Crime (International Co-operation) Act 2003

2003 CHAPTER 32

PART 1

MUTUAL ASSISTANCE IN CRIMINAL MATTERS

CHAPTER 4

INFORMATION ABOUT BANKING TRANSACTIONS

Requests for information about banking transactions in Scotland for use abroad

37 Customer information

(1) This section applies where the Lord Advocate receives a request from an authority mentioned in subsection (2) for customer information to be obtained in relation to a person who appears to him to be subject to an investigation in a participating country into serious criminal conduct.

(2) The authority referred to in subsection (1) is the authority in that country which appears to the Lord Advocate to have the function of making requests of the kind to which this section applies.

(3) The Lord Advocate may direct a procurator fiscal to apply for a customer information order.

(4) A customer information order is an order made by a sheriff that a financial institution specified in the application for the order must, on being required to do so by notice in writing given by the applicant for the order, provide any such customer information as it has relating to the person specified in the application.

Changes to legislation: *Crime (International Co-operation) Act 2003, Cross Heading: Requests for information about banking transactions in Scotland for use abroad is up to date with all changes known to be in force on or before 01 July 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*

(5) A financial institution which is required to provide information under a customer information order must provide the information to the applicant for the order in such manner, and at or by such time, as the applicant requires.

[[F1](6) Section 398 of the Proceeds of Crime Act 2002 (meaning of customer information) has effect for the purposes of this section as if—

(a) this section were included in Chapter 3 of Part 8 of that Act;

(b) in subsection (1), after "accounts" there were inserted " or any safe deposit box ";

(c) in subsection (2)—

(i) in paragraph (a), after "numbers" there were inserted " or the number of any safe deposit box ";

(ii) in paragraph (e), at the beginning there were inserted "in the case of an account or accounts,";

(iii) after that paragraph there were inserted—

"(ee) in the case of any safe deposit box, the date on which the box was made available to him and if the box has ceased to be available to him the date on which it so ceased;";

(iv) paragraph (f) were omitted;

(d) in subsection (3)—

(i) in paragraph (a), after "numbers" there were inserted " or the number of any safe deposit box ";

(ii) in paragraph (h), at the beginning there were inserted "in the case of an account or accounts,";

(iii) after that paragraph there were inserted—

"(hh) in the case of any safe deposit box, the date on which the box was made available to it and if the box has ceased to be available to it the date on which it so ceased;";

(iv) paragraph (i) were omitted;

(e) after subsection (5) there were inserted—

"(6) A "safe deposit box" includes any procedure under which a financial institution provides a facility to hold items for safe keeping on behalf of another person."**]**

(7) A customer information order has effect in spite of any restriction on the disclosure of information (however imposed).

(8) Customer information obtained in pursuance of a customer information order is to be given to the Lord Advocate and sent by him to the authority which made the request.

Textual Amendments

F1 S. 37(6) substituted (31.12.2020) by European Union (Future Relationship) Act 2020 (c. 29), s. 40(7), **Sch. 3 para. 3(3)** (with Sch. 3 para. 3(4)); S.I. 2020/1662, reg. 2(dd)

Commencement Information

I1 S. 37 in force at 11.6.2006 by S.S.I. 2006/281, **art. 2**

Changes to legislation: *Crime (International Co-operation) Act 2003, Cross Heading: Requests for information about banking transactions in Scotland for use abroad is up to date with all changes known to be in force on or before 01 July 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*

38 Making, varying or discharging customer information orders

(1) A sheriff may make a customer information order, on an application made to him pursuant to a direction under section 37(3), if he is satisfied that—

(a) the person specified in the application is subject to an investigation in the country in question,

(b) the investigation concerns conduct which is serious criminal conduct,

(c) the conduct constitutes an offence in Scotland, or would do were it to occur in Scotland, and

(d) the order is sought for the purposes of the investigation.

(2) The application may be made ex parte to a sheriff in chambers.

(3) The application may specify—

(a) all financial institutions,

(b) a particular description, or particular descriptions, of financial institutions, or

(c) a particular financial institution or particular financial institutions.

(4) The court may discharge or vary a customer information order on an application made by the procurator fiscal.

(5) Section 409 of the Proceeds of Crime Act 2002 (jurisdiction of sheriff) has effect for the purposes of this section as if this section were included in Chapter 3 of Part 8 of that Act.

Commencement Information

I2 S. 38 in force at 11.6.2006 by S.S.I. 2006/281, **art. 2**

39 Offences

(1) A financial institution is guilty of an offence if without reasonable excuse it fails to comply with a requirement imposed on it under a customer information order.

(2) A financial institution guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) A financial institution is guilty of an offence if, in purported compliance with a customer information order, it—

(a) makes a statement which it 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.

(4) A financial institution guilty of an offence under subsection (3) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, or

(b) on conviction on indictment, to a fine.

Commencement Information

I3 S. 39 in force at 11.6.2006 by S.S.I. 2006/281, **art. 2**

Changes to legislation: *Crime (International Co-operation) Act 2003, Cross Heading: Requests for information about banking transactions in Scotland for use abroad is up to date with all changes known to be in force on or before 01 July 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*

40 Account information

(1) This section applies where the Lord Advocate receives a request from an authority mentioned in subsection (2) for account information to be obtained in relation to an investigation in a participating country into criminal conduct.

(2) The authority referred to in subsection (1) is the authority in that country which appears to the Lord Advocate to have the function of making requests of the kind to which this section applies.

(3) The Lord Advocate may direct a procurator fiscal to apply for an account monitoring order.

(4) An account monitoring order is an order made by a sheriff that a financial institution specified in the application for the order must, for the period stated in the order, provide account information of the description specified in the order to the applicant in the manner, and at or by the time or times, stated in the order.

(5) Account information is information relating to an account or accounts held at the financial institution specified in the application by the person so specified (whether solely or jointly with another).

(6) An account monitoring order has effect in spite of any restriction on the disclosure of information (however imposed).

(7) Account information obtained in pursuance of an account monitoring order is to be given to the Lord Advocate and sent by him to the authority which made the request.

Commencement Information

I4 S. 40 in force at 11.6.2006 by S.S.I. 2006/281, **art. 2**

41 Making, varying or discharging account monitoring orders

(1) A sheriff may make an account monitoring order, on an application made to him in pursuance of a direction under section 40(3), if he is satisfied that—

(a) there is an investigation in the country in question into criminal conduct, and

(b) the order is sought for the purposes of the investigation.

(2) The application may be made ex parte to a sheriff in chambers.

(3) The application may specify information relating to—

(a) all accounts held by the person specified in the application for the order at the financial institution so specified,

(b) a particular description, or particular descriptions, of accounts so held, or

(c) a particular account, or particular accounts, so held.

(4) The court may discharge or vary an account monitoring order on an application made by the procurator fiscal.

(5) Section 409 of the Proceeds of Crime Act 2002 (c. 29) (jurisdiction of sheriff) has effect for the purposes of this section as if this section were included in Chapter 3 of Part 8 of that Act.

Changes to legislation: *Crime (International Co-operation) Act 2003, Cross Heading: Requests for information about banking transactions in Scotland for use abroad is up to date with all changes known to be in force on or before 01 July 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*

Commencement Information

I5 S. 41 in force at 11.6.2006 by S.S.I. 2006/281, **art. 2**

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. 4A4B inserted by 2003 c. 44 Sch. 36 para. 16
- Sch. 3 para. 3(da)(db) inserted by 2024 c. 10 Sch. 3 para. 3(2)
- Sch. 3 para. 4A inserted by 2024 c. 10 Sch. 3 para. 3(3)