



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 8

INVESTIGATIONS

CHAPTER 3

SCOTLAND

[^{F1}Evidence overseas

Textual Amendments

- F1** Ss. 408A, 408B and cross-heading inserted (22.11.2014 for specified purposes, 1.6.2015 for S. in so far as not already in force) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 19 para. 28](#); [S.I. 2014/3098](#), art. 3; [S.I. 2015/964](#), art. 2(e)

408A Evidence overseas

- (1) This section applies if a person or property is subject to a civil recovery investigation [^{F2}, a detained cash investigation, a detained property investigation or a frozen funds investigation].
- (2) A judge of the Court of Session may request assistance under this section if—
 - (a) an application is made by an appropriate person or a person subject to the investigation, and
 - (b) the judge thinks that there is relevant evidence in a country or territory outside the United Kingdom.
- (3) An appropriate person may request assistance under this section if the person thinks that there is relevant evidence in a country or territory outside the United Kingdom.

Status: Point in time view as at 16/04/2018.

Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Evidence overseas is up to date with all changes known to be in force on or before 24 April 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)

- (4) The assistance that may be requested under this section is assistance in obtaining outside the United Kingdom relevant evidence specified in the request.
- (5) Relevant evidence is—
- (a) in relation to an application or request made for the purposes of a civil recovery investigation, evidence relevant for the purpose of identifying recoverable property or associated property, including evidence as to a matter described in section 341(2)(a) to (d);
 - (b) in relation to an application or request made for the purposes of a detained cash investigation, evidence as to a matter described in section 341(3A)(a) or (b).
 - ^{F3}(c) [in relation to an application or request made for the purposes of a detained property investigation, evidence as to a matter described in section 341(3B) (a) or (b);
 - (d) in relation to an application or request made for the purposes of a frozen funds investigation, evidence as to a matter described in section 341(3C)(a) or (b);]
- (6) A request for assistance under this section may be sent—
- (a) to a court or tribunal which is specified in the request and which exercises jurisdiction in the place where the evidence is to be obtained,
 - (b) to the government of the country or territory concerned, or
 - (c) to an authority recognised by the government of the country or territory concerned as the appropriate authority for receiving requests for assistance of that kind.
- (7) Alternatively, a request for assistance under this section may be sent to the Secretary of State with a view to it being forwarded to a court, tribunal, government or authority mentioned in subsection (6).
- (8) The Secretary of State must forward the request for assistance to the court, tribunal, government or authority.
- (9) In a case of urgency, a request for assistance under this section may be sent to—
- (a) the International Criminal Police Organisation, or
 - (b) any person competent to receive it under any provisions adopted under the EU Treaties,
- for forwarding to the court, tribunal, government or authority mentioned in subsection (6).
- (10) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to requests for assistance made by a judge under this section.
- (11) “Evidence” includes documents, information in any other form and material.

Textual Amendments

- F2** Words in s. 408A(1) substituted (27.4.2017 for specified purposes, 31.1.2018 for specified purposes, 16.4.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 70\(2\)](#); S.I. 2018/78, reg. 5(3)(a)(i)(ii)
- F3** S. 408A(5)(c)(d) inserted (27.4.2017 for specified purposes, 31.1.2018 for specified purposes, 16.4.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 70\(3\)](#); S.I. 2018/78, reg. 5(3)(a)(i)(ii)

Status: Point in time view as at 16/04/2018.

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408B Evidence overseas: restrictions on use

- (1) This section applies to evidence obtained by means of a request for assistance under section 408A.
- (2) The evidence must not be used for any purpose other than—
 - (a) for the purposes of the investigation for which it was obtained, or
 - (b) for the purposes of proceedings described in subsection (3) or any proceedings arising out of such proceedings.
- (3) Those proceedings are—
 - (a) if the request was made for the purposes of a civil recovery investigation, proceedings under Chapter 2 of Part 5 of this Act arising out of the investigation;
 - (b) if the request was made for the purposes of a detained cash investigation, proceedings under Chapter 3 of Part 5 of this Act arising out of the investigation.
 - ^{F4}(c) [if the request was made for the purposes of a detained property investigation, proceedings under Chapter 3A of Part 5 of this Act arising out of the investigation;
 - (d) if the request was made for the purposes of a frozen funds investigation, proceedings under Chapter 3B of Part 5 of this Act arising out of the investigation;]
- (4) Subsection (2) does not apply if the court, tribunal, government or authority to whom the request for assistance was sent consents to the use.
- (5) The evidence may be received in evidence without being sworn to by anyone, so far as that may be done without unfairness to any party.]

Textual Amendments

- F4** S. 408B(3)(c)(d) inserted (27.4.2017 for specified purposes, 31.1.2018 for specified purposes, 16.4.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 71](#); S.I. 2018/78, reg. 5(3)(a)(i)(ii)

Status:

Point in time view as at 16/04/2018.

Changes to legislation:

Proceeds of Crime Act 2002, Cross Heading: Evidence overseas is up to date with all changes known to be in force on or before 24 April 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.