



Serious Crime Act 2007

2007 CHAPTER 27

PART 1

SERIOUS CRIME PREVENTION ORDERS

Particular types of persons

30 Bodies corporate including limited liability partnerships

- (1) For the purposes of section 10 in its application to a serious crime prevention order against a body corporate or to the variation of such an order—
 - (a) a notice setting out the terms of the order or variation—
 - (i) is delivered to the body corporate in person if it is delivered to an officer of the body corporate in person; and
 - (ii) is sent by recorded delivery to the body corporate at its last-known address if it is so sent to an officer of the body corporate at the address of the registered office of that body or at the address of its principal office in the United Kingdom; and
 - (b) the power conferred by subsection (3) of that section is a power to enter any premises where the person exercising the power has reasonable grounds for believing an officer of the body corporate to be and to search those premises for the officer.
- (2) If an offence under section 25 committed by a body corporate is proved to have been committed with the consent or connivance of—
 - (a) an officer of the body corporate; or
 - (b) a person who was purporting to act in any such capacity;he (as well as the body corporate) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) Nothing in this section prevents a serious crime prevention order from being made against an officer or employee of a body corporate or against any other person associated with a body corporate.

Status: This is the original version (as it was originally enacted).

(4) In this section—

“body corporate” includes a limited liability partnership;

“director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate; and

“officer of a body corporate” means any director, manager, secretary or other similar officer of the body corporate.

31 Other partnerships

(1) A serious crime prevention order against a partnership must be made in the name of the partnership (and not in that of any of the partners).

(2) An order made in the name of the partnership continues to have effect despite a change of partners provided that at least one of the persons who was a partner before the change remains a partner after it.

(3) For the purposes of this Part, a partnership is involved in serious crime in England and Wales, Northern Ireland or elsewhere if the partnership, or any of the partners, is so involved; and involvement in serious crime in England and Wales or Northern Ireland is to be read accordingly.

(4) For the purposes of section 10 in its application to a serious crime prevention order against a partnership or to the variation of such an order—

(a) a notice setting out the terms of the order or variation—

(i) is delivered to the partnership in person if it is delivered to any of the partners in person or to a senior officer of the partnership in person; and

(ii) is sent by recorded delivery to the partnership at its last-known address if it is so sent to any of the partners or to a senior officer of the partnership at the address of the principal office of the partnership in the United Kingdom; and

(b) the power conferred by subsection (3) of that section is a power to enter any premises where the person exercising the power has reasonable grounds for believing a partner or senior officer of the partnership to be and to search those premises for the partner or senior officer.

(5) Proceedings for an offence under section 25 alleged to have been committed by a partnership must be brought in the name of the partnership (and not in that of any of the partners).

(6) For the purposes of such proceedings—

(a) rules of court relating to the service of documents have effect as if the partnership were a body corporate; and

(b) the following provisions apply as they apply in relation to a body corporate—

(i) section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43);

(ii) sections 70 and 143 of the Criminal Procedure (Scotland) Act 1995 (c. 46); and

(iii) section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I.26)).

- (7) A fine imposed on the partnership on its conviction for an offence under section 25 is to be paid out of the partnership assets.
- (8) If an offence under section 25 committed by a partnership is proved to have been committed with the consent or connivance of a partner or a senior officer of the partnership, he (as well as the partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (9) For the purposes of subsection (8)—
 - (a) references to a partner or to a senior officer of a partnership include references to any person purporting to act in such a capacity; and
 - (b) subsection (5) is not to be read as prejudicing any liability of a partner under subsection (8).
- (10) Nothing in this section prevents a serious crime prevention order from being made against—
 - (a) a particular partner; or
 - (b) a senior officer or employee of a partnership or any other person associated with a partnership.
- (11) In this section—

“senior officer of a partnership” means any person who has the control or management of the business carried on by the partnership at the principal place where it is carried on; and

“partnership” does not include a limited liability partnership.

32 Unincorporated associations

- (1) A serious crime prevention order against an unincorporated association must be made in the name of the association (and not in that of any of its members).
- (2) An order made in the name of the association continues to have effect despite a change in the membership of the association provided that at least one of the persons who was a member of the association before the change remains a member after it.
- (3) For the purposes of section 10 in its application to a serious crime prevention order against an unincorporated association or to the variation of such an order—
 - (a) a notice setting out the terms of the order or variation—
 - (i) is delivered to the association in person if it is delivered to an officer of the association in person; and
 - (ii) is sent by recorded delivery to the association at its last-known address if it is so sent to an officer of the association at the address of the principal office of the association in the United Kingdom; and
 - (b) the power conferred by subsection (3) of that section is a power to enter any premises where the person exercising the power has reasonable grounds for believing an officer of the association to be and to search those premises for the officer.
- (4) Proceedings for an offence under section 25 alleged to have been committed by an unincorporated association must be brought in the name of the association (and not in that of any of its members).
- (5) For the purposes of such proceedings—

Status: This is the original version (as it was originally enacted).

- (a) rules of court relating to the service of documents have effect as if the association were a body corporate; and
- (b) the following provisions apply as they apply in relation to a body corporate—
 - (i) section 33 of the Criminal Justice Act 1925 (c. 86) and Schedule 3 to the Magistrates' Courts Act 1980 (c. 43);
 - (ii) sections 70 and 143 of the Criminal Procedure (Scotland) Act 1995 (c. 46); and
 - (iii) section 18 of the Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.)) and Schedule 4 to the Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I.26)).
- (6) A fine imposed on the association on its conviction for an offence under section 25 is to be paid out of the funds of the association.
- (7) If an offence under section 25 committed by an unincorporated association is proved to have been committed with the consent or connivance of an officer of the association, he (as well as the association) is guilty of the offence and liable to be proceeded against and punished accordingly.
- (8) For the purposes of subsection (7)—
 - (a) references to an officer of an unincorporated association include references to any person purporting to act in such a capacity; and
 - (b) subsection (4) is not to be read as prejudicing any liability of an officer of an unincorporated association under subsection (7).
- (9) Nothing in this section prevents a serious crime prevention order from being made against—
 - (a) a member, officer or employee of an unincorporated association; or
 - (b) any other person associated with an unincorporated association.
- (10) In this section—
 - “officer of an unincorporated association” means any officer of an unincorporated association or any member of its governing body; and
 - “unincorporated association” means any body of persons unincorporate but does not include a partnership.

33 Overseas bodies

The Secretary of State may by order modify section 30, 31 or 32 in its application to a body of persons formed under law having effect outside the United Kingdom.

34 Providers of information society services

- (1) A serious crime prevention order may not include terms which restrict the freedom of a service provider who is established in an EEA state other than the United Kingdom to provide information society services in relation to an EEA state unless the conditions in subsections (2) and (3) are met.
- (2) The condition in this subsection is that the court concerned considers that the terms—
 - (a) are necessary for the objective of protecting the public by preventing, restricting or disrupting involvement in—

Status: This is the original version (as it was originally enacted).

- (i) in the case of an order in England and Wales, serious crime in England and Wales; and
 - (ii) in the case of an order in Northern Ireland, serious crime in Northern Ireland;
 - (b) relate to an information society service which prejudices that objective or presents a serious and grave risk of prejudice to it; and
 - (c) are proportionate to that objective.
- (3) The conditions in this subsection are that—
 - (a) a law enforcement officer has requested the EEA state in which the service provider is established to take measures which the law enforcement officer considers to be of equivalent effect under the law of the EEA state to the terms and the EEA state has failed to take the measures; and
 - (b) a law enforcement officer has notified the Commission of the European Communities and the EEA state of—
 - (i) the intention to seek an order containing the terms; and
 - (ii) the terms.
- (4) It does not matter for the purposes of subsection (3) whether the request or notification is made before or after the making of the application for the order.
- (5) A serious crime prevention order may not include terms which impose liabilities on service providers of intermediary services so far as the imposition of those liabilities would result in a contravention of Article 12, 13 or 14 of the E-Commerce Directive (various protections for service providers of intermediary services).
- (6) A serious crime prevention order may not include terms which impose a general obligation on service providers of intermediary services covered by Articles 12, 13 and 14 of the E-Commerce Directive—
 - (a) to monitor the information which they transmit or store when providing those services; or
 - (b) actively to seek facts or circumstances indicating illegal activity when providing those services.
- (7) For the purposes of this section—
 - (a) a service provider is established in a particular EEA state if he effectively pursues an economic activity using a fixed establishment in that EEA state for an indefinite period and he is a national of an EEA state or a company or firm mentioned in Article 48 of the EEC Treaty;
 - (b) the presence or use in a particular place of equipment or other technical means of providing an information society service does not, of itself, constitute the establishment of a service provider;
 - (c) where it cannot be determined from which of a number of establishments a given information society service is provided, that service is to be regarded as provided from the establishment where the service provider has the centre of his activities relating to the service;and references to a person being established in an EEA state are to be read accordingly.
- (8) In this section—
 - “the E-Commerce Directive” means Directive [2000/31/EC](#) of the European Parliament and of the Council of 8 June 2000 on certain legal aspects of

Status: This is the original version (as it was originally enacted).

information society services, in particular electronic commerce, in the Internal Market (Directive on electronic commerce);

“information society services”—

(a) has the meaning given in Article 2(a) of the E-Commerce Directive (which refers to Article 1(2) of Directive 98/34/EC of the European Parliament and of the Council of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations); and

(b) is summarised in recital 17 of the E-Commerce Directive as covering “any service normally provided for remuneration, at a distance, by means of electronic equipment for the processing (including digital compression) and storage of data, and at the individual request of a recipient of a service”;

“intermediary services” means an information society service which—

(a) consists in the provision of access to a communication network or the transmission in a communication network of information provided by a recipient of the service;

(b) consists in the transmission in a communication network of information which—

(i) is provided by a recipient of the service; and

(ii) is the subject of automatic, intermediate and temporary storage which is solely for the purpose of making the onward transmission of the information to other recipients of the service at their request more efficient; or

(c) consists in the storage of information provided by a recipient of the service;

“recipient”, in relation to a service, means any person who, for professional ends or otherwise, uses an information society service, in particular for the purposes of seeking information or making it accessible; and

“service provider” means a person providing an information society service.

(9) For the purposes of paragraph (a) of the definition of “intermediary services”, the provision of access to a communication network and the transmission of information in a communication network includes the automatic, intermediate and transient storage of the information transmitted so far as the storage is for the sole purpose of carrying out the transmission in the network.

(10) Subsection (9) does not apply if the information is stored for longer than is reasonably necessary for the transmission.