



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 8

#### INVESTIGATIONS

### CHAPTER 3

#### SCOTLAND

#### *Disclosure orders*

### 391 Disclosure orders

- (1) The High Court of Justiciary, on an application made to it by the Lord Advocate in relation to confiscation investigations [<sup>F1</sup>or money laundering investigations], or the Court of Session, on an application made to it by the Scottish Ministers in relation to civil recovery investigations, may make a disclosure order if it is satisfied that each of the requirements for the making of the order is fulfilled.
- (2) No application for a disclosure order may be made in relation to a [<sup>F2</sup>detained cash investigation]<sup>F3</sup>, a detained property investigation [<sup>F4</sup>or a frozen funds investigation]<sup>F4</sup>, a frozen funds investigation or a cryptoasset investigation]<sup>F5</sup>....
- (3) The application for a disclosure order must state that—
  - (a) a person specified in the application is subject to a confiscation investigation and the order is sought for the purposes of the investigation, or
  - <sup>F6</sup>(aa) a person specified in the application is subject to a money laundering investigation and the order is sought for the purposes of the investigation, or]
  - (b) [<sup>F7</sup>a person specified in the application or] property specified in the application is subject to a civil recovery investigation and the order is sought for the purposes of the investigation.

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**Changes to legislation:** *Proceeds of Crime Act 2002, Section 391 is up to date with all changes known to be in force on or before 17 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

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- (4) A disclosure order is an order authorising the Lord Advocate or the Scottish Ministers to give to any person the Lord Advocate considers or the Scottish Ministers consider has relevant information, notice in writing requiring him to do, with respect to any matter relevant to the investigation for the purposes of which the order is sought, any or all of the following—
- (a) answer questions, either at a time specified in the notice or at once, at a place so specified;
  - (b) provide information specified in the notice, by a time and in a manner so specified;
  - (c) produce documents, or documents of a description, specified in the notice, either at or by a time so specified or at once, and in a manner so specified.
- (5) Relevant information is information (whether or not contained in a document) which the Lord Advocate considers or the Scottish Ministers consider to be relevant to the investigation.
- (6) A person is not bound to comply with a requirement imposed by a notice given under a disclosure order unless evidence of authority to give the notice is produced to him.

#### Textual Amendments

- F1** Words in s. 391(1) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 8(2)(a)**, 58(1)(6); S.I. 2018/78, reg. 3(b)
- F2** Words in s. 391(2) inserted (18.6.2009) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(3), **Sch. 10 para. 20**; S.I. 2009/224, art. 2(1)(d)(ii)
- F3** Words in s. 391(2) 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. 67**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)
- F4** Words in s. 391(2) substituted (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(25)**
- F5** Words in s. 391(2) omitted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by virtue of [Criminal Finances Act 2017 \(c. 22\)](#), ss. 8(2)(b), 58(1)(6); S.I. 2018/78, reg. 3(b)
- F6** S. 391(3)(aa) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 8(2)(c)**, 58(1)(6); S.I. 2018/78, reg. 3(b)
- F7** Words in s. 391(3)(b) inserted (1.6.2015 for E.W.S.) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 19 para. 18**; S.I. 2015/964, art. 2(d) (with art. 3)

#### Commencement Information

- I1** S. 391 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)

**Changes to legislation:**

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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\(4\)](#)