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STATUTORY INSTRUMENTS

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**2003 No. 425**

**The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003**

**PART 4**

**ENFORCEMENT IN SCOTLAND OF ENGLISH, WELSH AND NORTHERN IRELAND ORDERS AND WARRANTS**

**English or Welsh production orders**

**23.—**(1) This article applies where—

- (a) an English or Welsh production order requires a person in Scotland in possession or control of material in Scotland to produce the material or give access to the material; or
- (b) an order to grant entry to premises in Scotland is made in respect of an English or Welsh production order under section 347 of the Act.

(2) The production order or the order to grant entry, as the case may be, may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a constable of a police force in Scotland or an English or Welsh appropriate officer serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 446 of the Act) or other requirements in law as to the service of documents do not apply.

(3) Sections 345(4), 347(3), 348(5) and (7) and 349 of the Act have effect with the modifications in paragraph (4).

(4) The modifications are that for “an appropriate officer” in each place where it occurs, there is substituted, “whichever of an English or Welsh appropriate officer, a constable of a police force in Scotland or an English or Welsh appropriate officer and a constable of a police force in Scotland acting together the order specifies”.

(5) The sheriff has, in relation to the enforcement of the production order, the same powers as if he had made the order himself and proceedings for or with respect to any failure to comply with the order may be taken accordingly.

(6) Section 348(1) to (4) of the Act (further provisions) does not apply and section 383(1) and (2) of the Act (further provisions) has effect as if the production order were a Scottish production order.

(7) Section 350 of the Act (government departments) does not apply and section 385 of the Act (government departments) has effect as if the production order were a Scottish production order and, in particular, if the order is not brought to the attention of the officer concerned within the period stated in the order (in pursuance of section 345(4) of the Act) the person on whom it is served must report the reasons for the failure to the sheriff.

## **Northern Ireland production orders**

**24.**—(1) This article applies where—

- (a) a Northern Ireland production order requires a person in Scotland in possession or control of material in Scotland to produce the material or give access to the material; or
- (b) an order to grant entry to premises in Scotland is made in respect of a Northern Ireland production order under section 347 of the Act.

(2) The production order or the order to grant entry, as the case may be, may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by a constable of a police force in Scotland or a Northern Ireland appropriate officer serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 446 of the Act) or other requirements in law as to the service of documents do not apply.

(3) Sections 345(4), 347(3), 348(5) and (7) and 349 of the Act have effect with the modifications in paragraph (4).

(4) The modifications are that for “an appropriate officer” in each place where it occurs, there is substituted, “whichever of a constable of a police force in Scotland, a Northern Ireland appropriate officer or a constable of a police force in Scotland and a Northern Ireland appropriate officer acting together the order specifies”.

(5) The sheriff has, in relation to the enforcement of the production order, the same powers as if he had made the order himself and proceedings for or with respect to any failure to comply with the order may be taken accordingly.

(6) Section 348(1) to (4) of the Act (further provisions) does not apply and section 383(1) and (2) of the Act (further provisions) has effect as if the production order were a Scottish production order.

(7) Section 350 of the Act (government departments) does not apply and section 385 of the Act (government departments) has effect as if the production order were a Scottish production order and, in particular, if the order is not brought to the attention of the officer concerned within the period stated in the order (in pursuance of section 345(4) of the Act) the person on whom it is served must report the reasons for the failure to the sheriff.

## **English or Welsh search and seizure warrants**

**25.**—(1) This article applies where an English or Welsh search and seizure warrant authorises entry into and search of premises in Scotland.

(2) Section 352(4) of the Act (definition of search and seizure warrant) has effect with the modification that for “an appropriate person”, there is substituted “one or more appropriate persons, as the warrant specifies”.

(3) Section 352(5) of the Act (definition of appropriate person) has effect with the modifications in paragraph (4).

(4) The modifications are that for paragraphs (a) and (b), there are substituted—

- “(a) a constable of a police force in England and Wales; or
- (b) a constable of a police force in Scotland.”

(5) Section 354 of the Act (further provisions) does not apply and section 389 of the Act (further provisions) applies as if the warrant were a Scottish search warrant.

(6) Article 3 of the Police and Criminal Evidence Order (application of section 16 of the Police and Criminal Evidence Act 1984) does not apply to the execution of the warrant in Scotland.

(7) Section 20 of the Police and Criminal Evidence Act 1984 (extension of powers to computerised information) does not apply to a power of seizure under the warrant exercised in Scotland.

(8) Section 390(3) of the Act (which deals with computerised information in relation to Scottish search warrants) has effect in relation to the execution of the warrant in Scotland as it has effect in relation to the execution of a Scottish search warrant.

(9) Articles 4 and 5 of the Police and Criminal Evidence Order (application of sections 21 and 22 of the Police and Criminal Evidence Act 1984) have effect as if the warrant had been executed in England and Wales.

(10) Section 390(4) of the Act (which states that copies may be taken of material seized under a Scottish search warrant) does not apply.

### **Northern Ireland search and seizure warrants**

**26.**—(1) This article applies where a Northern Ireland search and seizure warrant authorises entry into and search of premises in Scotland.

(2) Section 352(4) of the Act (definition of search and seizure warrant) has effect with the modification that for “an appropriate person”, there is substituted “one or more appropriate persons, as the warrant specifies”.

(3) Section 352(5) of the Act (definition of appropriate person) has effect with the modifications in paragraph (4).

(4) The modifications are that for paragraphs (a) and (b), there are substituted—

“(a) a constable of the Police Service of Northern Ireland; or

(b) a constable of a police force in Scotland.”.

(5) Section 354 of the Act (further provisions) does not apply and section 389 of the Act (further provisions) applies as if the warrant were a Scottish search warrant.

(6) Article 7 of the Police and Criminal Evidence Order (application of article 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989) does not apply to the execution of the warrant in Scotland.

(7) Article 22 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (extension of powers to computerised information) does not apply to a power of seizure under the warrant exercised in Scotland.

(8) Section 390(3) of the Act (which deals with computerised information in relation to Scottish search warrants) has effect in relation to the execution of the warrant in Scotland as it has effect in relation to the execution of a Scottish search warrant.

(9) Articles 8 and 9 of the Police and Criminal Evidence Order (application of articles 23 and 24 of the Police and Criminal Evidence (Northern Ireland) Order 1989) have effect as if the warrant had been executed in Northern Ireland.

(10) Section 390(4) of the Act (which states that copies may be taken of material seized under a Scottish search warrant) does not apply.

### **English or Welsh disclosure orders**

**27.**—(1) Paragraphs (2) to (5) apply where the Director gives a notice under an English or Welsh disclosure order which requires a person in Scotland to—

(a) answer questions in Scotland; or

(b) provide information or produce documents in Scotland.

(2) Section 359 of the Act (offences) does not apply and section 393 of the Act (offences) applies as if the order were a Scottish disclosure order.

(3) Section 360 of the Act (statements) applies in relation to criminal proceedings brought in Scotland, as well as criminal proceedings brought in England and Wales, with the modifications in paragraph (4).

(4) The modifications are that in subsection (2)—

(a) in paragraph (b), after “section 359(1) or (3)”, there is inserted “or an offence under section 393(1) or (3)”;

(b) in paragraph (c), after “prosecution for”, there is inserted “perjury in the law of Scotland”.

(5) Section 361 of the Act (further provisions) does not apply and section 395 of the Act (further provisions) applies as if the order were a Scottish disclosure order, with the modification that for “the Lord Advocate”, in each place where it occurs, there is substituted “the Director”.

(6) Paragraphs (7) and (8) apply where the Director gives a notice under an English or Welsh disclosure order which requires a person in Scotland to—

(a) answer questions in England and Wales; or

(b) provide information or produce documents in England and Wales.

(7) Section 393 of the Act (offences) applies as if the order were a Scottish disclosure order, as well as section 359 of the Act (offences) and, for the avoidance of doubt, section 395 of the Act does not apply in determining whether the person has committed an offence under section 393(1) or (3) of the Act.

(8) Section 360 of the Act (statements) does not prevent a statement made by the person in response to a requirement imposed by the notice from being used in evidence on a prosecution in Scotland for an offence under section 393(1) or (3).

### **Northern Ireland disclosure orders**

**28.**—(1) Paragraphs (2) to (5) apply where the Director gives a notice under a Northern Ireland disclosure order which requires a person in Scotland to—

(a) answer questions in Scotland; or

(b) provide information or produce documents in Scotland.

(2) Section 359 of the Act (offences) does not apply and section 393 of the Act (offences) applies as if the order were a Scottish disclosure order.

(3) Section 360 of the Act (statements) applies in relation to criminal proceedings brought in Scotland, as well as criminal proceedings brought in Northern Ireland, with the modifications in paragraph (4).

(4) The modifications are that in subsection (2)—

(a) in paragraph (b), after “section 359(1) or (3)”, there is inserted “or an offence under section 393(1) or (3)”;

(b) in paragraph (c), after “prosecution for”, there is inserted “perjury in the law of Scotland”.

(5) Section 361 of the Act (further provisions) does not apply and section 395 of the Act (further provisions) applies as if the order were a Scottish disclosure order, with the modification that for “the Lord Advocate”, in each place where it occurs, there is substituted “the Director”.

(6) Paragraphs (7) and (8) apply where the Director gives a notice under a Northern Ireland disclosure order which requires a person in Scotland to—

(a) answer questions in Northern Ireland; or

(b) provide information or produce documents in Northern Ireland.

(7) Section 393 of the Act (offences) applies as if the order were a Scottish disclosure order, as well as section 359 of the Act (offences) and, for the avoidance of doubt, section 395 of the Act does not apply in determining whether the person has committed an offence under section 393(1) or (3) of the Act.

(8) Section 360 of the Act (statements) does not prevent a statement made by the person in response to a requirement imposed by the notice from being used in evidence on a prosecution in Scotland for an offence under section 393(1) or (3).

#### **English or Welsh customer information orders**

**29.**—(1) This article applies where an English or Welsh appropriate officer gives a notice under an English or Welsh customer information order which requires a financial institution in Scotland to provide customer information.

(2) Section 400 of the Act (offences) applies as if the order were a Scottish customer information order, as well as section 366 of the Act (offences).

(3) Section 367 of the Act (statements) applies in relation to criminal proceedings brought in Scotland, as well as criminal proceedings brought in England and Wales, with the modification that in paragraph (b) of subsection (2), after “section 366(1) or (3)”, there is inserted “or an offence under section 400(1) or (3)”.

(4) Section 402 of the Act (further provisions) applies as if the order were a Scottish customer information order.

#### **Northern Ireland customer information orders**

**30.**—(1) This article applies where a Northern Ireland appropriate officer gives a notice under a Northern Ireland customer information order which requires a financial institution in Scotland to provide customer information.

(2) Section 400 of the Act (offences) applies as if the order were a Scottish customer information order, as well as section 366 of the Act (offences).

(3) Section 367 of the Act (statements) applies in relation to criminal proceedings brought in Scotland, as well as criminal proceedings brought in Northern Ireland, with the modification that in paragraph (b) of subsection (2), after “section 366(1) or (3)”, there is inserted “or an offence under section 400(1) or (3)”.

(4) Section 402 of the Act (further provisions) applies as if the order were a Scottish customer information order.

#### **English or Welsh account monitoring orders**

**31.**—(1) This article applies where an English or Welsh account monitoring order is made in respect of a financial institution in Scotland.

(2) The account monitoring order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh appropriate officer or a constable of a police force in Scotland serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 446 of the Act) or other requirements in law as to the service of documents do not apply.

(3) Section 370(6) of the Act (definition of account monitoring order) has effect with the modification that for “an appropriate officer”, there is substituted, “whichever of an English or Welsh

appropriate officer, a constable of a police force in Scotland or an English or Welsh appropriate officer and a constable of a police force in Scotland acting together the order specifies”.

(4) The sheriff has, in relation to the enforcement of the account monitoring order, the same powers as if he had made the order himself and proceedings for or with respect to any failure to comply with the order may be taken accordingly.

(5) Section 372 of the Act (statements) applies to criminal proceedings brought in Scotland, as well as criminal proceedings brought in England and Wales.

(6) Section 407 of the Act (further provisions) has effect as if the order were a Scottish account monitoring order.

### **Northern Ireland account monitoring orders**

**32.**—(1) This article applies where a Northern Ireland account monitoring order is made in respect of a financial institution in Scotland.

(2) The account monitoring order may be served—

(a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or

(b) by a Northern Ireland appropriate officer or a constable of a police force in Scotland serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 446 of the Act) or other requirements in law as to the service of documents do not apply.

(3) Section 370(6) of the Act (definition of account monitoring order) has effect with the modification that for “an appropriate officer”, there is substituted, “whichever of a Northern Ireland appropriate officer, a constable of a police force in Scotland or a Northern Ireland appropriate officer and a constable of a police force in Scotland acting together the order specifies”.

(4) The sheriff has, in relation to the enforcement of the account monitoring order, the same powers as if he had made the order himself and proceedings for or with respect to any failure to comply with the order may be taken accordingly.

(5) Section 372 of the Act (statements) applies to criminal proceedings brought in Scotland, as well as criminal proceedings brought in Northern Ireland.

(6) Section 407 of the Act (further provisions) has effect as if the order were a Scottish account monitoring order.