



Criminal Justice Act 1988

1988 CHAPTER 33

PART VI

CONFISCATION OF THE PROCEEDS OF AN OFFENCE

[^{F1}Investigations into the proceeds of criminal conduct]

[93J] ^{F1}Disclosure of information held by government departments.

(1) Subject to subsection (4) below, the High Court may, on an application by the person appearing to the court to have the conduct of any prosecution, order any material mentioned in subsection (3) below which is in the possession of an authorised government department to be produced to the court within such period as the court may specify.

(2) The power to make an order under subsection (1) above is exercisable if—
(a) the powers conferred on the court by sections 77(1) and 78(1) above are exercisable by virtue of subsection (1) of section 76 above; or
(b) those powers are exercisable by virtue of subsection (2) of that section and the court has made a restraint order or a charging order which (in either case) has not been discharged;

but where the power to make an order under subsection (1) above is exercisable by virtue only of paragraph (b) above, subsection (3) of section 76 above shall apply for the purposes of this section as it applies for the purposes of sections 77 and 78 above.

(3) The material referred to in subsection (1) above is any material which—
(a) has been submitted to an officer of an authorised government department by the defendant or by a person who has at any time held property which was realisable property;
(b) has been made by an officer of an authorised government department in relation to the defendant or such a person; or
(c) is correspondence which passed between an officer of an authorised government department and the defendant or such a person;

Status: Point in time view as at 01/11/1995. This version of this provision has been superseded.

Changes to legislation: *Criminal Justice Act 1988, Section 93J is up to date with all changes known to be in force on or before 22 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

and an order under that subsection may require the production of all such material or of a particular description of such material, being material in the possession of the department concerned.

- (4) An order under subsection (1) above shall not require the production of any material unless it appears to the High Court that the material is likely to contain information that would facilitate the exercise of the powers conferred either—
 - (a) on the court by sections 77 to 80 above; or
 - (b) on a receiver appointed under section 77 or 80 above or in pursuance of a charging order.
- (5) The court may by order authorise the disclosure to such a receiver of any material produced under subsection (1) above or any part of such material; but the court shall not make an order under this subsection unless a reasonable opportunity has been given for an officer of the department to make representations to the court.
- (6) Material disclosed in pursuance of an order under subsection (5) above may, subject to any conditions contained in the order, be further disclosed for the purposes of the functions by virtue of any provision of this Part of this Act of the receiver, of the Crown Court or of any magistrates' court.
- (7) The court may by order authorise the disclosure to a person mentioned in subsection (8) below of any material produced under subsection (1) above or any part of such material; but the court shall not make an order under this subsection unless—
 - (a) a reasonable opportunity has been given for an officer of the department to make representations to the court; and
 - (b) it appears to the court that the material is likely to be of substantial value in exercising functions relating to the investigation of crime.
- (8) The persons referred to in subsection (7) above are—
 - (a) any member of a police force;
 - (b) any member of the Crown Prosecution Service; and
 - (c) any officer within the meaning of the ^{M1}Customs and Excise Management Act 1979.
- (9) Material disclosed in pursuance of an order under subsection (7) above may, subject to any conditions contained in the order, be further disclosed for the purposes of functions relating to the investigation of crime, of whether any person has benefited from any criminal conduct or of the extent or whereabouts of the proceeds of any such conduct.
- (10) Material may be produced or disclosed in pursuance of this section notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise.
- (11) An order under subsection (1) above and, in the case of material in the possession of an authorised government department, an order under section 93H above may require any officer of the department (whether named in the order or not) who may for the time being be in possession of the material concerned to comply with it; and an order containing any requirement by virtue of this subsection shall be served as if the proceedings were civil proceedings against the department.
- (12) Where any requirement is included in any order by virtue of subsection (11) above, the person on whom the order is served—

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- (a) shall take all reasonable steps to bring it to the attention of the officer concerned; and
 - (b) if the order is not brought to that officer's attention within the period referred to in subsection (1) above, shall report the reasons for the failure to the court;
- and it shall also be the duty of any other officer of the department in receipt of the order to take such steps as are mentioned in paragraph (a) above.

- (13) In this section “authorised government department” means a government department which is an authorised department for the purposes of the ^{M2}Crown Proceedings Act 1947; and subsection (12)(b) of section 93H above shall apply for the purposes of this section as it applies for the purposes of that section.]

Textual Amendments

F1 S. 93J inserted (1.11.1995) by 1995 c. 11, s.13; S.I. 1995/2650, art.2

Modifications etc. (not altering text)

C1 S. 93J restricted (28.7.1998) by 1998 c. 35, s. 14(3)(c); S.I. 1998/1858, art. 2

Marginal Citations

M1 1979 c. 2.

M2 1947 c. 44.

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