Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 11

CO-OPERATION

443 Enforcement in different parts of the United Kingdom

(1) Her Majesty may by Order in Council make provision—

(a) for an order made by a court under Part 2 to be enforced in Scotland or Northern Ireland;

(b) for an order made by a court under Part 3 to be enforced in England and Wales or Northern Ireland;

(c) for an order made by a court under Part 4 to be enforced in England and Wales or Scotland;

(d) for an order made under Part 8 in one part of the United Kingdom to be enforced in another part;

(e) for a warrant issued under Part 8 in one part of the United Kingdom to be executed in another part.

(2) Her Majesty may by Order in Council make provision—

(a) for a function of a receiver appointed in pursuance of Part 2 to be exercisable in Scotland or Northern Ireland;

(b) for a function of an administrator appointed in pursuance of Part 3 to be exercisable in England and Wales or Northern Ireland;

(c) for a function of a receiver appointed in pursuance of Part 4 to be exercisable in England and Wales or Scotland.

(3) An Order under this section may include—

(a) provision conferring and imposing functions on the prosecutor and the Director;

(b) provision about the registration of orders and warrants;

(c) provision allowing directions to be given in one part of the United Kingdom about the enforcement there of an order made or warrant issued in another part;

(d) provision about the authentication in one part of the United Kingdom of an order made or warrant issued in another part.

(4) An Order under this section may—

(a) amend an enactment;

(b) apply an enactment (with or without modifications).

444 External requests and orders

(1) Her Majesty may by Order in Council—

(a) make provision for a prohibition on dealing with property which is the subject of an external request;

(b) make provision for the realisation of property for the purpose of giving effect to an external order.

(2) An Order under this section may include provision which (subject to any specified modifications) corresponds to any provision of Part 2, 3 or 4 or Part 5 except Chapter 3.

(3) An Order under this section may include—

(a) provision about the functions of the Secretary of State, the Lord Advocate, the Scottish Ministers and the Director in relation to external requests and orders;

(b) provision about the registration of external orders;

(c) provision about the authentication of any judgment or order of an overseas court, and of any other document connected with such a judgment or order or any proceedings relating to it;

(d) provision about evidence (including evidence required to establish whether proceedings have been started or are likely to be started in an overseas court);

(e) provision to secure that any person affected by the implementation of an external request or the enforcement of an external order has an opportunity to make representations to a court in the part of the United Kingdom where the request is being implemented or the order is being enforced.

445 External investigations

(1) Her Majesty may by Order in Council make—

(a) provision to enable orders equivalent to those under Part 8 to be made, and warrants equivalent to those under Part 8 to be issued, for the purposes of an external investigation;

(b) provision creating offences in relation to external investigations which are equivalent to offences created by Part 8.

(2) An Order under this section may include—

(a) provision corresponding to any provision of Part 8 (subject to any specified modifications);

(b) provision about the functions of the Secretary of State, the Lord Advocate, the Scottish Ministers, the Director, the Director General of the National Criminal Intelligence Service, the Director of the Serious Fraud Office, constables and customs officers;

(c) provision about evidence (including evidence required to establish whether an investigation is being carried out in a country or territory outside the United Kingdom).

(3) But an Order under this section must not provide for a disclosure order to be made for the purposes of an external investigation into whether a money laundering offence has been committed.

446 Rules of court

Rules of court may make such provision as is necessary or expedient to give effect to an Order in Council made under this Part (including provision about the exercise of functions of a judge conferred or imposed by the Order).

447 Interpretation

(1) An external request is a request by an overseas authority to prohibit dealing with relevant property which is identified in the request.

(2) An external order is an order which—
- (a) is made by an overseas court where property is found or believed to have been obtained as a result of or in connection with criminal conduct, and
- (b) is for the recovery of specified property or a specified sum of money.

(3) An external investigation is an investigation by an overseas authority into—
- (a) whether property has been obtained as a result of or in connection with criminal conduct, or
- (b) whether a money laundering offence has been committed.

(4) Property is all property wherever situated and includes—
- (a) money;
- (b) all forms of property, real or personal, heritable or moveable;
- (c) things in action and other intangible or incorporeal property.

(5) Property is obtained by a person if he obtains an interest in it.

(6) References to an interest, in relation to property other than land, include references to a right (including a right to possession).

(7) Property is relevant property if there are reasonable grounds to believe that it may be needed to satisfy an external order which has been or which may be made.

(8) Criminal conduct is conduct which—
- (a) constitutes an offence in any part of the United Kingdom, or
- (b) would constitute an offence in any part of the United Kingdom if it occurred there.

(9) A money laundering offence is conduct carried out in a country or territory outside the United Kingdom and which if carried out in the United Kingdom would constitute any of the following offences—
- (a) an offence under section 327, 328 or 329;
- (b) an attempt, conspiracy or incitement to commit an offence specified in paragraph (a);

(c) aiding, abetting, counselling or procuring the commission of an offence specified in paragraph (a).

(10) An overseas court is a court of a country or territory outside the United Kingdom.

(11) An overseas authority is an authority which has responsibility in a country or territory outside the United Kingdom—

(a) for making a request to an authority in another country or territory (including the United Kingdom) to prohibit dealing with relevant property,

(b) for carrying out an investigation into whether property has been obtained as a result of or in connection with criminal conduct, or

(c) for carrying out an investigation into whether a money laundering offence has been committed.

(12) This section applies for the purposes of this Part.