

Draft Order laid before Parliament under section 459(6)(a) of the Proceeds of Crime Act 2002, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002
(Disclosure of Information) Order 2008

Made - - - - 2008
Coming into force - - 23rd July 2008

This Order is made in exercise of the powers conferred by sections 436(6)(1) and 438(9) of the Proceeds of Crime Act 2002(2).

In accordance with section 459(6)(a) of that Act, a draft of this Order has been laid before Parliament and approved by a resolution of each House.

Accordingly, the Secretary of State makes the following Order:

Citation and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (Disclosure of Information) Order 2008 and shall come into force on 23rd July 2008.

Disclosure of information to certain Directors

2. For the purposes of section 436 of the Proceeds of Crime Act 2002(3), the persons listed in column 1 of the Schedule to this Order are designated as permitted persons in respect of the functions specified in relation to those persons in column 2 of the Schedule to this Order, being functions which the Secretary of State believes are of a public nature.

Disclosure of information by certain Directors

3. The following functions are designated for the purposes of section 438 of the Proceeds of Crime Act 2002(4) being functions which the Secretary of State thinks are of a public nature—

- (a) protecting public health;

(1) Section 436(6) is qualified by section 436(7) of the Proceeds of Crime Act 2002.

(2) 2002 c. 29.

(3) Section 436 has been amended by paragraph 132 of Schedule 8 to the Serious Crime Act 2007 (c. 27).

(4) Section 438 has been amended by paragraph 134 of Schedule 8 to the Serious Crime Act 2007.

- (b) the functions of the Financial Services Authority under the Financial Services and Markets Act 2000⁽⁵⁾.

Revocation of the Proceeds of Crime Act 2002 (Disclosure of Information) Order 2003

4. The Proceeds of Crime Act 2002 (Disclosure of Information) Order 2003⁽⁶⁾ is revoked.

Home Office
2008

Parliamentary Under Secretary of State

⁽⁵⁾ 2000 c. 8.
⁽⁶⁾ S.I. 2003/335.

SCHEDULE

Article 2

<i>Column 1</i>	<i>Column 2</i>
The Secretary of State	<p>Functions exercised for the purposes of</p> <p>(a) the prevention, detection, investigation or prosecution of offences relating to a social security matter or a scheme or arrangement under section 2 of the Employment and Training Act 1973(7); or</p> <p>(b) checking the accuracy of any benefit, payment or advantage in a social security matter or a scheme or arrangement under section 2 of the Employment and Training Act 1973.</p> <p>Functions exercised for the purposes of prevention, detection, investigation or prosecution of offences relating to the use of motor vehicles, passenger vehicles or goods vehicles.</p> <p>Functions under</p> <p>(a) the Employment Agencies Act 1973(8);</p> <p>(b) Part XIV of the Companies Act 1985(9);</p> <p>(c) Part III of the Companies Act 1989(10);</p> <p>(d) Part XI of the Financial Services and Markets Act 2000(11); and</p> <p>(e) the Export of Goods, Transfer of Technology and Provision of Technical Assistance (Control) Order 2003(12).</p>
An officer authorised under section 9 of the Employment Agencies Act 1973	Functions under section 9 of the Employment Agencies Act 1973.
A person appointed or authorised to exercise powers under Part XIV of the Companies Act 1985	Functions under Part XIV of the Companies Act 1985.

(7) 1973 c. 50. Section 2 was substituted by section 25(1) of the Employment Act 1988 (c. 19) and amended by section 29(4) of and Schedule 7 to the Employment Act 1989 (c. 38) and section 47(1) of the Trade Union Reform and Employment Rights Act 1993 (c. 19).

(8) 1973 c. 35.

(9) 1985 c. 6.

(10) 1989 c. 40.

(11) Section 167 was amended by paragraph 7 of Schedule 5 to S.I. 2007/126. Section 176 was amended by paragraph 12 of Schedule 1 to S.I. 2005/1433.

(12) S.I. 2003/2764.

<i>Column 1</i>	<i>Column 2</i>
A person appointed to conduct an investigation under Part XI of the Financial Services and Markets Act 2000	Functions under Part XI of the Financial Services and Markets Act 2000.
The Civil Aviation Authority	Functions under <ul style="list-style-type: none"> (a) the Civil Aviation Act 1982(13); (b) Part IV and sections 69 and 73 of the Airports Act 1986(14); and (c) Part I of the Transport Act 2000(15).
The Gambling Commission	Functions under Part 2 of the Gambling Act 2005 (16) .
The Common Services Agency for the Scottish Health Service	Functions under article 3 of the National Health Service (Functions of the Common Services Agency) (Scotland) Order 1974 (17) exercised for the purposes of preventing or detecting crime.
A financial investigator appointed under article 49 of the Proceeds of Crime (Northern Ireland) Order 1996 (18)	Functions under articles 50 and 51 of, and Schedule 2 to, the Proceeds of Crime (Northern Ireland) Order 1996 (19) .
The Department for Social Development in Northern Ireland	Functions exercised for the purposes of <ul style="list-style-type: none"> (a) the prevention, detection, investigation or prosecution of offences relating to a social security matter; or (b) checking the accuracy of any benefit, payment or advantage in a social security matter.
The Department for Employment and Learning in Northern Ireland	Functions exercised for the purposes of <ul style="list-style-type: none"> (a) the prevention, detection, investigation or prosecution of offences relating to a scheme or arrangement under section 1 of the Employment and Training Act (Northern Ireland) 1950(20); or

(13) 1982 c. 16.

(14) 1986 c. 31.

(15) 2000 c. 38.

(16) 2005 c. 19.

(17) S.I. 1974/467. Article 3 is amended by S.I. 1991/900, S.S.I. 2000/224, S.S.I. 2003/159, S.S.I. 2003/306 and S.S.I. 2006/603.

(18) S.I. 1996/1299 (N.I. 9).

(19) Articles 49, 50 and 51 and Schedule 2 are amended by the Financial Investigations (Northern Ireland) Order 2001 (S.I. 2001/1866 (N.I. 1)) and the Proceeds of Crime Act 2002.

(20) 1950 c. 29 (N.I.); section 1 was extended by S.I. 1974/2144 (N.I. 7) and amended by S.I. 1988/1087 (N.I. 10) and S.I. 1990/1200 (N.I. 8). These functions were transferred under S.R. 1999 No. 481 from the Department of Economic Development to the Department of Higher and Further Education, Training and Employment. This latter department was renamed the Department for Employment and Learning by section 1 of the [Department for Employment and Learning Act \(Northern Ireland\) 2001 \(c. 15 \(N.I.\)\)](#).

<i>Column 1</i>	<i>Column 2</i>
	(b) checking the accuracy of any benefit, payment or advantage in a scheme or arrangement under section 1 of the Employment and Training Act (Northern Ireland) 1950.
The Department of the Environment in Northern Ireland	Functions exercised for the purposes of the prevention, detection, investigation or prosecution of offences relating to the use of motor vehicles, passenger vehicles or goods vehicles.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for the disclosure of information to and by the Director of Public Prosecutions, the Director of the Serious Fraud Office and the Director of Public Prosecutions for Northern Ireland as respects their functions under, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002. Part 5 of that Act is concerned with the civil recovery of the proceeds of unlawful conduct. Part 8 contains certain investigative powers in relation to civil recovery cases.

Article 2 deals with disclosure of information to the Directors. It introduces the Schedule to this Order which designates the persons who (in addition to the persons listed in section 436 of the Act) are permitted to disclose information to the Directors for the purpose of their functions under, or in relation to, Part 5 or 8, and the functions which they exercise in respect of which they may disclose the information.

Article 3 deals with disclosure of information by the Directors and designates the functions (in addition to the functions listed in section 438 of the Act) for the purposes of the exercise of which the Directors may disclose information.

Article 4 revokes the Proceeds of Crime Act 2002 (Disclosure of Information) Order 2003.

By virtue of sections 436(3) and 438(8), this Order has effect subject to the provisions of the Data Protection Act 1998 and Part 1 of the Regulation of Investigatory Powers Act 2000.