



# Serious Crime Act 2007

## 2007 CHAPTER 27

### PART 3

#### OTHER MEASURES TO PREVENT OR DISRUPT SERIOUS AND OTHER CRIME

### CHAPTER 2

#### PROCEEDS OF CRIME

#### *Miscellaneous*

#### **82 Powers of management receivers and enforcement receivers**

- (1) After section 49(8) of the Proceeds of Crime Act 2002 (c. 29) (opportunity for persons to make representations before powers conferred on management receivers to manage or otherwise deal with property: England and Wales) insert—

“(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—

- (a) is perishable; or
- (b) ought to be disposed of before its value diminishes.”

- (2) After section 51(8) of that Act (opportunity for persons to make representations before powers conferred on enforcement receivers to manage or otherwise deal with property: England and Wales) insert—

“(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—

- (a) is perishable; or
- (b) ought to be disposed of before its value diminishes.”

*Status: Point in time view as at 06/04/2008. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2007, Cross Heading: Miscellaneous. (See end of Document for details)*

- (3) After section 197(8) of that Act (opportunity for persons to make representations before powers conferred on management receivers to manage or otherwise deal with property: Northern Ireland) insert—

“(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—

- (a) is perishable; or
- (b) ought to be disposed of before its value diminishes.”

- (4) After section 199(8) of that Act (opportunity for persons to make representations before powers conferred on enforcement receivers to manage or otherwise deal with property: Northern Ireland) insert—

“(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—

- (a) is perishable; or
- (b) ought to be disposed of before its value diminishes.”

#### **Commencement Information**

**II** S. 82 in force at 6.4.2008 by S.I. 2008/755, art. 17(1)(h) (with art. 17(3))

### **83 Civil recovery management receivers**

- (1) After section 245D of the Proceeds of Crime Act 2002 (property freezing orders) insert—

#### **“245E Receivers in connection with property freezing orders**

- (1) Subsection (2) applies if—
  - (a) the High Court makes a property freezing order on an application by an enforcement authority, and
  - (b) the authority applies to the court to proceed under subsection (2) (whether as part of the application for the property freezing order or at any time afterwards).
- (2) The High Court may by order appoint a receiver in respect of any property to which the property freezing order applies.
- (3) An application for an order under this section may be made without notice if the circumstances are such that notice of the application would prejudice any right of the enforcement authority to obtain a recovery order in respect of any property.
- (4) In its application for an order under this section, the enforcement authority must nominate a suitably qualified person for appointment as a receiver.
- (5) Such a person may be a member of staff of the enforcement authority.
- (6) The enforcement authority may apply a sum received by it under section 280(2) in making payment of the remuneration and expenses of a receiver appointed under this section.

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- (7) Subsection (6) does not apply in relation to the remuneration of the receiver if he is a member of the staff of the enforcement authority (but it does apply in relation to such remuneration if the receiver is a person providing services under arrangements made by the enforcement authority).

#### **245F Powers of receivers appointed under section 245E**

- (1) If the High Court appoints a receiver under section 245E on an application by an enforcement authority, the court may act under this section on the application of the authority.
- (2) The court may by order authorise or require the receiver—
- (a) to exercise any of the powers mentioned in paragraph 5 of Schedule 6 (management powers) in relation to any property in respect of which the receiver is appointed,
  - (b) to take any other steps the court thinks appropriate in connection with the management of any such property (including securing the detention, custody or preservation of the property in order to manage it).
- (3) The court may by order require any person in respect of whose property the receiver is appointed—
- (a) to bring the property to a place (in England and Wales or, as the case may be, Northern Ireland) specified by the receiver or to place it in the custody of the receiver (if, in either case, he is able to do so),
  - (b) to do anything he is reasonably required to do by the receiver for the preservation of the property.
- (4) The court may by order require any person in respect of whose property the receiver is appointed to bring any documents relating to the property which are in his possession or control to a place (in England and Wales or, as the case may be, Northern Ireland) specified by the receiver or to place them in the custody of the receiver.
- (5) In subsection (4) “document” means anything in which information of any description is recorded.
- (6) Any prohibition on dealing with property imposed by a property freezing order does not prevent a person from complying with any requirements imposed by virtue of this section.
- (7) If—
- (a) the receiver deals with any property which is not property in respect of which he is appointed under section 245E, and
  - (b) at the time he deals with the property he believes on reasonable grounds that he is entitled to do so by virtue of his appointment,
- the receiver is not liable to any person in respect of any loss or damage resulting from his dealing with the property except so far as the loss or damage is caused by his negligence.

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### **245G Supervision of section 245E receiver and variations**

- (1) Any of the following persons may at any time apply to the High Court for directions as to the exercise of the functions of a receiver appointed under section 245E—
  - (a) the receiver,
  - (b) any party to the proceedings for the appointment of the receiver or the property freezing order concerned,
  - (c) any person affected by any action taken by the receiver,
  - (d) any person who may be affected by any action proposed to be taken by the receiver.
- (2) Before giving any directions under subsection (1), the court must give an opportunity to be heard to—
  - (a) the receiver,
  - (b) the parties to the proceedings for the appointment of the receiver and for the property freezing order concerned,
  - (c) any person who may be interested in the application under subsection (1).
- (3) The court may at any time vary or set aside the appointment of a receiver under section 245E, any order under section 245F or any directions under this section.
- (4) Before exercising any power under subsection (3), the court must give an opportunity to be heard to—
  - (a) the receiver,
  - (b) the parties to the proceedings for the appointment of the receiver, for the order under section 245F or, as the case may be, for the directions under this section;
  - (c) the parties to the proceedings for the property freezing order concerned,
  - (d) any person who may be affected by the court's decision.”
- (2) In sections 273(4)(b) and 277(7)(b) of that Act (recovery orders and consent orders: recovery of costs of pension scheme trustees or managers) after “enforcement authority,” insert “ receiver appointed under section 245E, ”.
- (3) In paragraph 1 of Schedule 10 to that Act (disapplication of special income tax and capital gains tax rules for receivers), after paragraph (c), insert—
 

“(ca) a receiver appointed under section 245E;”.

#### **Commencement Information**

**I2** S. 83 in force at 6.4.2008 by S.I. 2008/755, art. 17(1)(h)

### **84 Powers for prosecutors to appear in cash recovery proceedings**

- (1) After section 302 of the Proceeds of Crime Act 2002 (c. 29) (recovery of cash in summary proceedings: compensation) insert—

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### **“302A Powers for prosecutors to appear in proceedings**

- (1) The Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland may appear for a constable in proceedings under this Chapter if the Director—
    - (a) is asked by, or on behalf of, a constable to do so, and
    - (b) considers it appropriate to do so.
  - (2) The Director of Revenue and Customs Prosecutions may appear for the Commissioners for Her Majesty's Revenue and Customs or an officer of Revenue and Customs in proceedings under this Chapter if the Director—
    - (a) is asked by, or on behalf of, the Commissioners for Her Majesty's Revenue and Customs or (as the case may be) an officer of Revenue and Customs to do so, and
    - (b) considers it appropriate to do so.
  - (3) The Directors may charge fees for the provision of services under this section.”
- (2) After section 2C(3) of that Act (prosecuting authorities) (as inserted by Schedule 8 to this Act) insert—
- “(3A) Subsection (3) does not apply to the functions of the Director of Public Prosecutions for Northern Ireland and the Director of Revenue and Customs Prosecutions under section 302A.”
- (3) After section 38(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (conduct of prosecutions on behalf of the Office) insert—
- “(1A) An individual who is not a member of the Office may be appointed by the Director to appear in—
- (a) specified proceedings, or
  - (b) a specified class or description of proceedings,
- in which the Director or a Prosecutor would otherwise appear by virtue of section 302A of the Proceeds of Crime Act 2002 (cash recovery proceedings).”
- (4) After section 39(1) of that Act (designation of non-legal staff) insert—
- “(1A) The Director may designate a member of the Office to appear in—
- (a) specified proceedings, or
  - (b) a specified class or description of proceedings,
- in which the Director or a Prosecutor would otherwise appear by virtue of section 302A of the Proceeds of Crime Act 2002 (cash recovery proceedings).”

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#### **Commencement Information**

**I3** S. 84 in force at 6.4.2008 by S.I. 2008/755, art. 17(1)(h)

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## **85 Disclosure of information by Revenue and Customs**

- (1) This section applies to information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (confidentiality).
- (2) Information to which this section applies may be disclosed by or with the authority of the Commissioners of Revenue and Customs—
  - (a) to the Criminal Assets Bureau in Ireland (“the CAB”) for the purpose of enabling or assisting the CAB to exercise any of its functions in connection with any matter within subsection (3); or
  - (b) to any specified public authority (in the United Kingdom or elsewhere)—
    - (i) for the purpose of enabling or assisting the public authority to exercise any of its functions in connection with any matter within subsection (3); or
    - (ii) (if the specifying order so provides) for the purpose of enabling or assisting the public authority to exercise any of its functions in connection with any matter within that subsection that is specified, or of a description specified, in the order.
- (3) The matters within this subsection are—
  - (a) the identification of proceeds of crime;
  - (b) the bringing of civil proceedings for enforcement purposes in relation to proceeds of crime; and
  - (c) the taking of other action in relation to proceeds of crime.
- (4) Information disclosed in accordance with subsection (2) must not be further disclosed except—
  - (a) in connection with the exercise of any of the functions of the CAB or a specified public authority in connection with any matter within subsection (3) (or, in a subsection (2)(b)(ii) case, any such matter as is mentioned there); and
  - (b) with the consent of the Commissioners of Revenue and Customs or an authorised officer of the Commissioners of Revenue and Customs.
- (5) For the purposes of this section any consent or authorisation may be general or specific.
- (6) If a person in the United Kingdom discloses, in contravention of subsection (4), any revenue and customs information relating to a person whose identity—
  - (a) is specified in the disclosure; or
  - (b) can be deduced from it;
 section 19 of the 2005 Act (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act.
- (7) Any reference in this section to a disclosure to the CAB or a specified public authority is a reference to a disclosure to such person, or to persons of such description, as may be specified in relation to the CAB or the public authority (as the case may be).
- (8) Nothing in this section authorises any disclosure of information which—
  - (a) contravenes the Data Protection Act 1998 (c. 29); or
  - (b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23).

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(9) In this section—

“the 2005 Act” means the Commissioners for Revenue and Customs Act 2005 (c. 11);

“assets” means property of any description, wherever situated;

“civil proceedings” means civil proceedings of whatever nature and whether brought in the United Kingdom or elsewhere;

“Commissioners of Revenue and Customs” means the Commissioners for Her Majesty's Revenue and Customs;

“enforcement purposes”, in relation to the proceeds of crime, means with a view to—

(a) recovering, forfeiting or freezing assets constituting proceeds of crime; or

(b) otherwise depriving persons (to any extent) of, or of access to, such assets or the benefit of such assets;

“functions” includes powers, duties and objectives, and references to the exercise of functions include the pursuit of objectives;

“proceeds of crime” means assets derived, or suspected to be derived, directly or indirectly from criminal conduct (wherever occurring);

“public authority” means any body or person discharging functions of a public nature;

“revenue and customs information relating to a person” has the meaning given by section 19(2) of the 2005 Act;

“specified” means specified in an order made by the Treasury; and

“the specifying order”, in relation to a specified public authority, means the order specifying the authority for the purposes of this section.

#### Commencement Information

**I4** S. 85 in force at 15.2.2008 by [S.I. 2008/219](#), [art. 2\(a\)](#)

VALID FROM 28/04/2008

#### **86 Use of force in executing search warrants: Scotland**

In section 387 of the Proceeds of Crime Act 2002 (c. 29) (issue of search warrants in Scotland in connection with certain investigations), after subsection (4), insert—

“(4A) A proper person may, if necessary, use reasonable force in executing a search warrant.”

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