Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 8

INVESTIGATIONS

CHAPTER 2

ENGLAND AND WALES AND NORTHERN IRELAND

Modifications etc. (not altering text)

C1 Pt. 8 Ch. 2: power to modify conferred (20.3.2015) by Crime and Courts Act 2013 (c. 22), **ss. 47**, 61(2); S.I. 2015/813, art. 2(b)

Judges and courts

343 Judges

(1) In this Chapter references to a judge in relation to an application must be construed in accordance with this section.

(2) In relation to an application for the purposes of a confiscation investigation or a money laundering investigation a judge is—

(a) in England and Wales, a judge entitled to exercise the jurisdiction of the Crown Court;

(b) in Northern Ireland, a Crown Court judge.

(3) In relation to an application for the purposes of a civil recovery investigation **[**[F1]or an exploitation proceeds investigation**]**[[F2]or a detained cash investigation**]** a judge is a judge of the High Court.

Status: *Point in time view as at 26/05/2015.*
Changes to legislation: *Proceeds of Crime Act 2002, Chapter 2 is up to date with all changes known to be in force on or before 29 June 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)*

Textual Amendments

F1 Words in s. 343(3) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 4** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F2 Words in s. 343(3) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 3**; S.I. 2008/755, art. 17(1)(d)(ii)

Commencement Information

I1 S. 343 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

344 Courts

In this Chapter references to the court are to—

(a) the Crown Court, in relation to an order for the purposes of a confiscation investigation or a money laundering investigation;

(b) the High Court, in relation to an order for the purposes of a civil recovery investigation **[**[F3]or an exploitation proceeds investigation **][**[F4]or a detained cash investigation**]** .

Textual Amendments

F3 Words in s. 344(b) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 5** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F4 Words in s. 344(b) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 4**; S.I. 2008/755, art. 17(1)(d)(ii)

Commencement Information

I2 S. 344 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

Production orders

345 Production orders

(1) A judge may, on an application made to him by an appropriate officer, make a production order if he is satisfied that each of the requirements for the making of the order is fulfilled.

(2) The application for a production order must state that—

(a) a person specified in the application is subject to a confiscation investigation **[**[F5], an exploitation proceeds investigation **]** or a money laundering investigation, or

(b) property specified in the application is subject to a civil recovery investigation **[**[F6]or a detained cash investigation**]** .

(3) The application must also state that—

(a) the order is sought for the purposes of the investigation;

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(b) the order is sought in relation to material, or material of a description, specified in the application;

(c) a person specified in the application appears to be in possession or control of the material.

(4) A production order is an order either—

(a) requiring the person the application for the order specifies as appearing to be in possession or control of material to produce it to an appropriate officer for him to take away, or

(b) requiring that person to give an appropriate officer access to the material,

within the period stated in the order.

(5) The period stated in a production order must be a period of seven days beginning with the day on which the order is made, unless it appears to the judge by whom the order is made that a longer or shorter period would be appropriate in the particular circumstances.

Textual Amendments

F5 Words in s. 345(2)(a) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 6** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F6 Words in s. 345(2)(b) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 75(2)**, 94(1); S.I. 2008/755, art. 17(1)(a)

Modifications etc. (not altering text)

C2 S. 345(4) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **3(3)(4)**, 13(3)(4), 23(3)(4), 24(3)

C3 S. 345(4) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **13(3)**, (4)

C4 S. 345(4) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **23(3)**, (4)

C5 S. 345(4) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **24(3)**

Commencement Information

I3 S. 345 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

346 Requirements for making of production order

(1) These are the requirements for the making of a production order.

(2) There must be reasonable grounds for suspecting that—

(a) in the case of a confiscation investigation, the person the application for the order specifies as being subject to the investigation has benefited from his criminal conduct;

(b) in the case of a civil recovery investigation, the property the application for the order specifies as being subject to the investigation is recoverable property or associated property;

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[[F7](ba) in the case of a detained cash investigation into the derivation of cash, the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;

(bb) in the case of a detained cash investigation into the intended use of cash, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;**]**

(c) in the case of a money laundering investigation, the person the application for the order specifies as being subject to the investigation has committed a money laundering offence.

[[F8](d) in the case of an exploitation proceeds investigation, the person the application for the order specifies as being subject to the investigation is within subsection (2A).**]**

[[F9](2A) A person is within this subsection if, for the purposes of Part 7 of the Coroners and Justice Act 2009 (criminal memoirs etc), exploitation proceeds have been obtained by the person from a relevant offence by reason of any benefit derived by the person.

This subsection is to be construed in accordance with that Part.**]**

(3) There must be reasonable grounds for believing that the person the application specifies as appearing to be in possession or control of the material so specified is in possession or control of it.

(4) There must be reasonable grounds for believing that the material is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought.

(5) There must be reasonable grounds for believing that it is in the public interest for the material to be produced or for access to it to be given, having regard to—

(a) the benefit likely to accrue to the investigation if the material is obtained;

(b) the circumstances under which the person the application specifies as appearing to be in possession or control of the material holds it.

Textual Amendments

F7 S. 346(2)(ba)(bb) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 75(3)**, 94(1); S.I. 2008/755, art. 17(1)(a)

F8 S. 346(2)(d) added (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 7(a)** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F9 S. 346(2A) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 7(b)** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

Commencement Information

I4 S. 346 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

347 Order to grant entry

(1) This section applies if a judge makes a production order requiring a person to give an appropriate officer access to material on any premises.

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(2) The judge may, on an application made to him by an appropriate officer and specifying the premises, make an order to grant entry in relation to the premises.

(3) An order to grant entry is an order requiring any person who appears to an appropriate officer to be entitled to grant entry to the premises to allow him to enter the premises to obtain access to the material.

Modifications etc. (not altering text)

C6 S. 347(3) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **13(3)**, (4)

C7 S. 347(3) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **3(3)**(4), 13(3)(4), 23(3)(4), 24(3)

C8 S. 347(3) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **23(3)**, (4)

C9 S. 347(3) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **24(3)**

Commencement Information

I5 S. 347 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

348 Further provisions

(1) A production order does not require a person to produce, or give access to, privileged material.

(2) Privileged material is any material which the person would be entitled to refuse to produce on grounds of legal professional privilege in proceedings in the High Court.

(3) A production order does not require a person to produce, or give access to, excluded material.

(4) A production order has effect in spite of any restriction on the disclosure of information (however imposed).

(5) An appropriate officer may take copies of any material which is produced, or to which access is given, in compliance with a production order.

(6) Material produced in compliance with a production order may be retained for so long as it is necessary to retain it (as opposed to copies of it) in connection with the investigation for the purposes of which the order was made.

(7) But if an appropriate officer has reasonable grounds for believing that—

(a) the material may need to be produced for the purposes of any legal proceedings, and

(b) it might otherwise be unavailable for those purposes,

it may be retained until the proceedings are concluded.

Modifications etc. (not altering text)

C10 S. 348(1)-(4) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **3(6)**, 4(6), 13(6), 14(6),

C11 S. 348(1)-(4) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **4(6)**

C12 S. 348(1)-(4) excluded (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **24(6)**

C13 S. 348(1)-(4) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **14(6)**

C14 S. 348(1)-(4) excluded (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **23(6)**, 24(6)

C15 S. 348(1)-(4) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **13(6)**

C16 S. 348(5) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **13(3)**, (4)

C17 S. 348(5)(7) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **23(3)**, (4)

C18 S. 348(5)(7) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **24(3)**

C19 S. 348(5) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **3(3)**(4), 13(3)(4), 23(3)(4), 24(3)

C20 S. 348(7) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **3(3)**(4), 13(3)(4), 23(3)(4), 24(3)

C21 S. 348(7) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **13(3)**, (4)

Commencement Information

I6 S. 348 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

349 Computer information

(1) This section applies if any of the material specified in an application for a production order consists of information contained in a computer.

(2) If the order is an order requiring a person to produce the material to an appropriate officer for him to take away, it has effect as an order to produce the material in a form in which it can be taken away by him and in which it is visible and legible.

(3) If the order is an order requiring a person to give an appropriate officer access to the material, it has effect as an order to give him access to the material in a form in which it is visible and legible.

Modifications etc. (not altering text)

C22 S. 349 modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **13(3)**, (4)

C23 S. 349 modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **3(3)**(4), 13(3)(4), 23(3)(4), 24(3)

C24 S. 349 modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **23(3)**, (4)

C25 S. 349 modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **24(3)**

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Commencement Information

I7 S. 349 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

350 Government departments

(1) A production order may be made in relation to material in the possession or control of an authorised government department.

(2) An order so made may require any officer of the department (whether named in the order or not) who may for the time being be in possession or control of the material to comply with it.

(3) An order containing such a requirement must be served as if the proceedings were civil proceedings against the department.

(4) If an order contains such a requirement—

(a) the person on whom it is served must take all reasonable steps to bring it to the attention of the officer concerned;

(b) any other officer of the department who is in receipt of the order must also take all reasonable steps to bring it to the attention of the officer concerned.

(5) If the order is not brought to the attention of the officer concerned within the period stated in the order (in pursuance of section 345(4)) the person on whom it is served must report the reasons for the failure to—

(a) a judge entitled to exercise the jurisdiction of the Crown Court or (in Northern Ireland) a Crown Court judge, in the case of an order made for the purposes of a confiscation investigation or a money laundering investigation;

(b) a High Court judge, in the case of an order made for the purposes of a civil recovery investigation **[**[F10]or an exploitation proceeds investigation**][**[F11]or a detained cash investigation**]** .

(6) An authorised government department is a government department, or a Northern Ireland department, which is an authorised department for the purposes of the Crown Proceedings Act 1947 (c. 44).

Textual Amendments

F10 Words in s. 350(5)(b) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 8** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F11 Words in s. 350(5)(b) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 5**; S.I. 2008/755, art. 17(1)(d)(ii)

Modifications etc. (not altering text)

C26 S. 350 modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **14(7)**

C27 S. 350 modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **13(7)**

C28 S. 350 excluded (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **23(7)**, 24(7)

C29 S. 350 excluded (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **24(7)**

C30 S. 350 modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **4(7)**

C31 S. 350 modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **3(7)**, 4(7), 13(7), 14(7)

Commencement Information

I8 S. 350 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

351 Supplementary

(1) An application for a production order or an order to grant entry may be made ex parte to a judge in chambers.

(2) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to production orders and orders to grant entry.

(3) An application to discharge or vary a production order or an order to grant entry may be made to the court by—

(a) the person who applied for the order;

(b) any person affected by the order.

(4) The court—

(a) may discharge the order;

(b) may vary the order.

(5) If an accredited financial investigator, **[**[F12]a **[**[F13]National Crime Agency officer**],]** a constable or **[**[F14]an officer of Revenue and Customs**]**[F15]or an immigration officer**]** applies for a production order or an order to grant entry, an application to discharge or vary the order need not be by the same accredited financial investigator, **[**[F13]National Crime Agency officer**]**, constable or **[**[F16]officer of Revenue and Customs**]**[F17]or immigration officer**]**.

(6) References to a person who applied for a production order or an order to grant entry must be construed accordingly.

(7) Production orders and orders to grant entry have effect as if they were orders of the court.

(8) Subsections (2) to (7) do not apply to orders made in England and Wales for the purposes of a civil recovery investigation **[**[F18]or an exploitation proceeds investigation**]**[F19]or a detained cash investigation**]**.

Textual Amendments

F12 Words in s. 351(5) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 104(a)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F13 Words in s. 351(5) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 136**; S.I. 2013/1682, art. 3(v)

F14 Words in s. 351(5) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 11(a)**

F15 Words in s. 351(5) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 30(a)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

F16 Words in s. 351(5) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 11(b)**

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F17 Words in s. 351(5) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 30(b)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

F18 Words in s. 351(8) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 9** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F19 Words in s. 351(8) repealed (22.11.2014 for specified purposes, 1.6.2015 for E.W.S. in so far as not already in force, 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), ss. 66(5), 116(1), **Sch. 8 Pt. 5**; S.I. 2014/3101, art. 3; S.I. 2015/983, art. 2(2)(a)(g) (with art. 5); S.I. 2016/147, art. 3(f)(l) (with art. 5)

Commencement Information

I9 S. 351 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

Search and seizure warrants

352 Search and seizure warrants

(1) A judge may, on an application made to him by an appropriate officer, issue a search and seizure warrant if he is satisfied that either of the requirements for the issuing of the warrant is fulfilled.

(2) The application for a search and seizure warrant must state that—

(a) a person specified in the application is subject to a confiscation investigation **[**[F20], an exploitation proceeds investigation**]** or a money laundering investigation, or

(b) property specified in the application is subject to a civil recovery investigation **[**[F21]or a detained cash investigation**]**.

(3) The application must also state—

(a) that the warrant is sought for the purposes of the investigation;

(b) that the warrant is sought in relation to the premises specified in the application;

(c) that the warrant is sought in relation to material specified in the application, or that there are reasonable grounds for believing that there is material falling within section 353(6), (7) **[**[F22], (7A), (7B)**]** or (8) on the premises.

(4) A search and seizure warrant is a warrant authorising an appropriate person—

(a) to enter and search the premises specified in the application for the warrant, and

(b) to seize and retain any material found there which is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the application is made.

(5) An appropriate person is—

[F23](a) . . . . . .

(b) a **[**[F24]**[**[F25]National Crime Agency officer or a member**]** of the staff of the relevant Director**]**, if the warrant is sought for the purposes of a civil recovery investigation.

[[F26](c) a constable **[**[F27], an accredited financial investigator**]** or an officer of Revenue and Customs **[**[F28]or an immigration officer**]**, if the warrant is sought for the

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purposes of a detained cash investigation **[**[F29], a confiscation investigation or a money laundering investigation**].]**

[[F30](d) a **[**[F31]National Crime Agency officer**]**, if the warrant is sought for the purposes of an exploitation proceeds investigation.**]**

[[F32](5A) In this Part "relevant Director"—

(a) in relation to England and Wales, means the Director of Public Prosecutions [F33]... or the Director of the Serious Fraud Office; and

(b) in relation to Northern Ireland, means the Director of the Serious Fraud Office or the Director of Public Prosecutions for Northern Ireland.**]**

(6) The requirements for the issue of a search and seizure warrant are—

(a) that a production order made in relation to material has not been complied with and there are reasonable grounds for believing that the material is on the premises specified in the application for the warrant, or

(b) that section 353 is satisfied in relation to the warrant.

[[F34](7) The reference in paragraph [F35]... (c) of subsection (5) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that paragraph by the Secretary of State under section 453.**]**

[[F36](8) Criminal Procedure Rules may make provision about proceedings under this section on an application to a judge entitled to exercise the jurisdiction of the Crown Court in England and Wales.**]**

Textual Amendments

F20 Words in s. 352(2)(a) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 10(a)** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F21 Words in s. 352(2)(b) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 76(1)**, 94(1); S.I. 2008/755, art. 17(1)(b)

F22 Words in s. 352(3)(c) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 7(2)**; S.I. 2008/755, art. 17(1)(d)(ii)

F23 S. 352(5)(a) omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), **Sch. 48 para. 12(2)(a)**

F24 Words in s. 352(5)(b) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 105(2)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F25 Words in s. 352(5)(b) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 137(a)**; S.I. 2013/1682, art. 3(v)

F26 S. 352(5)(c) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 7(3)**; S.I. 2008/755, art. 17(1)(d)(ii)

F27 Words in s. 352(5)(c) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 80(1)(b)**, 94(1); S.I. 2008/755, art. 17(1)(g)

F28 Words in s. 352(5)(c) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 31(b)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

F29 Words in s. 352(5)(c) inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 12(2)(b)**

F30 S. 352(5)(d) added (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 10(b)** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F31 Words in s. 352(5)(d) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 137(b)**; S.I. 2013/1682, art. 3(v)

F32 S. 352(5A) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 105(3)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F33 Words in s. 352(5A)(a) omitted (27.3.2014) by virtue of The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 2 para. 26**

F34 S. 352(7) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 80(2)**, 94(1); S.I. 2008/755, art. 17(1)(g)

F35 Words in s. 352(7) omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), **Sch. 48 para. 12(3)**

F36 S. 352(8) inserted (26.5.2015) by Deregulation Act 2015 (c. 20), **ss. 82(6)**, 115(7); S.I. 2015/994, art. 6(o)

Modifications etc. (not altering text)

C32 S. 352(5) amendment to earlier affecting provision SI 2003/425 art. 5(4) (6.4.2008) by Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) (Amendment) Order 2008 (S.I. 2008/298), arts. 1(2), **2(3)**

C33 S. 352(5) amendment to earlier affecting provision SI 2003/425 art. 15(4) (6.4.2008) by Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) (Amendment) Order 2008 (S.I. 2008/298), arts. 1(2), **2(6)**

C34 S. 352(4) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **25(2)**

C35 S. 352(4) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **5(2)**, 15(2), 25(2), 26(2)

C36 S. 352(4) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **26(2)**

C37 S. 352(4) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **15(2)**

C38 S. 352(5) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **15(3)**, (4)

C39 S. 352(5) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **26(3)**, (4)

C40 S. 352(5) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **25(3)**, (4)

C41 S. 352(5) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **5(3)**(4), 15(3)(4), 25(3)(4), 26(3)(4) (as amended (6.4.2008) by S.I. 2008/298, arts. 1(2), **2(3)**(6))

Commencement Information

I10 S. 352 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

353 Requirements where production order not available

(1) This section is satisfied in relation to a search and seizure warrant if—

(a) subsection (2) applies, and

(b) either the first or the second set of conditions is complied with.

(2) This subsection applies if there are reasonable grounds for suspecting that—

(a) in the case of a confiscation investigation, the person specified in the application for the warrant has benefited from his criminal conduct;

(b) in the case of a civil recovery investigation, the property specified in the application for the warrant is recoverable property or associated property;

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[[F37](ba) in the case of a detained cash investigation into the derivation of cash, the property specified in the application for the warrant, or a part of it, is recoverable property;

(bb) in the case of a detained cash investigation into the intended use of cash, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;**]**

(c) in the case of a money laundering investigation, the person specified in the application for the warrant has committed a money laundering offence.

[[F38](d) in the case of an exploitation proceeds investigation, the person specified in the application for the warrant is within section 346(2A).**]**

(3) The first set of conditions is that there are reasonable grounds for believing that—

(a) any material on the premises specified in the application for the warrant is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought,

(b) it is in the public interest for the material to be obtained, having regard to the benefit likely to accrue to the investigation if the material is obtained, and

(c) it would not be appropriate to make a production order for any one or more of the reasons in subsection (4).

(4) The reasons are—

(a) that it is not practicable to communicate with any person against whom the production order could be made;

(b) that it is not practicable to communicate with any person who would be required to comply with an order to grant entry to the premises;

(c) that the investigation might be seriously prejudiced unless an appropriate person is able to secure immediate access to the material.

(5) The second set of conditions is that—

(a) there are reasonable grounds for believing that there is material on the premises specified in the application for the warrant and that the material falls within subsection (6), (7) **[**[F39], (7A), (7B)**][**[F40], (8) or (8A)**]**,

(b) there are reasonable grounds for believing that it is in the public interest for the material to be obtained, having regard to the benefit likely to accrue to the investigation if the material is obtained, and

(c) any one or more of the requirements in subsection (9) is met.

(6) In the case of a confiscation investigation, material falls within this subsection if it cannot be identified at the time of the application but it—

(a) relates to the person specified in the application, the question whether he has benefited from his criminal conduct or any question as to the extent or whereabouts of his benefit from his criminal conduct, and

(b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

(7) In the case of a civil recovery investigation, material falls within this subsection if it cannot be identified at the time of the application but it—

(a) relates to the property specified in the application, the question whether it is recoverable property or associated property, the question as to who holds any such property, any question as to whether the person who appears to hold any such property holds other property which is recoverable property, or any

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question as to the extent or whereabouts of any property mentioned in this paragraph, and

(b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

[[F41](7A) In the case of a detained cash investigation into the derivation of cash, material falls within this subsection if it cannot be identified at the time of the application but it—

(a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and

(b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

(7B) In the case of a detained cash investigation into the intended use of cash, material falls within this subsection if it cannot be identified at the time of the application but it—

(a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and

(b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.**]**

(8) In the case of a money laundering investigation, material falls within this subsection if it cannot be identified at the time of the application but it—

(a) relates to the person specified in the application or the question whether he has committed a money laundering offence, and

(b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

[[F42](8A) In the case of an exploitation proceeds investigation, material falls within this subsection if it cannot be identified at the time of the application but it—

(a) relates to the person specified in the application, the question whether exploitation proceeds have been obtained from a relevant offence in relation to that person, any question as to the extent or whereabouts of any benefit as a result of which exploitation proceeds are obtained or any question about the person's available amount, and

(b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

This subsection is to be construed in accordance with Part 7 of the Coroners and Justice Act 2009 (criminal memoirs etc).**]**

(9) The requirements are—

(a) that it is not practicable to communicate with any person entitled to grant entry to the premises;

(b) that entry to the premises will not be granted unless a warrant is produced;

(c) that the investigation might be seriously prejudiced unless an appropriate person arriving at the premises is able to secure immediate entry to them.

(10) An appropriate person is—

[F43](a) . . . . . .

(b) a **[**[F44]National Crime Agency officer or a member**][**[F45]of the staff of the relevant Director**]**, if the warrant is sought for the purposes of a civil recovery investigation.

[[F46](c) a constable **[**[F47] , an accredited financial**]**[F48]investigator,**]** an officer of Revenue and Customs **[**[F49]or an immigration officer**]**, if the warrant is sought for the purposes of a detained cash investigation **[**[F50], a confiscation investigation or a money laundering investigation**]**.**]**

[[F51](d) a **[**[F52]National Crime Agency officer**]**, if the warrant is sought for the purposes of an exploitation proceeds investigation.**]**

[[F53](11) The reference in paragraph [F54]... (c) of subsection (10) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that paragraph by the Secretary of State under section 453.**]**

Textual Amendments

F37 S. 353(2)(ba)(bb) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 76(2)**, 94(1); S.I. 2008/755, art. 17(1)(b)

F38 S. 353(2)(d) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 11(a)** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F39 Words in s. 353(5)(a) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 8(2)**; S.I. 2008/755, art. 17(1)(d)(ii)

F40 Words in s. 353(5)(a) substituted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 11(b)** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F41 S. 353(7A)(7B) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 76(3)**, 94(1); S.I. 2008/755, art. 17(1)(b)

F42 S. 353(8A) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 11(c)** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F43 S. 353(10)(a) omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), **Sch. 48 para. 13(2)(a)**

F44 Words in s. 353(10)(b) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 138(a)**; S.I. 2013/1682, art. 3(v)

F45 Words in s. 353(10)(b) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 106**; S.I. 2008/755, **art. 2(1)(a)** (with arts. 3-14)

F46 S. 353(10)(c) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 8(3)**; S.I. 2008/755, art. 17(1)(d)(ii)

F47 Words in s. 353(10)(c) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 80(3)(b)**, 94(1); S.I. 2008/755, art. 17(1)(g)

F48 Word in s. 353(10)(c) substituted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 32(b)(i)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

F49 Words in s. 353(10)(c) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 32(b)(ii)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

F50 Words in s. 353(10)(c) inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 13(2)(b)**

F51 S. 353(10)(d) added (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 11(d)** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F52 Words in s. 353(10)(d) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 138(b)**; S.I. 2013/1682, art. 3(v)

F53 S. 353(11) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 80(4)**, 94(1); S.I. 2008/755, art. 17(1)(g)

F54 Words in s. 353(11) omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), **Sch. 48 para. 13(3)**

Commencement Information

I11 S. 353 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

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354 Further provisions: general

(1) A search and seizure warrant does not confer the right to seize privileged material.

(2) Privileged material is any material which a person would be entitled to refuse to produce on grounds of legal professional privilege in proceedings in the High Court.

(3) A search and seizure warrant does not confer the right to seize excluded material.

Modifications etc. (not altering text)

C42 S. 354 excluded (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **25(5)**, 26(5)

C43 S. 354 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **16(3)**

C44 S. 354 excluded (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **26(5)**

C45 S. 354 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **15(5)**

C46 S. 354 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **5(5)**, 6(3), 15(5), 16(3)

C47 S. 354 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **6(3)**

Commencement Information

I12 S. 354 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

355 Further provisions: confiscation and money laundering

(1) This section applies to—

(a) search and seizure warrants sought for the purposes of a confiscation investigation **[**[F55]or a money laundering investigation**]**[[F55], a money laundering investigation or a detained cash investigation**]** , and

(b) powers of seizure under them.

(2) In relation to such warrants and powers, the Secretary of State may make an order which applies **[**[F56], in relation to England and Wales,**]** the provisions to which **[**[F57]subsection (3) applies**]** subject to any specified modifications.

(3) This subsection applies to the following provisions of the Police and Criminal Evidence Act 1984 (c. 60)—

(a) section 15 (search warrants -safeguards);

(b) section 16 (execution of warrants);

(c) section 21 (access and copying);

(d) section 22 (retention).

[[F58](3A) In relation to such warrants and powers, the Department of Justice in Northern Ireland may make an order which applies, in relation to Northern Ireland, the provisions to which subsection (4) applies subject to any specified modifications.**]**

(4) This subsection applies to the following provisions of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))—

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(a) Article 17 (search warrants -safeguards);
(b) Article 18 (execution of warrants);
(c) Article 23 (access and copying);
(d) Article 24 (retention).

Textual Amendments

F55 Words in s. 355(1)(a) substituted (22.11.2014 for specified purposes, 1.6.2015 for E.W.S. in so far as not already in force, 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), **ss. 66(6)**, 116(1); S.I. 2014/3101, art. 3; S.I. 2015/983, art. 2(2)(a) (with art. 5); S.I. 2016/147, art. 3(f) (with art. 5)

F56 Words in s. 355(2) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 66(2)(a)** (with arts. 28-31)

F57 Words in s. 355(2) substituted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 66(2)(b)** (with arts. 28-31)

F58 S. 355(3A) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 66(3)** (with arts. 28-31)

Commencement Information

I13 S. 355 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

356 Further provisions: civil recovery [F59and detained cash]

(1) This section applies to search and seizure warrants sought for the purposes of civil recovery investigations **[**F60or exploitation proceeds investigations **][**F61or detained cash investigations**]**.

(2) An application for a warrant may be made ex parte to a judge in chambers.

(3) A warrant may be issued subject to conditions.

(4) A warrant continues in force until the end of the period of one month starting with the day on which it is issued.

(5) A warrant authorises the person it names to require any information which is held in a computer and is accessible from the premises specified in the application for the warrant, and which the named person believes relates to any matter relevant to the investigation, to be produced in a form—
(a) in which it can be taken away, and
(b) in which it is visible and legible.

F62(6) . . . . . .

(7) A warrant may include provision authorising a person who is exercising powers under it to do other things which—
(a) are specified in the warrant, and
(b) need to be done in order to give effect to it.

(8) Copies may be taken of any material seized under a warrant.

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(9) Material seized under a warrant may be retained for so long as it is necessary to retain it (as opposed to copies of it) in connection with the investigation for the purposes of which the warrant was issued.

(10) But **[**[F63]if the appropriate person has reasonable**]** grounds for believing that—

(a) the material may need to be produced for the purposes of any legal proceedings, and

(b) it might otherwise be unavailable for those purposes,

it may be retained until the proceedings are concluded.

[[F64](11) The appropriate person is—

(a) **[**[F65]an appropriate officer**]**, if the warrant was issued for the purposes of a civil recovery investigation;

(b) a constable **[**[F66], an accredited financial investigator**]** or an officer of Revenue and Customs **[**[F67]or an immigration officer**]**, if the warrant was issued for the purposes of a detained cash investigation.**]**

[[F68](12) The reference in paragraph (b) of subsection (11) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that paragraph by the Secretary of State under section 453.**]**

Textual Amendments

F59 Words in s. 356 heading inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 9(2)**; S.I. 2008/755, art. 17(1)(d)(ii)

F60 Words in s. 356(1) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 12** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F61 Words in s. 356(1) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 9(3)**; S.I. 2008/755, art. 17(1)(d)(ii)

F62 S. 356(6) repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 8 para. 107(2), **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)

F63 Words in s. 356(10) substituted (1.4.2008 for specified purposes, 6.4.2008 in so far as not already in force) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 9(5)**; S.I. 2008/755, arts. 2(2), 17(1)(d)(ii)

F64 S. 356(11) inserted (1.4.2008 for specified purposes, 6.4.2008 in so far as not already in force) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 9(6)**; S.I. 2008/755, arts. 2(2), 17(1)(d)(ii)

F65 Words in s. 356(11)(a) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 107(3)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F66 Words in s. 356(11)(b) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 80(5)**, 94(1); S.I. 2008/755, art. 17(1)(g)

F67 Words in s. 356(11)(b) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 33** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

F68 S. 356(12) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 80(6)**, 94(1); S.I. 2008/755, art. 17(1)(g)

Commencement Information

I14 S. 356 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

Status: *Point in time view as at 26/05/2015.*
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Disclosure orders

357 Disclosure orders

(1) A judge may, on an application made to him by **[**[F69]the relevant authority**]**, make a disclosure order if he is satisfied that each of the requirements for the making of the order is fulfilled.

(2) No application for a disclosure order may be made in relation to a **[**[F70]detained cash investigation or a**]** money laundering investigation.

[[F71](2A) The relevant authority may only make an application for a disclosure order in relation to a confiscation investigation if the relevant authority is in receipt of a request to do so from an appropriate officer.**]**

(3) The application for a disclosure order must state that—

(a) a person specified in the application is subject to a confiscation investigation which is being carried out by **[**[F72]an appropriate officer**]** and the order is sought for the purposes of the investigation, or

(b) property specified in the application is subject to a civil recovery investigation and the order is sought for the purposes of the investigation **[**[F73], or

(c) a person specified in the application is subject to an exploitation proceeds investigation and the order is sought for the purposes of the investigation.**]**

(4) A disclosure order is an order authorising **[**[F74]an appropriate officer**]** to give to any person **[**[F75]the appropriate officer**]** considers has relevant information notice in writing requiring him to do, with respect to any matter relevant to the investigation for the purposes of which the order is sought, any or all of the following—

(a) answer questions, either at a time specified in the notice or at once, at a place so specified;

(b) provide information specified in the notice, by a time and in a manner so specified;

(c) produce documents, or documents of a description, specified in the notice, either at or by a time so specified or at once, and in a manner so specified.

(5) Relevant information is information (whether or not contained in a document) which **[**[F76]the appropriate officer concerned**]** considers to be relevant to the investigation.

(6) A person is not bound to comply with a requirement imposed by a notice given under a disclosure order unless evidence of authority to give the notice is produced to him.

[[F77](7) In this Part "relevant authority" means—

(a) in relation to a confiscation investigation, a prosecutor; and

(b) in relation to a civil recovery investigation, a **[**[F78]National Crime Agency officer**]** or the relevant Director **[**[F79]; and

(c) in relation to an exploitation proceeds investigation, a **[**[F78]National Crime Agency officer**]**.**]**

(8) For the purposes of subsection (7)(a) a prosecutor is—

(a) in relation to a confiscation investigation carried out by a **[**[F78]National Crime Agency officer**]**, the relevant Director or any specified person;

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(b) in relation to a confiscation investigation carried out by an accredited financial investigator, the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland or any specified person;

(c) in relation to a confiscation investigation carried out by a constable, the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland, the Director of the Serious Fraud Office or any specified person; [F80]...

(d) in relation to a confiscation investigation carried out by an officer of Revenue and Customs, **[**[F81]the Director of Public Prosecutions**]** , the Director of Public Prosecutions for Northern Ireland or any specified person **[**[F82]; and—

(e) in relation to a confiscation investigation carried out by an immigration officer, the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland or any specified person**]**.

(9) In subsection (8) "specified person" means any person specified, or falling within a description specified, by an order of the Secretary of State.**]**

Textual Amendments

F69 Words in s. 357(1) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 108(2)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F70 Words in s. 357(2) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 10**; S.I. 2008/755, art. 17(1)(d)(ii)

F71 S. 357(2A) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 108(3)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F72 Words in s. 357(3)(a) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 108(4)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F73 S. 357(3)(c) and preceding word added (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 13(a)** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F74 Words in s. 357(4) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 108(5)(a)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F75 Words in s. 357(4) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 108(5)(b)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F76 Words in s. 357(5) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 108(6)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F77 S. 357(7)-(9) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 108(7)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F78 Words in s. 357 substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 139**; S.I. 2013/1682, art. 3(v)

F79 S. 357(7)(c) and preceding word added (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 13(b)** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F80 Word in s. 357(8)(c) omitted (25.6.2013) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 34(a)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

F81 Words in s. 357(8)(d) substituted (27.3.2014) by The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 2 para. 27**

F82 S. 357(8)(e) and word inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 34(b)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

Commencement Information

I15 S. 357 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

Status: *Point in time view as at 26/05/2015.*
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358 Requirements for making of disclosure order

(1) These are the requirements for the making of a disclosure order.

(2) There must be reasonable grounds for suspecting that—

(a) in the case of a confiscation investigation, the person specified in the application for the order has benefited from his criminal conduct;

(b) in the case of a civil recovery investigation, the property specified in the application for the order is recoverable property or associated property.

[[F83](c) in the case of an exploitation proceeds investigation, the person specified in the application for the order is a person within section 346(2A).**]**

(3) There must be reasonable grounds for believing that information which may be provided in compliance with a requirement imposed under the order is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought.

(4) There must be reasonable grounds for believing that it is in the public interest for the information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

Textual Amendments

F83 S. 358(2)(c) added (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 14** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

Commencement Information

I16 S. 358 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

359 Offences

(1) A person commits an offence if without reasonable excuse he fails to comply with a requirement imposed on him under a disclosure order.

(2) A person guilty of an offence under subsection (1) is liable on summary conviction to—

(a) imprisonment for a term not exceeding six months,

(b) a fine not exceeding level 5 on the standard scale, or

(c) both.

(3) A person commits an offence if, in purported compliance with a requirement imposed on him under a disclosure order, he—

(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.

(4) A person guilty of an offence under subsection (3) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding six months or to a fine not exceeding the statutory maximum or to both, or

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(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

Modifications etc. (not altering text)

C48 S. 359 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **8(1)**(2)(6)-(8), 18(2)(6)(7), 27(6)(7), 28(7) (as amended (1.4.2008) by S.I. 2008/298, arts. 1(1), **2(9)**(10))

C49 S. 359 excluded (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **27(2)**, 28(2) (as amended (1.4.2008) by S.I. 2008/298, arts. 1(1), **2(9)**(10))

Commencement Information

I17 S. 359 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

360 Statements

(1) A statement made by a person in response to a requirement imposed on him under a disclosure order may not be used in evidence against him in criminal proceedings.

(2) But subsection (1) does not apply—

(a) in the case of proceedings under Part 2 or 4,

(b) on a prosecution for an offence under section 359(1) or (3),

(c) on a prosecution for an offence under section 5 of the Perjury Act 1911 (c. 6) or Article 10 of the Perjury (Northern Ireland) Order 1979 (S.I. 1979/1714 (N.I. 19)) (false statements), or

(d) on a prosecution for some other offence where, in giving evidence, the person makes a statement inconsistent with the statement mentioned in subsection (1).

(3) A statement may not be used by virtue of subsection (2)(d) against a person unless—

(a) evidence relating to it is adduced, or

(b) a question relating to it is asked,

by him or on his behalf in the proceedings arising out of the prosecution.

Modifications etc. (not altering text)

C50 S. 360 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **7(3)**, 17(3)

C51 S. 360 applied (with modifications) (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **27(3)**(4), 28(3)(4) (as amended (1.4.2008) by S.I. 2008/298, arts. 1(1), 2(9)**(10)**)

C52 S. 360 restricted (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **27(6)**(8), 28(8) (as amended (1.4.2008) by S.I. 2008/298, arts. 1(1), 2(9)**(10)**)

Commencement Information

I18 S. 360 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

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361 Further provisions

(1) A disclosure order does not confer the right to require a person to answer any privileged question, provide any privileged information or produce any privileged document, except that a lawyer may be required to provide the name and address of a client of his.

(2) A privileged question is a question which the person would be entitled to refuse to answer on grounds of legal professional privilege in proceedings in the High Court.

(3) Privileged information is any information which the person would be entitled to refuse to provide on grounds of legal professional privilege in proceedings in the High Court.

(4) Privileged material is any material which the person would be entitled to refuse to produce on grounds of legal professional privilege in proceedings in the High Court.

(5) A disclosure order does not confer the right to require a person to produce excluded material.

(6) A disclosure order has effect in spite of any restriction on the disclosure of information (however imposed).

(7) **[**[F84]An appropriate officer**]** may take copies of any documents produced in compliance with a requirement to produce them which is imposed under a disclosure order.

(8) Documents so produced may be retained for so long as it is necessary to retain them (as opposed to a copy of them) in connection with the investigation for the purposes of which the order was made.

(9) But if **[**[F85]an appropriate officer**]** has reasonable grounds for believing that—

(a) the documents may need to be produced for the purposes of any legal proceedings, and

(b) they might otherwise be unavailable for those purposes,

they may be retained until the proceedings are concluded.

Textual Amendments

F84 Words in s. 361(7) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 109(2)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F85 Words in s. 361(9) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 109(3)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

Modifications etc. (not altering text)

C53 S. 361 applied (with modifications) (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **8(1)**(5), 18(5) (as amended (1.4.2008) by S.I. 2008/298, arts. 1(1), 2(5)(8))

C54 S. 361 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **7(4)**, 17(4)

C55 S. 361 excluded (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **8(6)-(8)**, 18(6)(7), 27(5), 28(5) (as amended (1.4.2008) by S.I. 2008/298, arts. 1(1), 2(5)(8)(9)**(10)**)

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Commencement Information

I19 S. 361 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

362 Supplementary

(1) An application for a disclosure order may be made ex parte to a judge in chambers.

(2) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to disclosure orders.

(3) An application to discharge or vary a disclosure order may be made to the court by—
- (a) the **[**[F86]person who applied for the order**]**;
- (b) any person affected by the order.

(4) The court—
- (a) may discharge the order;
- (b) may vary the order.

[[F87](4A) If a **[**[F88]National Crime Agency officer**]** or a person falling within a description of persons specified by virtue of section 357(9) applies for a disclosure order, an application to discharge or vary the order need not be by the same **[**[F88]National Crime Agency officer**]** or (as the case may be) the same person falling within that description.

(4B) References to a person who applied for a disclosure order must be construed accordingly.**]**

(5) Subsections (2) to **[**[F89](4B)**]** do not apply to orders made in England and Wales for the purposes of a civil recovery investigation **[**[F90]or an exploitation proceeds investigation**]**.

Textual Amendments

F86 Words in s. 362(3)(a) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 110(2)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F87 S. 362(4A)(4B) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 110(3)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F88 Words in s. 362(4A) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 140**; S.I. 2013/1682, art. 3(v)

F89 Word in s. 362(5) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 110(4)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F90 Words in s. 362(5) added (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 15** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

Commencement Information

I20 S. 362 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

Status: *Point in time view as at 26/05/2015.*
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Customer information orders

363 Customer information orders

(1) A judge may, on an application made to him by an appropriate officer, make a customer information order if he is satisfied that each of the requirements for the making of the order is fulfilled.

[[F91](1A) No application for a customer information order may be made in relation to a detained cash investigation.**]**

(2) The application for a customer information order must state that—

(a) a person specified in the application is subject to a confiscation investigation **[**[F92], an exploitation proceeds investigation**]** or a money laundering investigation, or

(b) property specified in the application is subject to a civil recovery investigation and a person specified in the application appears to hold the property.

(3) The application must also state that—

(a) the order is sought for the purposes of the investigation;

(b) the order is sought against the financial institution or financial institutions specified in the application.

(4) An application for a customer information order may specify—

(a) all financial institutions,

(b) a particular description, or particular descriptions, of financial institutions, or

(c) a particular financial institution or particular financial institutions.

(5) A customer information order is an order that a financial institution covered by the application for the order must, on being required to do so by notice in writing given by an appropriate officer, provide any such customer information as it has relating to the person specified in the application.

(6) A financial institution which is required to provide information under a customer information order must provide the information to an appropriate officer in such manner, and at or by such time, as an appropriate officer requires.

(7) If a financial institution on which a requirement is imposed by a notice given under a customer information order requires the production of evidence of authority to give the notice, it is not bound to comply with the requirement unless evidence of the authority has been produced to it.

Textual Amendments

F91 S. 363(1A) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 11**; S.I. 2008/755, art. 17(1)(d)(ii)

F92 Words in s. 363(2)(a) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 16** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

Commencement Information

I21 S. 363 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

Status: *Point in time view as at 26/05/2015.*
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364 Meaning of customer information

(1) "Customer information", in relation to a person and a financial institution, is information whether the person holds, or has held, **[**[F93] an account or accounts**]** at the financial institution (whether solely or jointly with another) and (if so) information as to—

(a) the matters specified in subsection (2) if the person is an individual;

(b) the matters specified in subsection (3) if the person is a company or limited liability partnership or a similar body incorporated or otherwise established outside the United Kingdom.

(2) The matters referred to in subsection (1)(a) are—

(a) the account number or numbers**[**[F94]or the number of any safe deposit box**]**;

(b) the person's full name;

(c) his date of birth;

(d) his most recent address and any previous addresses;

(e) **[**[F95]in the case of an account or accounts,**]**the date or dates on which he began to hold the account or accounts and, if he has ceased to hold the account or any of the accounts, the date or dates on which he did so;

[[F96](ee) in the case of any safe deposit box, the date on which the box was made available to him and if the box has ceased to be available to him the date on which it so ceased;**]**

(f) such evidence of his identity as was obtained by the financial institution under or for the purposes of any legislation relating to money laundering;

(g) the full name, date of birth and most recent address, and any previous addresses, of any person who holds, or has held, an account at the financial institution jointly with him;

(h) the account number or numbers of any other account or accounts held at the financial institution to which he is a signatory and details of the person holding the other account or accounts.

(3) The matters referred to in subsection (1)(b) are—

(a) the account number or numbers**[**[F97] or the number of any safe deposit box**]**;

(b) the person's full name;

(c) a description of any business which the person carries on;

(d) the country or territory in which it is incorporated or otherwise established and any number allocated to it under **[**[F98]the Companies Act 2006**]** or corresponding legislation of any country or territory outside the United Kingdom;

(e) any number assigned to it for the purposes of value added tax in the United Kingdom;

(f) its registered office, and any previous registered offices, under **[**[F99]the Companies Act 2006 (or corresponding earlier legislation)**]** or anything similar under corresponding legislation of any country or territory outside the United Kingdom;

(g) its registered office, and any previous registered offices, under the Limited Liability Partnerships Act 2000 (c. 12) or anything similar under corresponding legislation of any country or territory outside Great Britain;

(h) **[**[F100]in the case of an account or accounts, **]**the date or dates on which it began to hold the account or accounts and, if it has ceased to hold the account or any of the accounts, the date or dates on which it did so;

[[F101](hh) in the case of any safe deposit box, the date on which the box was made available to it and if the box has ceased to be available to it the date on which it so ceased;**]**

(i) such evidence of its identity as was obtained by the financial institution under or for the purposes of any legislation relating to money laundering;

(j) the full name, date of birth and most recent address and any previous addresses of any person who is a signatory to the account or any of the accounts.

(4) The Secretary of State may by order provide for information of a description specified in the order—

(a) to be customer information, or

(b) no longer to be customer information.

(5) Money laundering is an act which—

(a) constitutes an offence under section 327, 328 or 329 of this Act or section 18 of the Terrorism Act 2000 (c. 11), or

[[F102](aa) constitutes an offence specified in section 415(1A) of this Act,**]**

(b) would constitute an offence specified in paragraph (a)**[**[F103]or (aa) **]** if done in the United Kingdom.

[[F104](6) A "safe deposit box" includes any procedure under which a financial institution provides a facility to hold items for safe keeping on behalf of another person.**]**

Textual Amendments

F93 Words in s. 364(1) inserted (N.I.) (20.8.2005) by The Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965), arts. 1(4), **14(2)**

F94 Words in s. 364(2)(a) added (N.I.) (20.8.2005) by The Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965), arts. 1(4), **14(3)(a)**

F95 Words in s. 364(2)(e) inserted (N.I.) (20.8.2005) by The Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965), arts. 1(4), **14(3)(b)**

F96 S. 364(2)(ee) inserted (N.I.) (20.8.2005) by The Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965), arts. 1(4), **14(3)(b)**

F97 Words in s. 364(3)(a) added (N.I.) (20.8.2005) by The Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965), arts. 1(4), **14(4)(a)**

F98 Words in s. 364(3)(d) substituted (1.10.2009) by virtue of The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 196(2)(a)** (with art. 10)

F99 Words in s. 364(3)(f) substituted (1.10.2009) by virtue of The Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 1(2), **Sch. 1 para. 196(2)(b)** (with art. 10)

F100 Words in s. 364(3)(h) inserted (N.I.) (20.8.2005) by The Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965), arts. 1(4), **14(4)(b)**

F101 S. 364(3)(hh) inserted (N.I.) (20.8.2005) by The Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965), arts. 1(4), **14(4)(b)**

F102 S. 364(5)(aa) inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 107(2)(a)**, 178(7)(a); S.I. 2005/1521, art. 2(1)(e)

F103 Words in s. 364(5)(b) inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), **ss. 107(2)(b)**, 178(7)(a); S.I. 2005/1521, art. 2(1)(e)

F104 S. 364(6) added (20.8.2005) by The Criminal Justice (Northern Ireland) Order 2005 (S.I. 2005/1965), arts. 1(4), **14(5)**

Modifications etc. (not altering text)

C56 S. 364 modified (1.11.2006) by Crime (International Co-operation) Act 2003 (c. 32), **ss. 32(6)**, 94(1); S.I. 2006/2811, art. 2

Commencement Information

I22 S. 364 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

365 Requirements for making of customer information order

(1) These are the requirements for the making of a customer information order.

(2) In the case of a confiscation investigation, there must be reasonable grounds for suspecting that the person specified in the application for the order has benefited from his criminal conduct.

(3) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that—

(a) the property specified in the application for the order is recoverable property or associated property;

(b) the person specified in the application holds all or some of the property.

(4) In the case of a money laundering investigation, there must be reasonable grounds for suspecting that the person specified in the application for the order has committed a money laundering offence.

(5) In the case of any investigation, there must be reasonable grounds for believing that customer information which may be provided in compliance with the order is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought.

(6) In the case of any investigation, there must be reasonable grounds for believing that it is in the public interest for the customer information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

Modifications etc. (not altering text)

C57 S. 365 applied (with modifications) (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **28(5)**

Commencement Information

I23 S. 365 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

366 Offences

(1) A financial institution commits an offence if without reasonable excuse it fails to comply with a requirement imposed on it under a customer information order.

(2) A financial institution guilty of an offence under subsection (1) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Status: *Point in time view as at 26/05/2015.*
Changes to legislation: *Proceeds of Crime Act 2002, Chapter 2 is up to date with all changes known to be in force on or before 29 June 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)*

(3) A financial institution commits an offence if, in purported compliance with a customer information order, it—

(a) makes a statement which it 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.

(4) A financial institution guilty of an offence under subsection (3) is liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum, or

(b) on conviction on indictment, to a fine.

Modifications etc. (not altering text)

C58 S. 366 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **20(2)**

C59 S. 366 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **29(1)**, (2)

C60 S. 366 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **10(2)**, 20(2), 29(1)(2), 30(1)(2)

C61 S. 366 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **30(1)**, (2)

Commencement Information

I24 S. 366 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

367 Statements

(1) A statement made by a financial institution in response to a customer information order may not be used in evidence against it in criminal proceedings.

(2) But subsection (1) does not apply—

(a) in the case of proceedings under Part 2 or 4,

(b) on a prosecution for an offence under section 366(1) or (3), or

(c) on a prosecution for some other offence where, in giving evidence, the financial institution makes a statement inconsistent with the statement mentioned in subsection (1).

(3) A statement may not be used by virtue of subsection (2)(c) against a financial institution unless—

(a) evidence relating to it is adduced, or

(b) a question relating to it is asked,

by or on behalf of the financial institution in the proceedings arising out of the prosecution.

Modifications etc. (not altering text)

C62 S. 367 applied (with modifications) (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **30(1)**, (3)

C63 S. 367 applied (with modifications) (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **29(1)**(3), 30(1)(3)

C64 S. 367 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **19(3)**

C65 S. 367 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **9(3)**, 19(3)

Commencement Information

I25 S. 367 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

368 Disclosure of information

A customer information order has effect in spite of any restriction on the disclosure of information (however imposed).

Modifications etc. (not altering text)

C66 S. 368 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **19(4)**

C67 S. 368 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **9(4)**, 10(4), 19(4), 20(4)

C68 S. 368 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **20(4)**

C69 S. 368 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **10(4)**

Commencement Information

I26 S. 368 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

369 Supplementary

(1) An application for a customer information order may be made ex parte to a judge in chambers.

(2) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to customer information orders.

(3) An application to discharge or vary a customer information order may be made to the court by—
  (a) the person who applied for the order;
  (b) any person affected by the order.

(4) The court—
  (a) may discharge the order;
  (b) may vary the order.

(5) If an accredited financial investigator, **[**[F105]a **[**[F106]National Crime Agency officer**]**,**]** a constable or **[**[F107]an officer of Revenue and Customs**]****[**[F108]or an immigration officer**]** applies for a customer information order, an application to discharge or vary the order

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need not be by the same accredited financial investigator, **[**[F106]National Crime Agency officer**]**, constable or **[**[F109]officer of Revenue and Customs**]**[[F110]or immigration officer**]**.

(6) References to a person who applied for a customer information order must be construed accordingly.

(7) An accredited financial investigator, **[**[F111]a **[**[F106]National Crime Agency officer**]**,**]** a constable or **[**[F112]an officer of Revenue and Customs**]**[[F113]or an immigration officer**]** may not make an application for a customer information order or an application to vary such an order unless he is a senior appropriate officer or he is authorised to do so by a senior appropriate officer.

(8) Subsections (2) to (6) do not apply to orders made in England and Wales for the purposes of a civil recovery investigation.

Textual Amendments

F105 Words in s. 369(5) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 111(2)(a)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F106 Words in s. 369 substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 141**; S.I. 2013/1682, art. 3(v)

F107 Words in s. 369(5) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 14(2)(a)**

F108 Words in s. 369(5) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 35(2)(a)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

F109 Words in s. 369(5) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 14(2)(b)**

F110 Words in s. 369(5) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 35(2)(b)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

F111 Words in s. 369(7) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 111(3)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F112 Words in s. 369(7) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 14(3)**

F113 Words in s. 369(7) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 35(3)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

Commencement Information

I27 S. 369 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

Account monitoring orders

370 Account monitoring orders

(1) A judge may, on an application made to him by an appropriate officer, make an account monitoring order if he is satisfied that each of the requirements for the making of the order is fulfilled.

[[F114](1A) No application for an account monitoring order may be made in relation to a detained cash investigation.**]**

(2) The application for an account monitoring order must state that—

(a) a person specified in the application is subject to a confiscation investigation **[**[F115], an exploitation proceeds investigation**]** or a money laundering investigation, or

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(b) property specified in the application is subject to a civil recovery investigation and a person specified in the application appears to hold the property.

(3) The application must also state that—

(a) the order is sought for the purposes of the investigation;

(b) the order is sought against the financial institution specified in the application in relation to account information of the description so specified.

(4) Account information is information relating to an account or accounts held at the financial institution specified in the application by the person so specified (whether solely or jointly with another).

(5) The application for an account monitoring order may specify information relating to—

(a) all accounts held by the person specified in the application for the order at the financial institution so specified,

(b) a particular description, or particular descriptions, of accounts so held, or

(c) a particular account, or particular accounts, so held.

(6) An account monitoring order is an order that the financial institution specified in the application for the order must, for the period stated in the order, provide account information of the description specified in the order to an appropriate officer in the manner, and at or by the time or times, stated in the order.

(7) The period stated in an account monitoring order must not exceed the period of 90 days beginning with the day on which the order is made.

Textual Amendments

F114 S. 370(1A) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 12**; S.I. 2008/755, art. 17(1)(d)(ii)

F115 Words in s. 370(2)(a) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 17** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

Modifications etc. (not altering text)

C70 S. 370(6) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **31(3)**

C71 S. 370(6) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **11(3)**, 21(3), 31(3), 32(3)

C72 S. 370(6) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **32(3)**

C73 S. 370(6) modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **21(3)**

Commencement Information

I28 S. 370 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

371 Requirements for making of account monitoring order

(1) These are the requirements for the making of an account monitoring order.

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(2) In the case of a confiscation investigation, there must be reasonable grounds for suspecting that the person specified in the application for the order has benefited from his criminal conduct.

(3) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that—
  (a) the property specified in the application for the order is recoverable property or associated property;
  (b) the person specified in the application holds all or some of the property.

(4) In the case of a money laundering investigation, there must be reasonable grounds for suspecting that the person specified in the application for the order has committed a money laundering offence.

(5) In the case of any investigation, there must be reasonable grounds for believing that account information which may be provided in compliance with the order is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the order is sought.

(6) In the case of any investigation, there must be reasonable grounds for believing that it is in the public interest for the account information to be provided, having regard to the benefit likely to accrue to the investigation if the information is obtained.

Commencement Information

I29 S. 371 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

372 Statements

(1) A statement made by a financial institution in response to an account monitoring order may not be used in evidence against it in criminal proceedings.

(2) But subsection (1) does not apply—
  (a) in the case of proceedings under Part 2 or 4,
  (b) in the case of proceedings for contempt of court, or
  (c) on a prosecution for an offence where, in giving evidence, the financial institution makes a statement inconsistent with the statement mentioned in subsection (1).

(3) A statement may not be used by virtue of subsection (2)(c) against a financial institution unless—
  (a) evidence relating to it is adduced, or
  (b) a question relating to it is asked,

  by or on behalf of the financial institution in the proceedings arising out of the prosecution.

Modifications etc. (not altering text)

C74 S. 372 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **31(5)**

C75 S. 372 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **11(5)**, 21(5), 31(5), 32(5)

C76 S. 372 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **32(5)**

C77 S. 372 applied (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **21(5)**

Commencement Information

I30 S. 372 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

373 Applications

An application for an account monitoring order may be made ex parte to a judge in chambers.

Commencement Information

I31 S. 373 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

374 Disclosure of information

An account monitoring order has effect in spite of any restriction on the disclosure of information (however imposed).

Modifications etc. (not altering text)

C78 S. 374 modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **22(6)**

C79 S. 374 modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **11(6)**, 12(6), 21(6), 22(6)

C80 S. 374 modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **12(6)**

C81 S. 374 modified (1.4.2003) by The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 (S.I. 2003/425), arts. 1, **21(6)**

Commencement Information

I32 S. 374 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

375 Supplementary

(1) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to account monitoring orders.

(2) An application to discharge or vary an account monitoring order may be made to the court by—

(a) the person who applied for the order;

(b) any person affected by the order.

Status: *Point in time view as at 26/05/2015.*
Changes to legislation: *Proceeds of Crime Act 2002, Chapter 2 is up to date with all changes known to be in force on or before 29 June 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)*

(3) The court—
  (a) may discharge the order;
  (b) may vary the order.

(4) If an accredited financial investigator, **[**[F116]a **[**[F117]National Crime Agency officer**]**,**]** a constable or **[**[F118]an officer of Revenue and Customs**]**[F119]or an immigration officer**]** applies for an account monitoring order, an application to discharge or vary the order need not be by the same accredited financial investigator, **[**[F117]National Crime Agency officer**]**, constable or **[**[F120]officer of Revenue and Customs**]**[F121]or immigration officer**]**.

(5) References to a person who applied for an account monitoring order must be construed accordingly.

(6) Account monitoring orders have effect as if they were orders of the court.

(7) This section does not apply to orders made in England and Wales for the purposes of a civil recovery investigation.

Textual Amendments

F116 Words in s. 375(4) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 112(a)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F117 Words in s. 375(4) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 142**; S.I. 2013/1682, art. 3(v)

F118 Words in s. 375(4) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 15(a)**

F119 Words in s. 375(4) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 36(a)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

F120 Words in s. 375(4) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 15(b)**

F121 Words in s. 375(4) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 36(b)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

Commencement Information

I33 S. 375 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

[[F122]**375A Evidence overseas**

(1) This section applies if a person or property is subject to a civil recovery investigation, a detained cash investigation or an exploitation proceeds investigation.

(2) A judge may request assistance under this section if—
  (a) an application is made by an appropriate officer 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) The relevant Director or a senior appropriate officer may request assistance under this section if the Director or officer thinks that there is relevant evidence in a country or territory outside the United Kingdom.

(4) The assistance that may be requested under this section is assistance in obtaining outside the United Kingdom relevant evidence specified in the request.

Status: *Point in time view as at 26/05/2015.*
Changes to legislation: *Proceeds of Crime Act 2002, Chapter 2 is up to date with all changes known to be in force on or before 29 June 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)*

(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);

(c) in relation to an application or request made for the purposes of an exploitation proceeds investigation, evidence as to a matter described in section 341(5)(a) to (d).

(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

F122 Ss. 375A, 375B inserted (22.11.2014 for specified purposes, 1.6.2015 for E.W.S. in so far as not already in force, 1.2.2017 for N.I. in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 26**; S.I. 2014/3098, art. 3; S.I. 2015/964, art. 2(e); S.I. 2017/4, art. 2

375B Evidence overseas: restrictions on use

(1) This section applies to evidence obtained by means of a request for assistance under section 375A.

(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

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Changes to legislation: *Proceeds of Crime Act 2002, Chapter 2 is up to date with all changes known to be in force on or before 29 June 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)*

(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;

(c) if the request was made for the purposes of an exploitation proceeds investigation, proceedings under Part 7 of the Coroners and Justice Act 2009 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.**]**

Textual Amendments

F122 Ss. 375A, 375B inserted (22.11.2014 for specified purposes, 1.6.2015 for E.W.S. in so far as not already in force, 1.2.2017 for N.I. in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 26**; S.I. 2014/3098, art. 3; S.I. 2015/964, art. 2(e); S.I. 2017/4, art. 2

[F123 Officers of Revenue and Customs

Textual Amendments

F123 S. 375C and cross-heading inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 16**

375C Restriction on exercise of certain powers conferred on officers of Revenue and Customs

(1) This section applies to the powers conferred on an officer of Revenue and Customs which are exercisable in connection with—

(a) a production order made or to be made in relation to a confiscation investigation or a money laundering investigation,

(b) a search and seizure warrant issued or to be issued in relation to a confiscation investigation or a money laundering investigation,

(c) a customer information order, and

(d) an account monitoring order.

(2) The powers are exercisable by the officer only so far as the officer is exercising a function relating to a matter other than an excluded matter.

(3) The reference in subsection (2) to an excluded matter is to a matter specified in section 54(4)(b) of, or in any of paragraphs 3, 5, 7, 10, 12 and 14 to 30 of Schedule 1 to, the Commissioners for Revenue and Customs Act 2005.**]**

Status: *Point in time view as at 26/05/2015.*
Changes to legislation: *Proceeds of Crime Act 2002, Chapter 2 is up to date with all changes known to be in force on or before 29 June 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)*

Evidence overseas

[F124]376 Evidence overseas

. . . . . .

Textual Amendments

F124 S. 376 repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 8 para. 113, **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)

Commencement Information

I34 S. 376 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

Code of practice

377 Code of practice [[F125]of Secretary of State etc.]

(1) The Secretary of State must prepare a code of practice as to the exercise by all of the following of functions they have under this Chapter—

[[F126](a) the Director General of the National Crime Agency;

(b) other National Crime Agency officers;]

(c) [[F127]in relation to England and Wales,] accredited financial investigators;

(d) [[F127]in relation to England and Wales,] constables;

[[F128](e) officers of Revenue and Customs;]

[[F129](f) immigration officers.]

(2) After preparing a draft of the code the Secretary of State—

(a) must publish the draft;

(b) must consider any representations made to him about the draft;

(c) may amend the draft accordingly.

(3) After the Secretary of State has proceeded under subsection (2) he must lay the code before Parliament.

(4) When he has done so the Secretary of State may bring the code into operation on such day as he may appoint by order.

(5) A person specified in subsection (1)(a) to [[F130](f)] must comply with a code of practice which is in operation under this section in the exercise of any function he has under this Chapter.

(6) If such a person fails to comply with any provision of such a code of practice he is not by reason only of that failure liable in any criminal or civil proceedings.

(7) But the code of practice is admissible in evidence in such proceedings and a court may take account of any failure to comply with its provisions in determining any question in the proceedings.

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Changes to legislation: *Proceeds of Crime Act 2002, Chapter 2 is up to date with all changes known to be in force on or before 29 June 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)*

(8) The Secretary of State may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section apply to a revised code as they apply to the code as first prepared.

[F131](9) . . . . . .

Textual Amendments

F125 Words in s. 377 heading inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 114(2)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F126 S. 377(1)(a)(b) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 143**; S.I. 2013/1682, art. 3(v)

F127 Words in s. 377(1)(c)(d) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 67(2)** (with arts. 28-31)

F128 S. 377(1)(e) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 17**

F129 S. 377(1)(f) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 37(2)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

F130 Word in s. 377(5) substituted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 37(3)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)

F131 S. 377(9) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 67(3)** (with arts. 28-31)

Commencement Information

I35 S. 377 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

[F132377ZA Code of practice (Northern Ireland)

(1) The Department of Justice in Northern Ireland must prepare a code of practice as to the exercise, in relation to Northern Ireland, by constables and accredited financial investigators of functions they have under this Chapter.

(2) After preparing a draft of the code the Department of Justice—
  (a) must publish the draft;
  (b) must consider any representations made to the Department of Justice about the draft;
  (c) may amend the draft accordingly.

(3) After the Department of Justice has proceeded under subsection (2) it must lay the code before the Northern Ireland Assembly.

(4) When the Department of Justice has done so it may bring the code into operation on such day as the Department of Justice may appoint by order.

(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (3) in relation to the laying of a code as it applies in relation to the laying of a statutory document under an enactment.

(6) A constable or accredited financial investigator must comply with a code of practice which is in operation under this section in the exercise of any function he has under this Chapter.

(7) If a constable or accredited financial investigator fails to comply with any provision of such a code of practice he is not by reason only of that failure liable in any criminal or civil proceedings.

(8) But the code of practice is admissible in evidence in such proceedings and a court may take account of any failure to comply with its provisions in determining any question in the proceedings.

(9) The Department of Justice may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section apply to a revised code as they apply to the code as first prepared.

Textual Amendments

F132 Ss. 377ZA, 377ZB inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 68** (with arts. 28-31)

377ZB Disapplication of PACE codes

The following provisions do not apply to an appropriate officer or the relevant authority in the exercise of any function either has under this Chapter—

(a) section 67(9) of the Police and Criminal Evidence Act 1984 (application of codes of practice under that Act to persons other than police officers);

(b) Article 66(8) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (which makes similar provision for Northern Ireland).**]**

Textual Amendments

F132 Ss. 377ZA, 377ZB inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 14 para. 68** (with arts. 28-31)

[F133 377A Code of practice of Attorney General or Advocate General for Northern Ireland

(1) The Attorney General must prepare a code of practice as to—

(a) the exercise by the Director of Public Prosecutions F134... and the Director of the Serious Fraud Office of functions they have under this Chapter; and

(b) the exercise by any other person, who is the relevant authority by virtue of section 357(9) in relation to a confiscation investigation, of functions he has under this Chapter in relation to England and Wales as the relevant authority.

(2) The Advocate General for Northern Ireland must prepare a code of practice as to—

(a) the exercise by the Director of Public Prosecutions for Northern Ireland of functions he has under this Chapter; and

(b) the exercise by any other person, who is the relevant authority by virtue of section 357(9) in relation to a confiscation investigation, of functions he has under this Chapter in relation to Northern Ireland as the relevant authority.

(3) After preparing a draft of the code the Attorney General or (as the case may be) the Advocate General for Northern Ireland—

(a) must publish the draft;

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(b) must consider any representations made to him about the draft;
(c) may amend the draft accordingly.

(4) After the Attorney General or the Advocate General for Northern Ireland has proceeded under subsection (3) he must lay the code before Parliament.

(5) When the code has been so laid the Attorney General or (as the case may be) the Advocate General for Northern Ireland may bring the code into operation on such day as he may appoint by order.

(6) A person specified in subsection (1)(a) or (b) or (2)(a) or (b) must comply with a code of practice which is in operation under this section in the exercise of any function he has under this Chapter to which the code relates.

(7) If such a person fails to comply with any provision of such a code of practice the person is not by reason only of that failure liable in any criminal or civil proceedings.

(8) But the code of practice is admissible in evidence in such proceedings and a court may take account of any failure to comply with its provisions in determining any question in the proceedings.

(9) The Attorney General or (as the case may be) the Advocate General for Northern Ireland may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section apply to a revised code as they apply to the code as first prepared.

(10) In this section references to the Advocate General for Northern Ireland are to be read, before the coming into force of section 27(1) of the Justice (Northern Ireland) Act 2002 (c. 26), as references to the Attorney General for Northern Ireland.**]**

Textual Amendments

F133 S. 377A inserted (1.3.2008 for specified purposes, 1.4.2008 in so far as not already in force) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 115**; S.I. 2008/219, art. 3(m); S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F134 Words in s. 377A(1)(a) omitted (27.3.2014) by virtue of The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014 (S.I. 2014/834), art. 1(1), **Sch. 2 para. 28**

Interpretation

378 Officers

(1) In relation to a confiscation investigation these are appropriate officers—
[[F135](a) a National Crime Agency officer;**]**
(b) an accredited financial investigator;
(c) a constable;
[[F136](d) an officer of Revenue and Customs;**]**
[[F137](e) an immigration officer.**]**

(2) In relation to a confiscation investigation these are senior appropriate officers—
[[F138](a) a senior National Crime Agency officer;**]**

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(b) a police officer who is not below the rank of superintendent;

(c) **[**[F139]an officer of Revenue and Customs**]** who is not below such grade as is designated by the Commissioners of Customs and Excise as equivalent to that rank;

[[F140](ca) an immigration officer who is not below such grade as is designated by the Secretary of State as equivalent to that rank;**]**

(d) an accredited financial investigator who falls within a description specified in an order made for the purposes of this paragraph by the Secretary of State under section 453.

(3) In relation to a civil recovery investigation

[[F141]—

(a) a **[**[F142]National Crime Agency officer**]** or the relevant Director is an appropriate officer;

(b) a **[**[F143]senior National Crime Agency officer**]** is a senior appropriate officer.**]**

[[F144](3A) In relation to a detained cash investigation these are appropriate officers—

(a) a constable;

[[F145](ab) an accredited financial investigator;**]**

(b) an officer of Revenue and Customs.

[[F146](c) an immigration officer.**]]**

[[F147](3B) The reference in paragraph (ab) of subsection (3A) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that paragraph by the Secretary of State under section 453.**]**

(4) In relation to a money laundering investigation these are appropriate officers—

(a) an accredited financial investigator;

(b) a constable;

[[F148](c) an officer of Revenue and Customs;**]**

[[F149](d) an immigration officer.**]**

(5) For the purposes of section 342, in relation to a money laundering investigation a person authorised for the purposes of money laundering investigations by **[**[F150]the **[**[F151]Director General of the National Crime Agency**]]** is also an appropriate officer.

(6) In relation to a money laundering investigation these are senior appropriate officers—

(a) a police officer who is not below the rank of superintendent;

(b) **[**[F152]an officer of Revenue and Customs**]** who is not below such grade as is designated by the Commissioners of Customs and Excise as equivalent to that rank;

[[F153](ba) an immigration officer who is not below such grade as is designated by the Secretary of State as equivalent to that rank;**]**

(c) an accredited financial investigator who falls within a description specified in an order made for the purposes of this paragraph by the Secretary of State under section 453.

[[F154](6A) In relation to an exploitation proceeds investigation, **[**[F155]a National Crime Agency officer**]** is an appropriate officer.**]**

[F156](7) . . . . . .

[[F157](8) For the purposes of this Part a **[**[F158]senior National Crime Agency officer**]** is—

(a) the **[**[F159]Director General of the National Crime Agency**]**; or

(b) any **[**[F160]other National Crime Agency officer**]** authorised by the Director General (whether generally or specifically) for this purpose.**]**

Textual Amendments

F135 S. 378(1)(a) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 144(2)**; S.I. 2013/1682, art. 3(v)

F136 S. 378(1)(d) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 18(a)**

F137 S. 378(1)(e) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), **ss. 55(5)(a)**, 61(2) (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(f)

F138 S. 378(2)(a) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 144(3)**; S.I. 2013/1682, art. 3(v)

F139 Words in s. 378(2)(c) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 18(b)**

F140 S. 378(2)(ca) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), **ss. 55(5)(b)**, 61(2) (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(f)

F141 Words in s. 378(3) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 116(4)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F142 Words in s. 378(3)(a) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 144(4)(a)**; S.I. 2013/1682, art. 3(v)

F143 Words in s. 378(3)(b) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 144(4)(b)**; S.I. 2013/1682, art. 3(v)

F144 S. 378(3A) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 13**; S.I. 2008/755, art. 17(1)(d)(ii)

F145 S. 378(3A)(ab) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 80(7)**, 94(1); S.I. 2008/755, art. 17(1)(g)

F146 S. 378(3A)(c) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), **ss. 55(5)(c)**, 61(2) (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(f)

F147 S. 378(3B) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 80(8)**, 94(1); S.I. 2008/755, art. 17(1)(g)

F148 S. 378(4)(c) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 18(c)**

F149 S. 378(4)(d) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), **ss. 55(5)(d)**, 61(2) (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(f)

F150 Words in s. 378(5) substituted (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), **Sch. 4 para. 175**; S.I. 2006/378, art. 4(1), Sch. para. 10

F151 Words in s. 378(5) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 144(5)**; S.I. 2013/1682, art. 3(v)

F152 Words in s. 378(6)(b) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 18(b)**

F153 S. 378(6)(ba) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), **ss. 55(5)(e)**, 61(2) (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(f)

F154 S. 378(6A) inserted (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 18** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18

F155 Words in s. 378(6A) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 144(6)** ; S.I. 2013/1682, art. 3(v)

F156 S. 378(7) repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 8 para. 116(6), **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)

F157 S. 378(8) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 116(7)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

F158 Words in s. 378(8) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 144(7)(a)**; S.I. 2013/1682, art. 3(v)

F159 Words in s. 378(8)(a) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 144(7)(b)**; S.I. 2013/1682, art. 3(v)

F160 Words in s. 378(8)(b) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 144(7)(c)**; S.I. 2013/1682, art. 3(v)

Commencement Information

I36 S. 378 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

379 Miscellaneous

"Document", "excluded material" and "premises" have the same meanings as in the Police and Criminal Evidence Act 1984 (c. 60) or (in relation to Northern Ireland) the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)).

Commencement Information

I37 S. 379 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

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