

2015 No. 925

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) (Amendment) Order 2015

<i>Made</i> - - - -	<i>26th March 2015</i>
<i>Laid before Parliament</i>	<i>27th March 2015</i>
<i>Coming into force</i> - -	<i>1st June 2015</i>

The Secretary of State makes the following Order in exercise of the powers conferred by section 112(3) to (5) of the Policing and Crime Act 2009^(a) and sections 58(12) and 59(1) and (2) of the Crime and Courts Act 2013^(b):

Citation and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) (Amendment) Order 2015 and comes into force on 1st June 2015.

Amendment of the Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003

2.—(1) The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003^(c) is amended as follows.

(2) In article 2 (interpretation)—

(a) for the definition of “an English or Welsh appropriate officer” substitute—

““an English or Welsh appropriate officer means”—

(a) in relation to a confiscation investigation—

- (i) a National Crime Agency officer^(d);
- (ii) an accredited financial investigator;
- (iii) a constable of a police force in England and Wales;
- (iv) an officer of Revenue and Customs; or
- (v) an immigration officer;

(b) in relation to a detained cash investigation—

- (i) an accredited financial investigator;

(a) 2009 c. 26.

(b) 2013 c. 22.

(c) S.I. 2003/425, amended by S.I. 2008/298.

(d) The words “a member of SOCA’s staff” (substituted by article 2(2) of S.I. 2008/298) in the definition of “an English or Welsh appropriate officer” and “a Northern Ireland appropriate officer” are modified by paragraph 190 of Schedule 8 to the Crime and Courts Act 2013 and are a reference to a National Crime Agency officer. SOCA (the Serious Organised Crime Agency) was abolished by the Crime and Courts Act 2013 and replaced by the National Crime Agency.

- (ii) a constable of a police force in England and Wales;
 - (iii) an officer of Revenue and Customs; or
 - (iv) an immigration officer;
 - (c) in relation to a money laundering investigation—
 - (i) an accredited financial investigator;
 - (ii) a constable of a police force in England and Wales;
 - (iii) an officer of Revenue and Customs; or
 - (iv) an immigration officer;”;
 - (b) in the definition of “an English or Welsh production order” for “or a money laundering investigation” substitute “, a money laundering investigation or a detained cash investigation”;
 - (c) in the definition of “an English or Welsh search and seizure warrant” for “or a money laundering investigation” substitute “, a money laundering investigation or a detained cash investigation”;
 - (d) for the definition of “a Northern Ireland appropriate officer” substitute—
 - ““a Northern Ireland appropriate officer” means—
 - (a) in relation to a confiscation investigation—
 - (i) a National Crime Agency officer;
 - (ii) an accredited financial investigator;
 - (iii) a constable of the Police Service of Northern Ireland;
 - (iv) an officer of Revenue and Customs; or
 - (v) an immigration officer;
 - (b) in relation to a money laundering investigation—
 - (i) an accredited financial investigator;
 - (ii) a constable of the Police Service of Northern Ireland;
 - (iii) an officer of Revenue and Customs; or
 - (iv) an immigration officer;”;
 - (e) for the definition of “the Police and Criminal Evidence Order” substitute—
 - ““the Police and Criminal Evidence Order for Northern Ireland” means the Proceeds of Crime Act 2002 (Application of Police and Criminal Evidence Act 1984 and Police and Criminal Evidence (Northern Ireland) Order 1989) Order 2003(a);
 - “the Police and Criminal Evidence Order for England and Wales” means the Proceeds of Crime Act 2002 (Application of Police and Criminal Evidence Act 1984) Order 2015(b);”;
 - (f) in the words at the end of the article, for “references to a customs officer” substitute “references to an officer of Revenue and Customs and an immigration officer”.
- (3) In article 5 (enforcement in England and Wales of Northern Ireland search and seizure warrants)—
- (a) for paragraph (4), substitute—
 - “(4) The modifications are—
 - (a) for paragraphs (b) to (d) substitute—
 - “(b) a constable of a police force in England and Wales;
 - (c) a constable of the Police Service of Northern Ireland;

(a) S.I. 2003/174.
 (b) S.I. 2015/759.

- (d) an accredited financial investigator;
 - (e) an officer of Revenue and Customs; or
 - (f) an immigration officer.”; and
 - (b) in subsection (7), for “paragraph (c)” substitute “paragraph (d)”.”;
 - (b) in paragraph (6) after “Police and Criminal Evidence Order” insert “for Northern Ireland”;
 - (c) in paragraph (7) for the words from the beginning up to and including the second bracket, substitute “Article 3 of the Police and Criminal Evidence Order for England and Wales (application of section 16 of PACE)”;
 - (d) in paragraph (9) for “a customs officer” substitute “an officer of Revenue and Customs”;
 - (e) in paragraph (10) after “Police and Criminal Evidence Order” insert “for Northern Ireland”;
 - (f) in paragraph (11) for the words from the beginning up to and including the second bracket, substitute “Articles 4 and 5 of the Police and Criminal Evidence Order for England and Wales (application of sections 21 and 22 of PACE)”.
- (4) In article 6 (enforcement in England and Wales of Scottish search warrants)—
- (a) in paragraph (4) for the words from the beginning up to and including the second bracket, substitute “Article 3 of the Police and Criminal Evidence Order for England and Wales (application of section 16 of PACE)”;
 - (b) in paragraph (8) for the words from the beginning up to and including the second bracket, substitute “Articles 4 and 5 of the Police and Criminal Evidence Order for England and Wales (application of sections 21 and 22 of PACE)”.
- (5) In article 15 (enforcement in Northern Ireland of English or Welsh search and seizure warrants)—
- (a) for paragraph (4) substitute—
 - “(4) The modifications are that—
 - (a) for paragraphs (b) to (d) substitute—
 - “(b) a constable of a police force in England and Wales;
 - (c) a constable of the Police Service of Northern Ireland;
 - (d) an accredited financial investigator;
 - (e) an officer of Revenue and Customs; or
 - (f) an immigration officer.”;
 - (b) in subsection (7) for “paragraph (c)” substitute “paragraph (d)”.”;
 - (b) in paragraph (6) for the words from the beginning up to and including the second bracket, substitute “Article 3 of the Police and Criminal Evidence Order for England and Wales (application of section 16 of PACE)”;
 - (c) in paragraph (7) after “Police and Criminal Evidence Order” insert “for Northern Ireland”;
 - (d) in paragraph (9) for “customs officer” substitute “an officer of Revenue and Customs”;
 - (e) in paragraph (10) for the words from the beginning up to and including the second bracket, substitute “Articles 4 and 5 of the Police and Criminal Evidence Order for England and Wales (application of sections 21 and 22 of PACE)”;
 - (f) in paragraph (11) after “Police and Criminal Evidence Order” insert “for Northern Ireland”.
- (6) In article 16 (enforcement in Northern Ireland of Scottish search warrants)—
- (a) in paragraph (4) after “Police and Criminal Evidence Order” insert “for Northern Ireland”;

- (b) in paragraph (8) after “Police and Criminal Evidence Order” insert “for Northern Ireland”.
- (7) In article 25 (enforcement in Scotland of English or Welsh search and seizure warrants)—
 - (a) in paragraph (6) for the words from the beginning up to and including the second bracket, substitute “Article 3 of the Police and Criminal Evidence Order for England and Wales (application of section 16 of PACE)”; and
 - (b) in paragraph (9) for the words from the beginning up to and including the second bracket, substitute “Articles 4 and 5 of the Police and Criminal Evidence Order for England and Wales (application of sections 21 and 22 of PACE)”.
- (8) In article 26 (enforcement in Scotland of Northern Ireland search and seizure warrants)—
 - (a) in paragraph (6) after “Police and Criminal Evidence Order” insert “for Northern Ireland”; and
 - (b) in paragraph (9) after “Police and Criminal Evidence Order” insert “for Northern Ireland”.
- (9) In the heading to Part 5 for “and Money Laundering Investigations” substitute “, Money Laundering Investigations and Detained Cash Investigations”.
- (10) In article 33(1) (applications for discharge and variation and Code of Practice) for “or a money laundering investigation” substitute “, a money laundering investigation or a detained cash investigation”.

Savings

3. The amendments made by—

- (a) article 2(2)(a), in so far as it inserts a definition of an English or Welsh appropriate officer in relation to a detained cash investigation; and
- (b) article 2(2)(b) and (c), (9) and (10),

have no effect in relation to an order made, or a warrant issued, for the purposes of a detained cash investigation by a judge of the High Court.

Home Office
26th March 2015

Karen Bradley
Parliamentary Under Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425) (“the 2003 Order”), which contains the enforcement procedures within the United Kingdom for orders made and search and seizure warrants issued relating to certain investigations under Part 8 of the Proceeds of Crime Act 2002 (c. 29) (“POCA”). The 2003 Order provides the appropriate enforcement procedures where section 18 of the Civil Jurisdiction and Judgments Act 1982 (c. 27) (enforcement of UK judgments in other parts of UK) does not apply.

This Order makes amendments to the 2003 Order which are consequential on the commencement of section 66 of the Policing and Crime Act 2009 (c. 26) (“PCA 2009”) in England and Wales on 1st June 2015. That provision transfers the jurisdiction for making production orders and issuing search and seizure warrants in relation to detained cash investigations in England and Wales from a judge of the High Court to a judge entitled to exercise the jurisdiction of the Crown Court. Orders made and warrants issued by a judge entitled to exercise the jurisdiction of the Crown Court cannot be enforced by way of section 18 of the Civil Jurisdiction and Judgments Act 1982,

and the 2003 Order is therefore amended to provide for enforcement of such orders and warrants in Northern Ireland and Scotland. See in particular the amendments made by article 2 to the definitions of “an English or Welsh appropriate officer”, “an English or Welsh production order” and “an English or Welsh search and seizure warrant”. Article 3 contains savings so that the changes do not have effect in relation to orders made and warrants issued by a judge of the High Court (there are savings in relation to the commencement of section 66 of PCA 2009 for applications for orders and warrants which are undetermined by 1st June 2015, or orders and warrants which are already in existence on that date, to remain subject to the jurisdiction of the High Court).

This Order also makes amendments to the 2003 Order which are consequential on the making of the Proceeds of Crime Act 2002 (Application of Police and Criminal Evidence Act 1984) Order 2015 (S.I. 2015/759) (“the PACE Order”), which revokes and replaces (in relation to England and Wales only) the Proceeds of Crime Act 2002 (Application of Police and Criminal Evidence Act 1984 and Police and Criminal Evidence (Northern Ireland) Order 1989) Order 2003 (S.I. 2003/174) (that Order continues to apply in relation to Northern Ireland). The PACE Order was made in consequence of the commencement of section 66 of PCA 2009. See in particular article 2(2)(e), and the corresponding textual amendments made by article 2.

This Order also makes amendments to the 2003 Order which are consequential on the commencement of section 55(5) of, and paragraph 144 of Schedule 8, to the Crime and Courts Act 2013 (c. 22). Section 55(5) (powers of immigration officers) makes immigration officers appropriate officers for the investigations dealt with by the 2003 Order (see section 378 of POCA). Paragraph 144 of Schedule 8 (abolition of Serious Organised Crime Agency) substitutes references to National Crime Agency officers for references to members of staff of the Serious Organised Crime Agency in the definition of appropriate officer. This Order makes appropriate amendments to the definitions of appropriate officer in the 2003 Order.

An impact assessment has not been produced for this instrument as no impact is foreseen on the private, voluntary or public sectors.

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