

Draft Order laid before Parliament under section 459(6)(a) of the Proceeds of Crime Act 2002, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2003 No.

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002
(Disclosure of Information) Order 2003

Made - - - - 2003

Coming into force in accordance with article 1

Whereas a draft of this Order has been laid before Parliament and approved by a resolution of each House, in accordance with section 459(6)(a) of the Proceeds of Crime Act 2002⁽¹⁾;

Now, therefore, the Secretary of State, in exercise of the powers conferred on him by sections 436(6)⁽²⁾ and 438(9) of the Proceeds of Crime Act 2002, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (Disclosure of Information) Order 2003 and shall come into force on 24th February 2003 or, if this Order has not been made by 23rd February 2003, on the day after the day on which it is made.

Disclosure of information to Director

2. For the purposes of section 436 of the Proceeds of Crime Act 2002, the persons listed in column 1 of the Schedule to this Order are designated as permitted persons in respect of the functions specified in relation to those persons in column 2 of the Schedule to this Order, being functions which the Secretary of State believes are of a public nature.

Disclosure of information by Director

3. The following functions are designated for the purposes of section 438 of the Proceeds of Crime Act 2002, being functions which the Secretary of State thinks are of a public nature—

- (a) protecting public health;

(1) 2002 c. 9.

(2) Section 436(6) is qualified by section 436(7) of the Proceeds of Crime Act 2002 (c. 29).

- (b) the functions of the Financial Services Authority under the Financial Services and Markets Act 2000(3).

Home Office
2003

Parliamentary Under-Secretary of State

THE SCHEDULE

Article 2

<i>Column 1</i>	<i>Column 2</i>
The Secretary of State	<p>Functions exercised for the purposes of—</p> <p>(a) (a) the prevention, detection, investigation or prosecution of offences relating to a social security matter or a scheme or arrangement under section 2 of the Employment and Training Act 1973(4); or</p> <p>(b) (b) checking the accuracy of any benefit, payment or advantage in a social security matter or a scheme or arrangement under section 2 of the Employment and Training Act 1973.</p> <p>Functions exercised for the purposes of prevention, detection, investigation or prosecution of offences relating to the use of motor vehicles, passenger vehicles or goods vehicles.</p> <p>Functions under—</p> <p>(a) (a) the Employment Agencies Act 1973(5);</p> <p>(b) (b) Part XIV of the Companies Act 1985(6);</p> <p>(c) (c) Part III of the Companies Act 1989(7);</p> <p>(d) (d) the Export of Goods (Control) Order 1994(8);</p> <p>(e) (e) Part XI of the Financial Services and Markets Act 2000(9); and</p> <p>(f) (f) the Dual-Use Items (Export Control) Regulations 2000(10).</p>
An officer authorised under section 9 of the Employment Agencies Act 1973.	Functions under section 9 of the Employment Agencies Act 1973.

(4) 1973 c. 50; section 2 was amended by section 25(1) of the Employment Act 1988 (c. 19), section 29(4) of and Schedule 7 to the Employment Act 1989 (c. 38) and section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(5) 1973 c. 35.

(6) 1985 c. 6.

(7) 1989 c. 40.

(8) S.I.1994/1191, which is amended by S.I. 1994/2711, S.I. 1996/2663, S.I. 1997/323, S.I. 1997/2758, S.I. 1999/63, S.I. 1999/1777, S.I. 1999/3411, S.I. 2000/109, S.I. 2000/1239, S.I. 2000/2264, S.I. 2000/2618, S.I. 2001/729, S.I. 2001/3166 and S.I. 2002/2059.

(9) 2000 c. 8.

(10) S.I. 2000/2620 which is amended by S.I. 2000/3304, S.I. 2001/1344, S.I. 2002/50 and S.I. 2002/2033.

<i>Column 1</i>	<i>Column 2</i>
A person appointed or authorised to exercise powers under Part XIV of the Companies Act 1985.	Functions under Part XIV of the Companies Act 1985.
A person appointed to conduct an investigation under Part XI of the Financial Services and Markets Act 2000.	Functions under Part XI of the Financial Services and Markets Act 2000.
The Civil Aviation Authority	Functions under— (a) the Civil Aviation Act 1982 (11) ; (b) Part IV and sections 69 and 73 of the Airports Act 1986 (12) ; and (c) Part I of the Transport Act 2000 (13) .
The Gaming Board for Great Britain	Functions under the Gaming Act 1968 (14) and the Lotteries and Amusement Act 1976 (15) .
The Common Services Agency for the Scottish Health Service	Functions under article 3 of the National Health Service (Functions of the Common Services Agency)(Scotland) Order 1974 (16) exercised for the purposes of preventing or detecting crime.
A financial investigator appointed under article 49 of the Proceeds of Crime (Northern Ireland) Order 1996 (17) .	Functions under articles 50 and 51 of, and Schedule 2 to, the Proceeds of Crime (Northern Ireland) Order 1996 (18) .
The department for Social Development in Northern Ireland.	Functions exercised for the purposes of— (a) the prevention, detection, investigation or prosecution of offences relating to a social security matter; or (b) checking the accuracy, of any benefit, payment or advantage in a social security matter.
The department for Employment and Learning in Northern Ireland.	Functions exercised for the purposes of— (a) (a) the prevention, detection, investigation or prosecution of offences relating to a scheme or arrangement under section 1 of the Employment and Training Act (Northern Ireland) 1950 (19) ; or (b) checking the accuracy of any benefit, payment or advantage in a scheme or arrangement under section 1 of

(11) 1982 c. 16.

(12) 1986 c. 31.

(13) 2000 c. 38.

(14) 1968 c. 65.

(15) 1976 c. 32.

(16) S.I. 1974/467. Article 3 is amended by S.I. 1991/900 and S.S.I. 2000/224.

(17) S.I. 1996/1299 (N.I. 9).

(18) Articles 49, 50 and 51 and Schedule 2 are amended by the Financial Investigators (Northern Ireland) Order 2001 (S.I. 2001/1866 (N.I. 1)) and the Proceeds of Crime Act 2002.

(19) 1950 c. 29; section 1 was extended by S.I. 1974/2144 (N.I. 7) and amended by S.I. 1988/1087 (N.I. 10) and S.I. 1990/1200 (N.I. 8). These functions was transferred under S.R. 1999/481.

<i>Column 1</i>	<i>Column 2</i>
The department for the Environment in Northern Ireland.	the Employment and Training Act (Northern Ireland) 1950. Functions exercised for the purposes of the prevention, detection, investigation or prosecution of offences relating to the use of motor vehicles, passenger vehicles or goods vehicles.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the disclosure of information to and by the Director of the Assets Recovery Agency. The Director is established under Part 1 of the Proceeds of Crime Act 2002 (“the Act”) and has functions in relation to criminal confiscation, civil recovery of the proceeds of unlawful conduct, taxation and related investigations.

Article 2 deals with disclosure of information to the Director. It introduces the Schedule to this Order which designates the persons who (in addition to the persons listed in section 436 of the Act) are permitted to disclose information to the Director and the functions in respect of which they may disclose information.

Article 3 deals with disclosure of information by the Director and designates the functions (in addition to the functions listed in section 438 of the Act) for the purposes of the exercise of which the Director may disclose information.

By virtue of sections 436(3) and 438(8), this Order has effect subject to the provisions of the Data Protection Act 1998 and Part 1 of the Regulation of Investigatory Powers Act 2000.