



Criminal Justice Act 1987

1987 CHAPTER 38

PART I

FRAUD

Serious Fraud Office

2 Director's investigation powers.

- (1) The powers of the Director under this section shall be exercisable, but only for the purposes of an investigation under section 1 above, [^{F1}or, on a request made by the Attorney General of the Isle of Man, Jersey or Guernsey, under legislation corresponding to that section and having effect in the Island whose [^{F2}an authority entitled to make such a request],] in any case in which it appears to him that there is good reason to do so for the purpose of investigating the affairs, or any aspect of the affairs, of any person.

[^{F3}(1A) The authorities entitled to request the Director to exercise his powers under this section are—

- (a) the Attorney-General of the Isle of Man, Jersey or Guernsey, acting under legislation corresponding to section 1 of this Act and having effect in the Island whose Attorney-General makes the request; and
- (b) the Secretary of State acting under section 4(2A) of the ^{M1}Criminal Justice (International Co-operation) Act 1990, in response to a request received by him from an overseas court, tribunal or authority (an “overseas authority”).

(1B) The Director shall not exercise his powers on a request from the Secretary of State acting in response to a request received from an overseas authority within subsection (1A)(b) above unless it appears to the Director on reasonable grounds that the offence in respect of which he has been requested to obtain evidence involves serious or complex fraud.]

- (2) The Director may by notice in writing require the person whose affairs are to be investigated (“the person under investigation”) or any other person whom he has

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reason to believe has relevant information to [F⁴answer questions or otherwise furnish information with respect to any matter relevant to the investigation at a specified place and either at a specified time or forthwith].

- (3) The Director may by notice in writing require the person under investigation or any other person to produce at [F⁵such place as may be specified in the notice and either forthwith or at such time as may be so specified,]any specified documents which appear to the Director to relate to any matter relevant to the investigation or any documents of a specified [F⁵description]which appear to him so to relate; and—
- (a) if any such documents are produced, the Director may—
 - (i) take copies or extracts from them;
 - (ii) require the person producing them to provide an explanation of any of them;
 - (b) if any such documents are not produced, the Director may require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.
- (4) Where, on information on oath laid by a member of the Serious Fraud Office, a justice of the peace is satisfied, in relation to any documents, that there are reasonable grounds for believing—
- (a) that—
 - (i) a person has failed to comply with an obligation under this section to produce them;
 - (ii) it is not practicable to serve a notice under subsection (3) above in relation to them; or
 - (iii) the service of such a notice in relation to them might seriously prejudice the investigation; and
 - (b) that they are on premises specified in the information,
- he may issue such a warrant as is mentioned in subsection (5) below.
- (5) The warrant referred to above is a warrant authorising any constable—
- (a) to enter (using such force as is reasonably necessary for the purpose) and search the premises, and
 - (b) to take possession of any documents appearing to be documents of the description specified in the information or to take in relation to any documents so appearing any other steps which may appear to be necessary for preserving them and preventing interference with them.
- (6) Unless it is not practicable in the circumstances, a constable executing a warrant issued under subsection (4) above shall be accompanied by an appropriate person.
- (7) In subsection (6) above “appropriate person” means—
- (a) a member of the Serious Fraud Office; or
 - (b) some person who is not a member of that Office but whom the Director has authorised to accompany the constable.
- (8) A statement by a person in response to a requirement imposed by virtue of this section may only be used in evidence against him—
- (a) on a prosecution for an offence under subsection (14) below; or
 - (b) on a prosecution for some other offence where in giving evidence he makes a statement inconsistent with it.

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- [^{F6}(8A) Any evidence obtained by the Director for use by an overseas authority shall be furnished by him to the Secretary of State for transmission to the overseas authority which requested it.
- (8B) If in order to comply with the request of the overseas authority it is necessary for any evidence obtained by the Director to be accompanied by any certificate, affidavit or other verifying document, the Director shall also furnish for transmission such document of that nature as may be specified by the Secretary of State when asking the Director to obtain the evidence.
- (8C) Where any evidence obtained by the Director for use by an overseas authority consists of a document the original or a copy shall be transmitted, and where it consists of any other article the article itself or a description, photograph or other representation of it shall be transmitted, as may be necessary in order to comply with the request of the overseas authority.]
- (9) A person shall not under this section be required to disclose any information or produce any document which he would be entitled to refuse to disclose or produce on grounds of legal professional privilege in proceedings in the High Court, except that a lawyer may be required to furnish the name and address of his client.
- (10) A person shall not under this section be required to disclose information or produce a document in respect of which he owes an obligation of confidence by virtue of carrying on any banking business unless—
- (a) the person to whom the obligation of confidence is owed consents to the disclosure or production; or
 - (b) the Director has authorised the making of the requirement or, if it is impracticable for him to act personally, a member of the Serious Fraud Office designated by him for the purposes of this subsection has done so.
- (11) Without prejudice to the power of the Director to assign functions to members of the Serious Fraud Office, the Director may authorise any competent investigator (other than a constable) who is not a member of that Office to exercise on his behalf all or any of the powers conferred by this section, but no such authority shall be granted except for the purpose of investigating the affairs, or any aspect of the affairs, of a person specified in the authority.
- (12) No person shall be bound to comply with any requirement imposed by a person exercising powers by virtue of any authority granted under subsection (11) above unless he has, if required to do so, produced evidence of his authority.
- (13) Any person who without reasonable excuse fails to comply with a requirement imposed on him under this section shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.
- (14) A person who, in purported compliance with a requirement under this section—
- (a) makes a statement which he knows to be false or misleading in a material particular; or
 - (b) recklessly makes a statement which is false or misleading in a material particular,
- shall be guilty of an offence.
- (15) A person guilty of an offence under subsection (14) above shall—

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- (a) on conviction on indictment, be liable to imprisonment for a term not exceeding two years or to a fine or to both; and
 - (b) on summary conviction, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.
- (16) Where any person—
- (a) knows or suspects that an investigation by the police or the Serious Fraud Office into serious or complex fraud is being or is likely to be carried out; and
 - (b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of documents which he knows or suspects are or would be relevant to such an investigation,
- he shall be guilty of an offence unless he proves that he had no intention of concealing the facts disclosed by the documents from persons carrying out such an investigation.
- (17) A person guilty of an offence under subsection (16) above shall—
- (a) on conviction on indictment, be liable to imprisonment for a term not exceeding 7 years or to a fine or to both; and
 - (b) on summary conviction, be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both.
- (18) In this section, “documents” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form ^[F7]; and “evidence” (in relation to subsections (1A)(b), (8A), (8B) and (8C) above) includes documents and other articles.]
- (19) In the application of this section to Scotland, the reference to a justice of the peace is to be construed as a reference to the sheriff; and in the application of this section to Northern Ireland, subsection (4) above shall have effect as if for the references to information there were substituted references to a complaint.

Textual Amendments

- F1** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 143, **Sch. 8 para. 16**
- F2** Words in s. 2(1) substituted (3.2.1995) by 1994 c. 33, s. 164(2)(a); S.I. 1995/127, art. 2(1), **Sch. 1**
- F3** S. 2(1A)(1B) inserted (3.2.1995) by 1994 c. 33, s. 164(2)(b); S.I. 1995/127, art. 2, **Sch. 1**
- F4** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, **Sch. 15 para. 113**
- F5** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, Sch. 8 para. 16, **Sch. 15 para. 113(2)**
- F6** S. 2(8A)-(8C) inserted (3.2.1995) by 1994 c. 33, s. 164(2)(c); S.I. 1995/127, art. 2, **Sch. 1**
- F7** Words in s. 2(18) inserted (3.2.1995) by 1994 c. 33, s. 164(2)(d); S.I. 1995/127, art. 2, **Sch.1**

Marginal Citations

- M1** 1990 c. 5.

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