



# Criminal Finances Act 2017

## 2017 CHAPTER 22

### PART 1

#### PROCEEDS OF CRIME

### CHAPTER 4

#### ENFORCEMENT POWERS AND RELATED OFFENCES

##### *Extension of powers*

#### **17 Serious Fraud Office**

Schedule 1 contains amendments conferring certain powers under the Proceeds of Crime Act 2002 on members of staff of the Serious Fraud Office.

#### **18 Her Majesty's Revenue and Customs: removal of restrictions**

- (1) The following provisions, which impose restrictions on the exercise of certain powers conferred on officers of Revenue and Customs, are amended as follows.
- (2) In section 23A of the Criminal Law (Consolidation) (Scotland) Act 1995 (investigation of offences by Her Majesty's Revenue and Customs), omit the following—
  - (a) in subsection (2), the words “Subject to subsection (3) below,” and the words from “other than” to the end of the subsection;
  - (b) subsection (3).
- (3) In section 307 of the Criminal Procedure (Scotland) Act 1995 (interpretation), omit the following—
  - (a) in subsection (1), in paragraph (ba) of the definition of “officer of law”, the words “subject to subsection (1A) below,”;

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- (b) subsection (1A).
- (4) In the Proceeds of Crime Act 2002 omit the following—
  - (a) in section 289 (searches), subsections (5)(ba) and (5A);
  - (b) in section 294 (seizure of cash), subsections (2A), (2B) and (2C);
  - (c) section 375C (restriction on exercise of certain powers conferred on officers of Revenue and Customs);
  - (d) section 408C (restriction on exercise of certain powers conferred on officers of Revenue and Customs).
- (5) In the Finance Act 2007, in section 84 (sections 82 and 83: supplementary), omit subsection (3).

## **19 Her Majesty’s Revenue and Customs: new powers**

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In section 316 (civil recovery of the proceeds etc of unlawful conduct: general interpretation), in the definition of “enforcement authority” in subsection (1)—
  - (a) in paragraph (a), before “the National Crime Agency,” insert “Her Majesty’s Revenue and Customs,”;
  - (b) in paragraph (c), before “the National Crime Agency,” insert “Her Majesty’s Revenue and Customs,”.
- (3) In section 378 (appropriate officers and senior appropriate officers for purposes of investigations under Part 8), for subsection (3) substitute—
  - “(3) In relation to a civil recovery investigation these are appropriate officers—
    - (a) a National Crime Agency officer;
    - (b) the relevant Director;
    - (c) an officer of Revenue and Customs.
  - (3ZA) In relation to a civil recovery investigation these are senior appropriate officers—
    - (a) a senior National Crime Agency officer;
    - (b) the Commissioners for Her Majesty’s Revenue and Customs or an officer of Revenue and Customs authorised by the Commissioners (whether generally or specifically) for this purpose.”

## **20 Financial Conduct Authority**

- (1) The Proceeds of Crime Act 2002 is amended as follows.
- (2) In section 316 (civil recovery of the proceeds etc of unlawful conduct: general interpretation), in the definition of “enforcement authority” in subsection (1)—
  - (a) in paragraph (a), after “means” insert “the Financial Conduct Authority,”;
  - (b) in paragraph (c), after “means” insert “the Financial Conduct Authority,”.
- (3) Section 378 (appropriate officers and senior appropriate officers for purposes of investigations under Part 8) is amended in accordance with subsections (4) to (6).
- (4) In subsection (3) (as substituted by section 19 above), after paragraph (c) insert—
  - “(d) a Financial Conduct Authority officer.”

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(5) In subsection (3ZA) (as inserted by that section), after paragraph (b) insert—  
“(c) a senior Financial Conduct Authority officer.”

(6) After subsection (8) insert—

“(9) For the purposes of this Part—

(a) “Financial Conduct Authority officer” means a member of staff of the Financial Conduct Authority;

(b) “senior Financial Conduct Authority officer” means a Financial Conduct Authority officer who is not below such grade as is designated by the Treasury for those purposes.”

## **21 Immigration officers**

(1) Section 24 of the UK Borders Act 2007 (seizure of cash) is amended as follows.

(2) For the heading substitute “Exercise of civil recovery powers by immigration officers”.

(3) For subsection (1) substitute—

“(1) Chapters 3 to 3B of Part 5 of the Proceeds of Crime Act 2002 (civil recovery) apply in relation to an immigration officer as they apply in relation to a constable.”

(4) In subsection (2)(a), for “section 289” substitute “sections 289 and 303C and Chapter 3B”.

(5) In subsection (2)(c), for “and 297A” substitute “, 297A and 303E and in Chapter 3B (see section 303Z2(4))”.

(6) In subsection (2)(d), for “section 292” substitute “sections 292 and 303G”.

(7) In subsection (2)(e), for “and 293A” substitute “, 293A, 303H and 303I”.

(8) In subsection (2)(f), in the words before sub-paragraph (i), after “295(2)” insert “or 303L(1)”.

(9) In subsection (2)(f)(ii), after “298” insert “or (as the case may be) 303O”.

(10) In subsection (2)(g), after “298” insert “, 303O or 303Z14”.

(11) In subsection (2)(h), after “302” insert “, 303W or 303Z18”.

### *Assault and obstruction offences*

## **22 Search and seizure warrants: assault and obstruction offences**

After section 356 of the Proceeds of Crime Act 2002 (and before the italic heading before section 357) insert—

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**“356A Certain offences in relation to execution of search and seizure warrants**

- (1) A person commits an offence if the person assaults an appropriate person who is acting in the exercise of a power conferred by a search and seizure warrant issued under section 352.
- (2) A person commits an offence if the person resists or wilfully obstructs an appropriate person who is acting in the exercise of a power conferred by a search and seizure warrant issued under section 352.
- (3) A person guilty of an offence under subsection (1) is liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine, or to both;
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the standard scale, or to both.
- (4) A person guilty of an offence under subsection (2) is liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 3 on the standard scale, or to both;
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 1 month, or to a fine not exceeding level 3 on the standard scale, or to both.
- (5) An appropriate person is—
  - (a) a National Crime Agency officer, a Financial Conduct Authority officer or a member of the staff of the relevant Director, if the warrant was issued for the purposes of a civil recovery investigation;
  - (b) a National Crime Agency officer, if the warrant was issued for the purposes of an exploitation proceeds investigation.
- (6) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales)—
  - (a) the reference in subsection (3)(a) to 51 weeks is to be read as a reference to 6 months;
  - (b) the reference in subsection (4)(a) to 51 weeks is to be read as a reference to 1 month.”

**23 Assault and obstruction offence in relation to SFO officers**

After section 453A of the Proceeds of Crime Act 2002 insert—

**“453B Certain offences in relation to SFO officers**

- (1) A person commits an offence if the person assaults an SFO officer who is acting in the exercise of a relevant power.
- (2) A person commits an offence if the person resists or wilfully obstructs an SFO officer who is acting in the exercise of a relevant power.

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- (3) A person guilty of an offence under subsection (1) is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine, or to both;
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the standard scale, or to both.
- (4) A person guilty of an offence under subsection (2) is liable—
- (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 3 on the standard scale, or to both;
  - (b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 1 month, or to a fine not exceeding level 3 on the standard scale, or to both.
- (5) In this section “relevant power” means a power exercisable under any of the following—
- (a) sections 47C to 47F or 195C to 195F (powers to seize and search for realisable property);
  - (b) section 289 (powers to search for cash);
  - (c) section 294 (power to seize cash);
  - (d) section 295(1) (power to detain seized cash);
  - (e) section 303C (powers to search for a listed asset);
  - (f) section 303J (powers to seize property);
  - (g) section 303K (powers to detain seized property);
  - (h) a search and seizure warrant issued under section 352.
- (6) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales)—
- (a) the reference in subsection (3)(a) to 51 weeks is to be read as a reference to 6 months;
  - (b) the reference in subsection (4)(a) to 51 weeks is to be read as a reference to 1 month.”

## **24 External requests, orders and investigations**

- (1) Part 11 of the Proceeds of Crime Act 2002 (co-operation) is amended as follows.
- (2) In section 444 (external requests and orders), in subsection (3), after paragraph (a) insert—
- “(aa) provision creating offences in relation to external requests and orders which are equivalent to the offences created by section 453B;”.
- (3) In section 445 (external investigations), in subsection (1)(b), after “Part 8” insert “and section 453B”.

## **25 Obstruction offence in relation to immigration officers**

After section 453B of the Proceeds of Crime Act 2002 (inserted by section 23 above) insert—

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

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**“453C Obstruction offence in relation to immigration officers**

- (1) A person commits an offence if the person resists or wilfully obstructs an immigration officer who is acting in the exercise of a relevant power.
- (2) A person guilty of an offence under this section is liable—
  - (a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, to a fine not exceeding level 3 on the standard scale, or to both;
  - (b) on summary conviction in Scotland, to imprisonment for a term not exceeding 12 months, to a fine not exceeding level 3 on the standard scale, or to both;
  - (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 1 month, to a fine not exceeding level 3 on the standard scale, or to both.
- (3) In this section “relevant power” means a power exercisable under—
  - (a) sections 47C to 47F, 127C to 127F or 195C to 195F (powers to seize and search for realisable property);
  - (b) section 289 as applied by section 24 of the UK Borders Act 2007 (powers to search for cash);
  - (c) section 294 as so applied (powers to seize cash);
  - (d) section 295(1) as so applied (power to detain seized cash);
  - (e) section 303C as so applied (powers to search for a listed asset);
  - (f) section 303J as so applied (powers to seize property);
  - (g) section 303K as so applied (powers to detain seized property);
  - (h) a search and seizure warrant issued under section 352; or
  - (i) a search and seizure warrant issued under section 387.
- (4) The power conferred by subsection (5) of section 28A of the Immigration Act 1971 (arrest without warrant) applies in relation to an offence under this section as it applies in relation to an offence under section 26(1)(g) of that Act (and subsections (6) to (9), (10) and (11) of section 28A of that Act apply accordingly).
- (5) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales) the reference in subsection (2) (a) to 51 weeks is to be read as a reference to 1 month.”