

2018 No. 318

PROCEEDS OF CRIME, ENGLAND AND WALES

The Proceeds of Crime Act 2002 (References to Financial Investigators) (Amendment) (England and Wales) Order 2018

<i>Made</i>	- - - -	<i>6th March 2018</i>
<i>Laid before Parliament</i>		<i>12th March 2018</i>
<i>Coming into force</i>	- -	<i>17th April 2018</i>

The Secretary of State makes this Order in exercise of the powers conferred by sections 303A(1), 453 and 459(2) of the Proceeds of Crime Act 2002(a).

Citation and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (References to Financial Investigators) (Amendment) (England and Wales) Order 2018 and comes into force on 17th April 2018.

Amendments to the Proceeds of Crime Act 2002 (References to Financial Investigators) (England and Wales) Order 2015

2. The Proceeds of Crime Act 2002 (References to Financial Investigators) (England and Wales) Order 2015(b) is amended as set out in the Schedule.

6th March 2018

Ben Wallace
Minister of State
Home Office

(a) 2002 c. 29. Section 303A was inserted by paragraph 13 of Schedule 11 to the Serious Crime Act 2007 (c. 27). Section 453 was amended by section 81(1) of that Act and section 186(4) of the Tax Collection and Management (Wales) Act 2016 (anaw 6).
(b) S.I. 2015/1853 as amended by S.I. 2016/665, 2016/992, 2017/74 and 2017/960.

SCHEDULE

Article 2

Amendments to the Proceeds of Crime Act 2002 (References to Financial Investigators) (England and Wales) Order 2015

1. The Schedule to the Proceeds of Crime Act 2002 (References to Financial Investigators) (England and Wales) Order 2015 is amended in accordance with paragraphs 2 to 19.

2. In each place where it occurs, for “the Financial Conduct Authority and is at or above the grade of Manager”, substitute—

“the Financial Conduct Authority and—

(aa) is at or above the grade of Manager; or

(bb) is authorised by a member of staff at or above the grade of Head of Department (whether generally or specifically) for this purpose;”.

3. In each place where it occurs except for the entry relating to section 68(3)(c), for “Velindre National Health Trust” substitute “Velindre National Health Service Trust”.

4. In the entry relating to section 42(2)(c), in column 2 after paragraph (c)(xii) insert—

“(xiia) the Intellectual Property Office;”.

5. In the entry relating to sections 47A(1)(c) and 47M(3)(c), in column 2, paragraph (b)—

(a) after sub-paragraph (i) insert “or”;

(b) after sub-paragraph (ii) omit “or”; and

(c) omit sub-paragraph (iii).

6. In the entry relating to section 47G(3)(c), in column 2—

(a) omit paragraph (a);

(b) after paragraph (b)(ai)(a) insert “or”;

(c) after paragraph (b)(i) omit “or”; and

(d) omit paragraph (b)(ii).

7. In the entry relating to section 68(3)(c), in column 2, paragraph (b)—

(a) after sub-paragraph (xii) insert—

“(xiia) the Intellectual Property Office and is at or above the grade of SEO/C1;”;

(b) after sub-paragraph (xvi) insert—

“(xvia) a police force in England and Wales (other than a constable) and is at or above a grade equivalent to the rank of inspector;”;

(c) for sub-paragraph (xxiva)(b), substitute—

“(xxiva) Velindre National Health Service Trust and is at or above the grade of Operations Fraud Manager (pay band 8B); or”.

8. In the entry relating to Chapter 3 of Part 5—

(a) in column 1, after “290(4)(c)” insert “and the reference in section 297A(6)(c)”

(b) in column 2, paragraph (b)—

(i) after sub-paragraph (ix) insert—

“(ixa) the Intellectual Property Office;”;

(ii) omit sub-paragraph (xix).

(a) Paragraph (b)(ai) was inserted by S.I. 2017/74.

(b) Sub-paragraph (xxiva) was inserted by S.I. 2017/74.

9. In the entry relating to section 290(4)(c), in column 2—

- (a) omit paragraph (a);
- (b) after paragraph (c)(ix) insert—
 - “(ixa) the Intellectual Property Office and is at or above the grade of SEO/C1;”;
- (c) omit paragraph (c)(xviii).

10. In the appropriate place insert—

“Section 297A(6)(c)⁽¹⁾ (senior officer for the purpose of giving a forfeiture notice)

In relation to England and Wales, an accredited financial investigator who is—

- (a) an NCA officer at or above grade 2; or
- (b) a member of staff of—
 - (i) the Department for Business, Energy and Industrial Strategy and is at or above the grade of Deputy Chief Investigation Officer;
 - (ii) the Department for Environment, Food and Rural Affairs and is at or above the grade of Senior Executive Officer;
 - (iii) the Department for Work and Pensions and is at or above the grade of Senior Executive Officer;
 - (iv) the Environment Agency and is at or above the grade of Area Environment Agency - EA grade 7;
 - (v) the Financial Conduct Authority and—
 - (aa) is at or above the grade of Manager; or
 - (bb) is authorised by a member of staff at or above the grade of Head of Department (whether generally or specifically) for this purpose;
 - (vi) the Food Standards Agency and is at or above grade 7;
 - (vii) the Gambling Commission and is at or above the grade of Head of Enforcement;
 - (viii) the Gangmasters Labour and Abuse Authority and is at or above the grade of Intelligence Manager or Operations Manager;
 - (ix) the Home Office and is at or above the grade of Senior Executive Officer;
 - (x) the Intellectual Property Office and is at or above the grade of SEO/C1;
 - (xi) a local authority and who holds an appropriate office;

- (xii) the Marine Management Organisation and is at or above the grade of Senior Executive Officer;
- (xiii) the Medicines and Healthcare Products Regulatory Agency and is at or above grade 7;
- (xiv) the Ministry of Defence and is at or above the grade of B2;
- (xv) the Natural Resources Body for Wales (Corff Adnoddau Naturiol Cymru) and is at or above the grade of Senior Manager;
- (xvi) a police force in England and Wales (other than a constable) and is at or above a grade equivalent to the rank of inspector;
- (xvii) the Post Office and is at or above the grade of broadband 3;
- (xviii) the Prudential Regulation Authority and is at or above the grade of Manager;
- (xix) the Royal Mail and is at or above the grade of broadband 3;
- (xx) the Rural Payments Agency and is at or above the grade of Senior Executive Officer;
- (xxi) Transport for London and is at or above the grade of Senior Management Level;
- (xxii) Velindre National Health Service Trust and is at or above the grade of Operations Fraud Manager (pay band 8B); or
- (xxiii) The Driver and Vehicle Standards Agency and is at or above grade 7.

Section 303C(9)(d)⁽²⁾ (relevant officers for the purposes of Chapter 3A), section 303L(5)(d) (specified persons- further detention of seized property) and section 303O(2)(d) (specified persons – forfeiture of property)

In relation to England and Wales, an accredited financial investigator who is—

- (a) an NCA officer; or
- (b) a member of staff of—
 - (i) the Department for Business, Energy and Industrial Strategy;
 - (ii) the Department for Environment, Food and Rural Affairs;
 - (iii) the Department for Work and Pensions;
 - (iv) the Environment Agency;
 - (v) the Financial Conduct Authority;
 - (vi) the Food Standards Agency;

- (vii) the Gambling Commission;
- (viii) the Gangmasters Labour and Abuse Authority;
- (ix) the Home Office;
- (x) the Intellectual Property Office;
- (xi) a local authority;
- (xii) the Marine Management Organisation;
- (xiii) the Medicines and Healthcare Products Regulatory Agency;
- (xiv) the Ministry of Defence;
- (xv) the Natural Resources Body for Wales (Corff Adnoddau Naturiol Cymru);
- (xvi) a police force in England and Wales;
- (xvii) the Post Office;
- (xviii) the Prudential Regulation Authority;
- (xix) the Royal Mail;
- (xx) the Rural Payments Agency;
- (xxi) Transport for London;
- (xxii) Velindre National Health Service Trust; or
- (xxiii) The Driver and Vehicle Standards Agency.

Section 303E(4)(f)⁽³⁾ (senior officer for the purposes of prior approval for searches)

In relation to England and Wales, an accredited financial investigator who is—

- (a) an NCA officer at or above grade 2; or
- (b) a member of staff of—
 - (i) the Department for Business, Energy and Industrial Strategy and is at or above the grade of Deputy Chief Investigation Officer;
 - (ii) the Department for Environment, Food and Rural Affairs and is at or above the grade of Senior Executive Officer;
 - (iii) the Department for Work and Pensions and is at or above the grade of Senior Executive Officer;
 - (iv) the Environment Agency and is at or above the grade of Area Environment Agency - EA grade 7;
 - (v) the Financial Conduct Authority and—
 - (aa) is at or above the grade of Manager; or
 - (bb) is authorised by a member of staff at or above the grade of Head of Department (whether

generally or specifically)
for this purpose;

- (vi) the Food Standards Agency and is at or above grade 7;
- (vii) the Gambling Commission and is at or above the grade of Head of Enforcement;
- (viii) the Gangmasters Labour and Abuse Authority and is at or above the grade of Intelligence Manager or Operations Manager;
- (ix) the Home Office and is at or above the grade of Senior Executive Officer;
- (x) the Intellectual Property Office and is at or above the grade of SEO/C1;
- (xi) a local authority and who holds an appropriate office;
- (xii) the Marine Management Organisation and is at or above the grade of Senior Executive Officer;
- (xiii) the Medicines and Healthcare Products Regulatory Agency and is at or above grade 7;
- (xiv) the Ministry of Defence and is at or above the grade of B2;
- (xv) the Natural Resources Body for Wales (Corff Adnoddau Naturiol Cymru) and is at or above the grade of Senior Manager;
- (xvi) the Post Office and is at or above the grade of broadband 3;
- (xvii) the Prudential Regulation Authority and is at or above the grade of Manager;
- (xviii) the Royal Mail and is at or above the grade of broadband 3;
- (xix) the Rural Payments Agency and is at or above the grade of Senior Executive Officer;
- (xx) Transport for London and is at or above the grade of Senior Management Level;
- (xxi) Velindre National Health Service Trust and is at or above the grade of Operations Fraud Manager (pay band 8B); or
- (xxii) The Driver and Vehicle Standards Agency and is at or above grade 7.

Section 303Z1(6)(d)⁽⁴⁾ (enforcement officers for the purposes of Chapter 3B) and section 303Z14(3)(d) (specified persons for the purposes of account forfeiture applications)

In relation to England and Wales, an accredited financial investigator who is—

- (a) an NCA officer; or
- (b) a member of staff of—
 - (i) the Department for Business, Energy and Industrial Strategy;
 - (ii) the Department for Environment, Food and Rural Affairs;
 - (iii) the Department for Work and Pensions;
 - (iv) the Environment Agency;
 - (v) the Financial Conduct Authority;
 - (vi) the Food Standards Agency;
 - (vii) the Gambling Commission;
 - (viii) the Gangmasters Labour and Abuse Authority;
 - (ix) the Home Office;
 - (x) the Intellectual Property Office;
 - (xi) a local authority;
 - (xii) the Marine Management Organisation;
 - (xiii) the Medicines and Healthcare Products Regulatory Agency;
 - (xiv) the Ministry of Defence;
 - (xv) the Natural Resources Body for Wales (Corff Adnoddau Naturiol Cymru);
 - (xvi) a police force in England and Wales;
 - (xvii) the Post Office;
 - (xviii) the Prudential Regulation Authority;
 - (xix) the Royal Mail;
 - (xx) the Rural Payments Agency;
 - (xxi) Transport for London;
 - (xxii) Velindre National Health Service Trust; or
 - (xxiii) The Driver and Vehicle Standards Agency.

Section 303Z2(4)(e)⁽⁵⁾ (senior officer for the purposes of Chapter 3B)

In relation to England and Wales, an accredited financial investigator who is—

- (a) an NCA officer at or above grade 2; or
- (b) a member of staff of—
 - (i) the Department for Business, Energy and Industrial Strategy and is at or above the grade of Deputy Chief Investigation Officer;
 - (ii) the Department for Environment, Food and Rural Affairs and is at or above the grade of Senior Executive Officer;
 - (iii) the Department for Work and

- Pensions and is at or above the grade of Senior Executive Officer;
- (iv) the Environment Agency and is at or above the grade of Area Environment Agency - EA grade 7;
 - (v) the Financial Conduct Authority and—
 - (aa) is at or above the grade of Manager; or
 - (bb) is authorised by a member of staff at or above the grade of Head of Department (whether generally or specifically) for this purpose;
 - (vi) the Food Standards Agency and is at or above grade 7;
 - (vii) the Gambling Commission and is at or above the grade of Head of Enforcement;
 - (viii) the Gangmasters Labour and Abuse Authority and is at or above the grade of Intelligence Manager or Operations Manager;
 - (ix) the Home Office and is at or above the grade of Senior Executive Officer;
 - (x) the Intellectual Property Office and is at or above the grade of SEO/C1;
 - (xi) a local authority and who holds an appropriate office;
 - (xii) the Marine Management Organisation and is at or above the grade of Senior Executive Officer;
 - (xiii) the Medicines and Healthcare Products Regulatory Agency and is at or above grade 7;
 - (xiv) the Ministry of Defence and is at or above the grade of B2;
 - (xv) the Natural Resources Body for Wales (Corff Adnoddau Naturiol Cymru) and is at or above the grade of Senior Manager;
 - (xvi) a police force in England and Wales (other than a constable) and is at or above a grade equivalent to the rank of inspector;
 - (xvii) the Post Office and is at or above the grade of broadband 3;
 - (xviii) the Prudential Regulation Authority and is at or above the grade of Manager;

Section 336D(7)(h)⁽⁶⁾ (senior officer for the purposes of section 336A (power of court to extend the moratorium period))

- (xix) the Royal Mail and is at or above the grade of broadband 3;
 - (xx) the Rural Payments Agency and is at or above the grade of Senior Executive Officer;
 - (xxi) Transport for London and is at or above the grade of Senior Management Level;
 - (xxii) Velindre National Health Service Trust and is at or above the grade of Operations Fraud Manager (pay band 8B); or
 - (xxiii) The Driver and Vehicle Standards Agency and is at or above grade 7
- In relation to England and Wales, an accredited financial investigator who is—

- (a) an NCA officer at or above grade 2; or
- (b) a member of staff of—
 - (i) the Competition and Markets Authority and is at or above grade 7;
 - (ii) the NHS Counter Fraud Authority and is at or above grade 8C;
 - (iii) the Department for Business, Energy and Industrial Strategy and is at or above the grade of Deputy Chief Investigation Officer;
 - (iv) the Department for Environment, Food and Rural Affairs and is at or above the grade of Senior Executive Officer;
 - (v) the Department of Health and is at or above grade 6;
 - (vi) the Department for Work and Pensions and is at or above grade 7;
 - (vii) the Environment Agency and is at or above the grade of Area Environment Agency – EA grade 7;
 - (viii) the Financial Conduct Authority and—
 - (aa) is at or above the grade of Manager; or
 - (bb) is authorised by a member of staff at or above the grade of Head of Department (whether generally or specifically) for this purpose;
 - (ix) the Food Standards Agency and is at or above grade 7;
 - (x) the Gambling Commission and is at

- or above the grade of Head of Enforcement;
- (xi) the Gangmasters Labour and Abuse Authority and is at or above the grade of Enforcement Manager;
 - (xii) the Home Office and is at or above the grade of Senior Executive Officer;
 - (xiii) the Intellectual Property Office and is at or above the grade of SEO/C1;
 - (xiv) a local authority and holds an appropriate office;
 - (xv) the Marine Management Organisation and is at or above the grade of Senior Executive Officer;
 - (xvi) the Medicines and Healthcare Products Regulatory Agency and is at or above grade 7;
 - (xvii) the Ministry of Defence and is at or above the grade of B2;
 - (xviii) the Natural Resources Body for Wales (Corff Adnoddau Naturiol Cymru) and is at or above the grade of Senior Manager;
 - (xix) the Pensions Regulator and is at or above the grade of Regulatory Manager;
 - (xx) a police force in England and Wales (other than a constable) and is at or above a grade equivalent to the rank of Inspector;
 - (xxi) the Post Office and is at or above the grade of broadband 3;
 - (xxii) the Prudential Regulation Authority and is at or above the grade of Manager;
 - (xxiii) the Royal Mail and is at or above the grade of broadband 3;
 - (xxiv) the Rural Payments Agency and is at or above the grade of Senior Executive Officer;
 - (xxv) Transport for London and is at or above the grade of Senior Management Level;
 - (xxvi) Velindre National Health Service Trust and is at or above the grade of Operations Fraud Manager (pay band 8B); or
 - (xxvii) The Driver and Vehicle Standards Agency and is at or above grade 7.

⁽¹⁾ Section 297A was inserted by section 65(1) of the Policing and Crime Act 2009 (c. 26). It was amended by paragraph 14 of Schedule 21 to the Crime and Courts Act 2013 (c. 22) and

section 34(7) of, and paragraph 19 of Schedule 1 to, the Criminal Finances Act 2017 (c. 22) (“the 2017 Act”).

(2) Sections 303C, 303L and 303O were inserted by section 15 of the 2017 Act.

(3) Section 303E was inserted by section 15 of the 2017 Act.

(4) Sections 303Z1 and 303Z14 were inserted by section 16 of the 2017 Act.

(5) Section 303Z2 was inserted by section 16 of the 2017 Act.

(6) Section 336D was inserted by section 10(4) of the 2017 Act.”.

11. In the entry relating to section 352(5)(c)—

- (a) in column 1 for “Section 352(5)(c) (appropriate person for the purposes of search and seizure warrants under Chapter 2 of Part 8)” substitute—

“Section 352(5)(c), (ca) and (cb) (appropriate person for the purposes of search and seizure warrants under Chapter 2 of Part 8) and section 353(10)(c), (ca) and (cb) (appropriate person for securing immediate entry to premises where production order not available)”;

and

- (b) in column 2, paragraph (b)—

- (i) after sub-paragraph (viii) insert—

“(viiiia) the Intellectual Property Office;”; and

- (ii) omit sub-paragraph (xviii).

12. Omit the entry relating to section 353(10)(c).

13. In the entry relating to section 378(1)(b), in column 2, paragraph (b), omit sub-paragraph (xxiv).

14. In the entry relating to section 378(2)(d), in column 2—

- (a) in paragraph (la)(a), for “the grade of Head of Intelligence at Copyright Enforcement Directorate C2 or equivalent” substitute “grade 7”;

- (b) after paragraph (q) insert—

“(qa) a police force in England and Wales (other than a constable) and is at or above a grade equivalent to the rank of Superintendent;”; and

- (c) omit paragraph (w).

15. In the entry relating to section 378(3A)(ab), in column 2, paragraph (b)—

- (a) after sub-paragraph (ix) insert—

“(ixa) the Intellectual Property Office;”;

- (b) after sub-paragraph (xiv) insert—

“(xiva) the Post Office;”; and

- (c) omit sub-paragraph (xviii).

16. In the entry relating to section 378(3AA)(b)—

- (a) in column 1, for “(senior appropriate officer)” substitute “(senior appropriate officers for the purposes of detained cash investigations under Part 8)”;

- (b) in column 2, paragraph (b)—

- (i) after sub-paragraph (ix) insert—

“(ixa) the Intellectual Property Office and is at or above grade 7;”;

- (ii) after sub-paragraph (xiii) insert—

“(xiiiia) a police force in England and Wales (other than a constable) and is at or above a grade equivalent to the rank of Superintendent;

(a) Paragraph (la) was inserted by S.I. 2017/74.

(xiiiib) the Post Office and is at or above the grade of broadband 3;” and

(iii) omit sub-paragraph (xvii).

17. In the appropriate place insert—

“Section 378(3C)(c)⁽¹⁾ (appropriate officers for the purposes of detained property investigations under Part 8)

In relation to England and Wales, an accredited financial investigator who is—

- (a) an immigration officer;
- (b) an NCA officer; or
- (c) a member of staff of—
 - (i) the Department for Business, Energy and Industrial Strategy;
 - (ii) the Department for Environment, Food and Rural Affairs;
 - (iii) the Department for Work and Pensions;
 - (iv) the Environment Agency;
 - (v) the Financial Conduct Authority;
 - (vi) the Food Standards Agency;
 - (vii) the Gambling Commission;
 - (viii) the Gangmasters Labour and Abuse Authority;
 - (ix) the Home Office;
 - (x) the Intellectual Property Office;
 - (xi) a local authority;
 - (xii) the Marine Management Organisation;
 - (xiii) the Medicines and Healthcare Products Regulatory Agency;
 - (xiv) the Ministry of Defence;
 - (xv) the Natural Resources Body for Wales (Corff Adnoddau Naturiol Cymru);
 - (xvi) a police force in England and Wales;
 - (xvii) the Post Office;
 - (xviii) the Prudential Regulation Authority;
 - (xix) the Royal Mail;
 - (xx) the Rural Payments Agency;
 - (xxi) Transport for London;
 - (xxii) Velindre National Health Service Trust; or
 - (xxiii) The Driver and Vehicle Standards Agency.

Section 378(3D)(c) (senior appropriate officer for the purposes of detained property investigations under Part 8)

In relation to England and Wales, an accredited financial investigator who is—

- (a) an immigration officer at or above the grade of Chief Immigration Officer;
- (b) an NCA officer at or above grade 2; or

- (c) a member of staff of—
 - (i) the Department for Business, Energy and Industrial Strategy and is at or above the grade of Deputy Chief Investigation Officer;
 - (ii) the Department for Environment, Food and Rural Affairs and is at or above the grade of Senior Executive Officer;
 - (iii) the Department for Work and Pensions and is at or above the grade of Senior Executive Officer;
 - (iv) the Environment Agency and is at or above the grade of Area Environment Agency - EA grade 7;
 - (v) the Financial Conduct Authority and—
 - (aa) is at or above the grade of Manager; or
 - (bb) is authorised by a member of staff at or above the grade of Head of Department (whether generally or specifically) for this purpose;
 - (vi) the Food Standards Agency and is at or above grade 7;
 - (vii) the Gambling Commission and is at or above the grade of Head of Enforcement;
 - (viii) the Gangmasters Labour and Abuse Authority and is at or above the grade of Intelligence Manager or Operations Manager;
 - (ix) the Home Office and is at or above the grade of Senior Executive Officer;
 - (x) the Intellectual Property Office and is at or above the grade of SEO/C1;
 - (xi) a local authority and who holds an appropriate office;
 - (xii) the Marine Management Organisation and is at or above the grade of Senior Executive Officer;
 - (xiii) the Medicines and Healthcare Products Regulatory Agency and is at or above grade 7;
 - (xiv) the Ministry of Defence and is at or above the grade of B2;
 - (xv) the Natural Resources Body for Wales (Corff Adnoddau Naturiol Cymru) and is at or above the grade of Senior

Manager;

- (xvi) a police force in England and Wales (other than a constable) and is at or above a grade equivalent to the rank of Inspector;
- (xvii) the Post Office and is at or above the grade of broadband 3;
- (xviii) the Prudential Regulation Authority and is at or above the grade of Manager;
- (xix) the Royal Mail and is at or above the grade of broadband 3;
- (xx) the Rural Payments Agency and is at or above the grade of Senior Executive Officer;
- (xxi) Transport for London and is at or above the grade of Senior Management Level;
- (xxii) Velindre National Health Service Trust and is at or above the grade of Operations Fraud Manager (pay band 8B); or
- (xxiii) The Driver and Vehicle Standards Agency and is at or above grade 7.

Section 378(3E)(c) (appropriate officers for the purposes of frozen funds investigations under Part 8)

In relation to England and Wales, an accredited financial investigator who is—

- (a) an immigration officer;
- (b) an NCA officer; or
- (c) a member of staff of—
 - (i) the Department for Business, Energy and Industrial Strategy;
 - (ii) the Department for Environment, Food and Rural Affairs;
 - (iii) the Department for Work and Pensions;
 - (iv) the Environment Agency;
 - (v) the Financial Conduct Authority;
 - (vi) the Food Standards Agency;
 - (vii) the Gambling Commission;
 - (viii) the Gangmasters Labour and Abuse Authority;
 - (ix) the Home Office;
 - (x) the Intellectual Property Office;
 - (xi) a local authority;
 - (xii) the Marine Management Organisation;
 - (xiii) the Medicines and Healthcare Products Regulatory Agency;

- (xiv) the Ministry of Defence;
- (xv) the Natural Resources Body for Wales (Corff Adnoddau Naturiol Cymru);
- (xvi) a police force in England and Wales;
- (xvii) the Post Office;
- (xviii) the Prudential Regulation Authority;
- (xix) the Royal Mail;
- (xx) the Rural Payments Agency;
- (xxi) Transport for London;
- (xxii) Velindre National Health Service Trust; or
- (xxiii) The Driver and Vehicle Standards Agency.

Section 378(3F)(c) (senior appropriate officer for the purposes of frozen funds investigations under Part 8)

In relation to England and Wales, an accredited financial investigator who is—

- (a) an immigration officer at or above the grade of Chief Immigration Officer;
- (b) an NCA officer at or above grade 2; or
- (c) a member of staff of—
 - (i) the Department for Business, Energy and Industrial Strategy and is at or above the grade of Deputy Chief Investigation Officer;
 - (ii) the Department for Environment, Food and Rural Affairs and is at or above the grade of Senior Executive Officer;
 - (iii) the Department for Work and Pensions and is at or above the grade of Senior Executive Officer;
 - (iv) the Environment Agency and is at or above the grade of Area Environment Agency - EA grade 7;
 - (v) the Financial Conduct Authority and—
 - (aa) is at or above the grade of Manager; or
 - (bb) is authorised by a member of staff at or above the grade of Head of Department (whether generally or specifically) for this purpose;
 - (vi) the Food Standards Agency and is at or above grade 7;
 - (vii) the Gambling Commission and is at or above the grade of Head of Enforcement;
 - (viii) the Gangmasters Labour and Abuse

- Authority and is at or above the grade of Intelligence Manager or Operations Manager;
- (ix) the Home Office and is at or above the grade of Senior Executive Officer;
 - (x) the Intellectual Property Office and is at or above the grade of SEO/C1;
 - (xi) a local authority and who holds an appropriate office;
 - (xii) the Marine Management Organisation and is at or above the grade of Senior Executive Officer;
 - (xiii) the Medicines and Healthcare Products Regulatory Agency and is at or above grade 7;
 - (xiv) the Ministry of Defence and is at or above the grade of B2;
 - (xv) the Natural Resources Body for Wales (Corff Adnoddau Naturiol Cymru) and is at or above the grade of Senior Manager;
 - (xvi) a police force in England and Wales (other than a constable) and is at or above a grade equivalent to the rank of Inspector;
 - (xvii) the Post Office and is at or above the grade of broadband 3;
 - (xviii) the Prudential Regulation Authority and is at or above the grade of Manager;
 - (xix) the Royal Mail and is at or above the grade of broadband 3;
 - (xx) the Rural Payments Agency and is at or above the grade of Senior Executive Officer;
 - (xxi) Transport for London and is at or above the grade of Senior Management Level;
 - (xxii) Velindre National Health Service Trust and is at or above the grade of Operations Fraud Manager (pay band 8B); or
 - (xxiii) The Driver and Vehicle Standards Agency and is at or above grade 7.

⁽¹⁾ Section 378(3C) to (3F) was inserted by paragraph 59 of Schedule 5 to the 2017 Act.”.

18. In the entry relating to section 378(4)(a), in column 2 omit paragraph (b)(xxiv).

19. In the entry relating to section 378(6)(c), in column 2, paragraph (b)—

- (a) in sub-paragraph (xiii), for “the grade of Head of Intelligence at Copyright Enforcement Directorate C2 or equivalent” substitute “grade 7”;
- (b) after sub-paragraph (xviii) insert—

- “(xviiiia) a police force in England and Wales (other than a constable) and is at or above a grade equivalent to the rank of Superintendent;” and
- (c) omit sub-paragraph (xxiii).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Proceeds of Crime Act 2002 (References to Financial Investigators) (England and Wales) Order 2015 (S.I. 2015/1853) (“the 2015 Order”).

Section 3 of the Proceeds of Crime Act 2002 (c. 29) (“POCA”) provides that the National Crime Agency (“NCA”) can train and accredit financial investigators in the use of certain powers within POCA. These are known as accredited financial investigators (“AFIs”).

The Schedule to this Order amends the 2015 Order to make amendments which are required as a result of amendments to POCA made by the Criminal Finances Act 2017 (c. 22) (“CFA”).

In particular, this Order removes the references to AFIs who work for the SFO from the 2015 Order (the references are preserved for operational reasons in respect of the powers in sections 42 and 68 of POCA, which relate to restraint orders) because provision is now made for them directly in the CFA. In addition, the CFA made provision within POCA for civilian AFIs who work for a police force to obtain approval for the use of certain powers from a senior police officer, and so this Order removes references to senior police AFIs from the 2015 Order in respect of those powers. This Order also includes provisions which would allow approval to be obtained from senior civilian AFIs in the police, in respect of the investigatory powers in section 378 of POCA, to which the CFA amendments did not apply.

The CFA also introduces powers to seize, detain and forfeit certain listed items of property, and to freeze and forfeit money in bank and building society accounts, into POCA (“the new forfeiture powers”). These powers are supported by the creation of two new categories of investigation in Part 8 of POCA (the detained property investigation and frozen funds investigation respectively) (“the new investigations”). This Order inserts provisions into the 2015 Order to define which AFIs can access the new forfeiture powers and the new investigations, and which AFIs are “senior officers” for the purposes of those provisions. In addition, this Order makes provision in respect of the access to search powers in sections 352 and 353 of POCA. The scope of the provision in the 2015 Order is extended to include the new investigations, and the provisions in the 2015 Order are merged together into one paragraph.

The CFA inserts provisions into Part 7 of POCA which allow AFIs who are senior officers to make an application to the magistrates’ court for an order under section 336A of POCA to extend the moratorium period. This is a period of 31 days which arises when suspicions of money laundering have been disclosed, and during which law enforcement cannot be assumed to consent to a particular transaction proceeding. This Order also inserts provisions into the 2015 Order to define which AFIs are senior officers for the purposes of an order under section 336A of POCA.

This Order also makes amendments to the 2015 Order in respect of existing powers in POCA. The 2015 Order is amended so that AFIs who are members of staff of the Intellectual Property Office are given access to the full range of powers listed in the 2015 Order, and the definition in the 2015 Order of an AFI who is a senior officer under section 68(3) of POCA (for the purposes of obtaining a restraint order) is also amended. The grade of a senior AFI for the Velindre National Health Service Trust is also specified, and paragraph 3 of the Schedule to this Order corrects the name of that Trust throughout the 2015 Order. In addition, a definition of an AFI who is a senior officer for the administrative forfeiture procedure under section 297A of POCA is inserted (under this procedure cash is forfeited without a court order, if an administrative forfeiture notice is given and no objections are raised).

An impact assessment has not been produced for this instrument as it has no direct impact on business, the public sector, charities or voluntary bodies.

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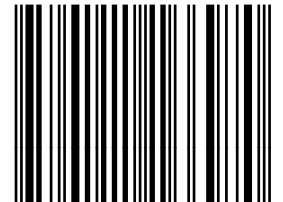
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