

EXPLANATORY MEMORANDUM TO
THE SERIOUS CRIME ACT 2007 (SPECIFIED ANTI-FRAUD ORGANISATIONS)
ORDER 2014

2014 No. 1608

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

2. Purpose of the instrument

2.1 This Order specifies the following anti-fraud organisations for the purposes of section 68 of the Serious Crime Act 2007:

- (a) Callcredit Information Group Limited;
- (b) BAE Systems Applied Intelligence Limited;
- (c) Dun and Bradstreet Limited;
- (d) Equifax Limited;
- (e) Synectics Solutions Limited.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Context

4.1 Under section 68 of the Serious Crime Act 2007 (“the SCA”) a public authority may, for the purposes of preventing fraud or a particular kind of fraud, disclose information as a member of a specified anti-fraud organisation or otherwise in accordance with any arrangements made by such an organisation. Section 68 is a power for public authorities to disclose information, sometimes referred to as a “gateway”.

4.2 An “anti-fraud organisation” is defined under section 68(8) as any unincorporated association, body corporate or other person which enables or facilitates any sharing of information to prevent fraud or a particular kind of fraud or which has any of these functions as its purpose or one of its purposes.

4.3 Under section 68(8) of the SCA an anti-fraud organisation is specified by an order made by the Secretary of State. This Order is an order under section 68(8).

5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

6. European Convention on Human Rights

6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- *What is being done and why*

7.1 Section 68 of the SCA was introduced to provide a legal gateway, where one did not already exist, for public authorities to share data with a specified anti-fraud organisation in order to prevent fraud. The Home Office invited expressions of interest from organisations in the counter fraud community and following an application process six organisations were specified by Order in October 2008. Applications were made on the basis that all successful applicants would be re-examined after 5 years to ensure they still fit the criteria set out in the application process.

7.2 In Autumn 2013, while re-examining the existing specified anti-fraud organisations, the Home Office invited applications from organisations that had expressed an interest in being specified under section 68 with a view to increasing opportunities for public sector organisations to share information for the purposes of preventing fraud. The application forms drawn up by the Home Office in consultation with the Ministry of Justice and the Information Commissioner's Office in 2008 were used for this fresh exercise. This Order specifies five organisations that submitted applications as anti-fraud organisations for the purposes of section 68 of the SCA.

7.3 All disclosures made by specified anti-fraud organisations under section 68 must comply with the Data Protection Act 1998. Additionally, under sections 69 of the SCA it is an offence for a person who has received protected information, directly or indirectly, from a specified anti-fraud organisation knowingly to make further disclosures of such information. "Protected information" includes revenue and customs information, which reveals the identity of the person to whom it relates, and is disclosed by Her Majesty's Revenue and Customs. All public authorities sharing information through a specified anti-fraud organisation must have regard to the code of practice produced by the Secretary of State under section 71 of the SCA.

7.4 Individual public authorities are able to decide whether to rely on section 68 and sign up with one of the specified anti-fraud organisations. Public authorities are not obliged to participate; it is for each public authority to make its own decision depending on its own circumstances.

- *Consolidation*

7.5 The Department does not assess that there is any need for consolidation measures.

8. Consultation outcome

8.1 No consultation was conducted.

9. Guidance

9.1 No guidance is necessary in connection with this instrument.

10. Impact

10.1 There is no impact on business, charities or voluntary bodies.

10.2 There is no impact on the public sector.

10.3 An Impact Assessment has not been prepared for this instrument.

11. Regulating small business

11.1 The legislation does not apply to small business.

12. Monitoring & review

12.1 All specified anti-fraud organisations will be re-examined after a period of 5 years to ensure they continue to fit the criteria set out in the application form.

13. Contact

Sue Griffiths at the Home Office Tel: 0207 035 1561 or email:

susan.griffiths@homeoffice.x.gsi.gov.uk can answer any queries regarding the instrument.