



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 8 **U.K.**

INVESTIGATIONS

CHAPTER 3 **S**

SCOTLAND

Production orders

381 Requirements for making of production order **S**

- (1) These are the requirements for the making of a production order.
- (2) There must be reasonable grounds for suspecting that—
 - (a) in the case of a confiscation investigation, the person the application for the order specifies as being subject to the investigation has benefited from his criminal conduct;
 - (b) [^{F1}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;]
- [^{F2}(ba) in the case of a detained cash investigation into the derivation of cash, the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
- (bb) in the case of a detained cash investigation into the intended use of cash, the property the application for the order specifies as being subject to the

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- investigation, or a part of it, is intended by any person to be used in unlawful conduct;]
- [^{F3}(bc) in the case of a detained property investigation into the derivation of property, the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
- (bd) in the case of a detained property investigation into the intended use of property, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;
- (be) in the case of a frozen funds investigation into the derivation of money held in an account in relation to which an account freezing order made under section 303Z3 has effect (a “frozen account”), the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
- (bf) in the case of a frozen funds investigation into the intended use of money held in a frozen account, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;]
- [^{F4}(bg) in the case of a cryptoasset investigation into the derivation of cryptoassets, the cryptoassets the application for the order specifies as being subject to the investigation (or, if the cryptoassets have been converted into money in accordance with Chapter 3F of Part 5, the converted cryptoassets) are recoverable property;
- (bh) in the case of a cryptoasset investigation into the intended use of cryptoassets, the cryptoassets the application for the order specifies as being subject to the investigation (or, if the cryptoassets have been converted into money in accordance with Chapter 3F of Part 5, the converted cryptoassets) are intended by any person to be used in unlawful conduct.]
- (c) in the case of a money laundering investigation, the person the application for the order specifies as being subject to the investigation has committed a money laundering offence.
- (3) There must be reasonable grounds for believing that the person the application specifies as appearing to be in possession or control of the material so specified is in possession or control of it.
- (4) There must be reasonable grounds for believing that the material is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought.
- (5) There must be reasonable grounds for believing that it is in the public interest for the material to be produced or for access to it to be given, having regard to—
- (a) the benefit likely to accrue to the investigation if the material is obtained,
- (b) the circumstances under which the person the application specifies as appearing to be in possession or control of the material holds it.

Textual Amendments

- F1** S. 381(2)(b) substituted (1.6.2015) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 19 para. 15](#); [S.I. 2015/964](#), art. 2(d) (with art. 3)
- F2** S. 381(2)(ba)(bb) inserted (18.6.2009) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 75\(5\)](#), 94(3); [S.S.I. 2009/224](#), art. 2(1)(a)

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- F3** S. 381(2)(bc)-(bf) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 61](#); [S.I. 2018/78](#), reg. 5(3)(a)(i)(ii); [S.I. 2021/724](#), reg. 4(i)
- F4** S. 381(2)(bg)(bh) inserted (26.10.2023 for specified purposes) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\)](#), s. 219(1)(2)(b), [Sch. 9 para. 8\(19\)](#)

Commencement Information

- I1** S. 381 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(5)(a)(iia) inserted by [2015 c. 30 Sch. 5 para. 15\(3\)\(d\)](#)
- s. 323(1)(hc) inserted by [2023 c. 20 Sch. para. 45\(2\)](#)
- s. 323(4)(ec) inserted by [2023 c. 20 Sch. para. 45\(3\)](#)
- s. 323(5)(ec) inserted by [2023 c. 20 Sch. para. 45\(4\)](#)