



Criminal Justice Act 1987

1987 CHAPTER 38

PART I

FRAUD

Serious Fraud Office

1 The Serious Fraud Office.

- (1) A Serious Fraud Office shall be constituted for England and Wales and Northern Ireland.
- (2) The Attorney General shall appoint a person to be the Director of the Serious Fraud Office (referred to in this Part of this Act as “the Director”), and he shall discharge his functions under the superintendence of the Attorney General.
- (3) The Director may investigate any suspected offence which appears to him on reasonable grounds to involve serious or complex fraud.
- (4) The Director may, if he thinks fit, conduct any such investigation in conjunction either with the police or with any other person who is, in the opinion of the Director, a proper person to be concerned in it.
- (5) The Director may—
 - (a) institute and have the conduct of any criminal proceedings which appear to him to relate to such fraud; and
 - (b) take over the conduct of any such proceedings at any stage.
- (6) The Director shall discharge such other functions in relation to fraud as may from time to time be assigned to him by the Attorney General.
- (7) The Director may designate for the purposes of subsection (5) above any member of the Serious Fraud Office who is—
 - (a) a barrister in England and Wales or Northern Ireland;
 - (b) a solicitor of the Supreme Court; or

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- (c) a solicitor of the Supreme Court of Judicature of Northern Ireland.
- (8) Any member so designated shall, without prejudice to any functions which may have been assigned to him in his capacity as a member of that Office, have all the powers of the Director as to the institution and conduct of proceedings but shall exercise those powers under the direction of the Director.
- (9) Any member so designated who is a barrister in England and Wales or a solicitor of the Supreme Court shall have, in any court, the rights of audience enjoyed by solicitors holding practising certificates and shall have such additional rights of audience in the Crown Court in England and Wales as may be given by virtue of subsection (11) below.
- (10) The reference in subsection (9) above to rights of audience enjoyed in any court by solicitors includes a reference to rights enjoyed in the Crown Court by virtue of any direction given by the Lord Chancellor under section 83 of the ^{M1}Supreme Court Act 1981.
- (11) For the purpose of giving members so designated who are barristers in England and Wales or solicitors of the Supreme Court additional rights of audience in the Crown Court in England and Wales, the Lord Chancellor may give any such direction as respects such members as he could give under the said section 83.
- (12) Any member so designated who is a barrister in Northern Ireland or a solicitor of the Supreme Court of Judicature of Northern Ireland shall have—
- (a) in any court the rights of audience enjoyed by solicitors of the Supreme Court of Judicature of Northern Ireland and, in the Crown Court in Northern Ireland, such additional rights of audience as may be given by virtue of subsection (14) below; and
- (b) in the Crown Court in Northern Ireland, the rights of audience enjoyed by barristers employed by the Director of Public Prosecutions for Northern Ireland.
- (13) Subject to subsection (14) below, the reference in subsection (12)(a) above to rights of audience enjoyed by solicitors of the Supreme Court of Judicature of Northern Ireland is a reference to such rights enjoyed in the Crown Court in Northern Ireland as restricted by any direction given by the Lord Chief Justice of Northern Ireland under section 50 of the ^{M2}Judicature (Northern Ireland) Act 1978.
- (14) For the purpose of giving any member so designated who is a barrister in Northern Ireland or a solicitor of the Supreme Court of Judicature of Northern Ireland additional rights of audience in the Crown Court in Northern Ireland, the Lord Chief Justice of Northern Ireland may direct that any direction given by him under the said section 50 shall not apply to such members.
- (15) Schedule 1 to this Act shall have effect.
- (16) For the purposes of this section (including that Schedule) references to the conduct of any proceedings include references to the proceedings being discontinued and to the taking of any steps (including the bringing of appeals and making of representations in respect of applications for bail) which may be taken in relation to them.
- (17) In the application of this section (including that Schedule) to Northern Ireland references to the Attorney General are to be construed as references to him in his capacity as Attorney General for Northern Ireland.

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Marginal Citations

- M1 1981 c. 54.
M2 1978 c. 23.

2 Director's investigation powers.

- (1) The powers of the Director under this section shall be exercisable, but only for the purposes of an investigation under section 1 above, [^{F1}or, on a request made by the Attorney General of the Isle of Man, Jersey or Guernsey, under legislation corresponding to that section and having effect in the Island whose Attorney General makes the request,] in any case in which it appears to him that there is good reason to do so for the purpose of investigating the affairs, or any aspect of the affairs, of any person.
- (2) The Director may by notice in writing require the person whose affairs are to be investigated (“the person under investigation”) or any other person whom he has reason to believe has relevant information to [^{F2}answer questions or otherwise furnish information with respect to any matter relevant to the investigation at a specified place and either at a specified time or forthwith].
- (3) The Director may by notice in writing require the person under investigation or any other person to produce at [^{F3}such place as may be specified in the notice and either forthwith or at such time as may be so specified,] any specified documents which appear to the Director to relate to any matter relevant to the investigation or any documents of a specified [^{F3}description] which appear to him so to relate; and—
 - (a) if any such documents are produced, the Director may—
 - (i) take copies or extracts from them;
 - (ii) require the person producing them to provide an explanation of any of them;
 - (b) if any such documents are not produced, the Director may require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.
- (4) Where, on information on oath laid by a member of the Serious Fraud Office, a justice of the peace is satisfied, in relation to any documents, that there are reasonable grounds for believing—
 - (a) that—
 - (i) a person has failed to comply with an obligation under this section to produce them;
 - (ii) it is not practicable to serve a notice under subsection (3) above in relation to them; or
 - (iii) the service of such a notice in relation to them might seriously prejudice the investigation; and
 - (b) that they are on premises specified in the information,he may issue such a warrant as is mentioned in subsection (5) below.
- (5) The warrant referred to above is a warrant authorising any constable—
 - (a) to enter (using such force as is reasonably necessary for the purpose) and search the premises, and

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- (b) to take possession of any documents appearing to be documents of the description specified in the information or to take in relation to any documents so appearing any other steps which may appear to be necessary for preserving them and preventing interference with them.
- (6) Unless it is not practicable in the circumstances, a constable executing a warrant issued under subsection (4) above shall be accompanied by an appropriate person.
- (7) In subsection (6) above “appropriate person” means—
 - (a) a member of the Serious Fraud Office; or
 - (b) some person who is not a member of that Office but whom the Director has authorised to accompany the constable.
- (8) A statement by a person in response to a requirement imposed by virtue of this section may only be used in evidence against him—
 - (a) on a prosecution for an offence under subsection (14) below; or
 - (b) on a prosecution for some other offence where in giving evidence he makes a statement inconsistent with it.
- (9) A person shall not under this section be required to disclose any information or produce any document which he would be entitled to refuse to disclose or produce on grounds of legal professional privilege in proceedings in the High Court, except that a lawyer may be required to furnish the name and address of his client.
- (10) A person shall not under this section be required to disclose information or produce a document in respect of which he owes an obligation of confidence by virtue of carrying on any banking business unless—
 - (a) the person to whom the obligation of confidence is owed consents to the disclosure or production; or
 - (b) the Director has authorised the making of the requirement or, if it is impracticable for him to act personally, a member of the Serious Fraud Office designated by him for the purposes of this subsection has done so.
- (11) Without prejudice to the power of the Director to assign functions to members of the Serious Fraud Office, the Director may authorise any competent investigator (other than a constable) who is not a member of that Office to exercise on his behalf all or any of the powers conferred by this section, but no such authority shall be granted except for the purpose of investigating the affairs, or any aspect of the affairs, of a person specified in the authority.
- (12) No person shall be bound to comply with any requirement imposed by a person exercising powers by virtue of any authority granted under subsection (11) above unless he has, if required to do so, produced evidence of his authority.
- (13) Any person who without reasonable excuse fails to comply with a requirement imposed on him under this section shall be guilty of an offence and liable on summary conviction to imprisonment for a term not exceeding six months or to a fine not exceeding level 5 on the standard scale or to both.
- (14) A person who, in purported compliance with a requirement under this section—
 - (a) makes a statement which he knows to be false or misleading in a material particular; or
 - (b) recklessly makes a statement which is false or misleading in a material particular,

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shall be guilty of an offence.

- (15) A person guilty of an offence under subsection (14) above shall—
- (a) on conviction on indictment, be liable to imprisonment for a term not exceeding two years or to a fine or to both; and
 - (b) on summary conviction, be liable to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum, or to both.
- (16) Where any person—
- (a) knows or suspects that an investigation by the police or the Serious Fraud Office into serious or complex fraud is being or is likely to be carried out; and
 - (b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of documents which he knows or suspects are or would be relevant to such an investigation,
- he shall be guilty of an offence unless he proves that he had no intention of concealing the facts disclosed by the documents from persons carrying out such an investigation.
- (17) A person guilty of an offence under subsection (16) above shall—
- (a) on conviction on indictment, be liable to imprisonment for a term not exceeding 7 years or to a fine or to both; and
 - (b) on summary conviction, be liable to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both.
- (18) In this section, “documents” includes information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form.
- (19) In the application of this section to Scotland, the reference to a justice of the peace is to be construed as a reference to the sheriff; and in the application of this section to Northern Ireland, subsection (4) above shall have effect as if for the references to information there were substituted references to a complaint.

Textual Amendments

- F1** Words inserted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 143, [Sch. 8 para. 16](#)
- F2** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, [Sch. 8 para. 16](#), [Sch. 15 para. 113](#)
- F3** Words substituted by [Criminal Justice Act 1988 \(c. 33, SIF 39:1\)](#), s. 170, [Sch. 8 para. 16](#), [Sch. 15 para. 113\(2\)](#)

3 Disclosure of information.

- (1) Where any information subject to an obligation of secrecy under the ^{M3}Taxes Management Act 1970 has been disclosed by the Commissioners of Inland Revenue or an officer of those Commissioners to any member of the Serious Fraud Office for the purposes of any prosecution of an offence relating to inland revenue, that information may be disclosed by any member of the Serious Fraud Office—
- (a) for the purposes of any prosecution of which that Office has the conduct;
 - (b) to any member of the Crown Prosecution Service for the purposes of any prosecution of an offence relating to inland revenue; and

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- (c) to the Director of Public Prosecutions for Northern Ireland for the purposes of any prosecution of an offence relating to inland revenue, but not otherwise.
- (2) Where the Serious Fraud Office has the conduct of any prosecution of an offence which does not relate to inland revenue, the court may not prevent the prosecution from relying on any evidence under section 78 of the ^{M4}Police and Criminal Evidence Act 1984 (discretion to exclude unfair evidence) by reason only of the fact that the information concerned was disclosed by the Commissioners of Inland Revenue or an officer of those Commissioners for the purposes of any prosecution of an offence relating to inland revenue.
- (3) Where any information is subject to an obligation of secrecy imposed by or under any enactment other than an enactment contained in the ^{M5}Taxes Management Act 1970, the obligation shall not have effect to prohibit the disclosure of that information to any person in his capacity as a member of the Serious Fraud Office but any information disclosed by virtue of this subsection may only be disclosed by a member of the Serious Fraud Office for the purposes of any prosecution in England and Wales, Northern Ireland or elsewhere and may only be disclosed by such a member if he is designated by the Director for the purposes of this subsection.
- (4) Without prejudice to his power to enter into agreements apart from this subsection, the Director may enter into a written agreement for the supply of information to or by him subject, in either case, to an obligation not to disclose the information concerned otherwise than for a specified purpose.
- (5) Subject to subsections (1) and (3) above and to any provision of an agreement for the supply of information which restricts the disclosure of the information supplied, information obtained by any person in his capacity as a member of the Serious Fraud Office may be disclosed by any member of that Office designated by the Director for the purposes of this subsection—
- (a) to any government department or Northern Ireland department or other authority or body discharging its functions on behalf of the Crown (including the Crown in right of Her Majesty's Government in Northern Ireland);
 - (b) to any competent authority;
 - (c) for the purposes of any prosecution in England and Wales, Northern Ireland or elsewhere; and
 - (d) for the purposes of assisting any public or other authority for the time being designated for the purposes of this paragraph by an order made by the Secretary of State to discharge any functions which are specified in the order.
- (6) The following are competent authorities for the purposes of subsection (5) above—
- (a) an inspector appointed under Part XIV of the ^{M6}Companies Act 1985 or Part XV of the ^{M7}Companies (Northern Ireland) Order 1986;
 - (b) an Official Receiver;
 - (c) the Accountant in Bankruptcy;
 - [^{F4}(d) an Official Assignee;]
 - [^{F4}(d) the official receiver for Northern Ireland;]
 - (e) a person appointed to carry out an investigation under section 55 of the ^{M8}Building Societies Act 1986;
 - (f) a body administering a compensation scheme under section 54 of the ^{M9}Financial Services Act 1986;

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- (g) an inspector appointed under section 94 of that Act;
 - (h) a person exercising powers by virtue of section 106 of that Act;
 - (i) an inspector appointed under section 177 of that Act or any corresponding enactment having effect in Northern Ireland;
 - [^{F5}(j) a person appointed by the Bank of England under section 41 of the Banking Act 1987 to carry out an investigation and make a report;]
 - (k) a person exercising powers by virtue of section 44(2) of the ^{M10}Insurance Companies Act 1982;
 - (l) any body having supervisory, regulatory or disciplinary functions in relation to any profession or any area of commercial activity; and
 - (m) any person or body having, under the law of any country or territory outside the United Kingdom, functions corresponding to any of the functions of any person or body mentioned in any of the foregoing paragraphs.
- (7) An order under subsection (5)(d) above may impose conditions subject to which, and otherwise restrict the circumstances in which, information may be disclosed under that paragraph.

Textual Amendments

- F4** S. 3(6)(d) substituted (N.I.) (*prosp.*) by S.I. 1989/2405 (N.I. 19), arts. 1(2), 381, **Sch. 9 Pt. II para. 57**
- F5** S. 3(6)(j) substituted by Criminal Justice Act 1988 (c. 33, SIF 39:1), s. 170, Sch. 8 para. 16, **Sch. 15 para. 111**

Marginal Citations

- M3** 1970 c. 9.
- M4** 1984 c. 60.
- M5** 1970 c. 9.
- M6** 1985 c. 6.
- M7** S.I. 1986 No.1032 (N.I. 6).
- M8** 1986 c. 53.
- M9** 1986 c. 60.
- M10** 1982 c. 50.

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