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 **[**[F1], a money laundering investigation **[**[F2], a detained cash investigation, a detained property investigation or a frozen funds 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 **[**[F3]or an exploitation proceeds investigation**]**[F4]... a judge is a judge of the High Court.

Textual Amendments

F1 Words in s. 343(2) substituted (1.6.2015 for E.W.S., 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), **ss. 66(2)(a)**, 116(1); S.I. 2015/983, art. 2(2)(a) (with art. 5); S.I. 2016/147, art. 3(f) (with art. 5)

F2 Words in s. 343(2) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 41**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F3 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

F4 Words in s. 343(3) repealed (1.6.2015 for E.W.S., 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), ss. 66(2)(b), 116(1), **Sch. 8 Pt. 5**; S.I.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

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 **[**[F5], a money laundering investigation **[**[F6], a detained cash investigation, a detained property investigation or a frozen funds investigation**]]**;

(b) the High Court, in relation to an order for the purposes of a civil recovery investigation **[**[F7]or an exploitation proceeds investigation **]**[F8]...

Textual Amendments

F5 Words in s. 344(a) substituted (1.6.2015 for E.W., 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), **ss. 66(3)(a)**, 116(1); S.I. 2015/983, art. 2(2)(a) (with art. 5); S.I. 2016/147, art. 3(f) (with art. 5)

F6 Words in s. 344(a) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 42**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F7 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

F8 Words in s. 344(b) repealed (1.6.2015 for E.W., 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), ss. 66(3)(b), 116(1), **Sch. 8 Pt. 5**; 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

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)

Status: *Point in time view as at 28/06/2021.*
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 23 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)*

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 **[**[F9], a civil recovery investigation**][**[F10], an exploitation proceeds investigation **]** or a money laundering investigation, or

(b) property specified in the application is subject to a civil recovery investigation **[**[F11], a detained cash investigation, a detained property investigation or a frozen funds investigation**]**.

(3) The application must also state that—

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

(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

F9 Words in s. 345(2)(a) inserted (1.6.2015 for E.W. for specified purposes, 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 4**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

F10 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

F11 Words in s. 345(2)(b) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 43**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

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)

Status: *Point in time view as at 28/06/2021.*
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 23 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)*

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;

[[F12](b) in the case of a civil recovery investigation—

(i) the person the application for the order specifies as being subject to the investigation holds recoverable property or associated property,

(ii) that person has, at any time, held property that was recoverable property or associated property at the time, or

(iii) the property the application for the order specifies as being subject to the investigation is recoverable property or associated property;**]**

[[F13](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;**]**

[[F14](bc) in the case of a detained property investigation into the derivation of property, the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;

(bd) in the case of a detained property investigation into the intended use of property, 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;

(be) in the case of a frozen funds investigation into the derivation of money held in an account in relation to which an account freezing order made under section 303Z3 has effect (a "frozen account"), the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;

(bf) in the case of a frozen funds investigation into the intended use of money held in a frozen account, 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.

Status: *Point in time view as at 28/06/2021.*
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 23 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)*

[[F15](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).**]**

[[F16](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

F12 S. 346(2)(b) substituted (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 5**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

F13 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)

F14 S. 346(2)(bc)-(bf) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 44**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F15 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

F16 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.

(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.

Status: *Point in time view as at 28/06/2021.*
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 23 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) 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)**

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)

Status: *Point in time view as at 28/06/2021.*
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 23 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)*

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 **[**[F17], a money laundering investigation **[**[F18], a detained cash investigation, a detained property investigation or a frozen funds investigation**]]**;

(b) a High Court judge, in the case of an order made for the purposes of a civil recovery investigation **[**[F19]or an exploitation proceeds investigation**]**[F20]...

(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

F17 Words in s. 350(5)(a) substituted (1.6.2015 for E.W., 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), **ss. 66(4)(a)**, 116(1); S.I. 2015/983, art. 2(2)(a) (with art. 5); S.I. 2016/147, art. 3(f) (with art. 5)

F18 Words in s. 350(5)(a) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 45**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F19 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

F20 Words in s. 350(5)(b) repealed (1.6.2015 for E.W., 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), ss. 66(4)(b), 116(1), **Sch. 8 Pt. 5**; S.I. 2015/983, art. 2(2)(a)(g) (with art. 5); S.I. 2016/147, art. 3(f)(l) (with art. 5)

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.

[[F21](5) An application to discharge or vary a production order or an order to grant entry need not be made by the same appropriate officer that applied for the order (but must be made by an appropriate officer of the same description).

(5A) If the application for the order was, by virtue of an order under section 453, made by an accredited financial investigator of a particular description, the reference in subsection (5) to an appropriate officer of the same description is to another accredited financial investigator of that description.**]**

(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 **[**[F22]or an exploitation proceeds investigation**]**[F23]....

Textual Amendments

F21 S. 351(5)(5A) substituted for s. 351(5) (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 46**; S.I. 2018/78, reg. 5(1)(e); S.I. 2021/724, reg. 4(i)

F22 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

F23 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 **[**[F24], a civil recovery investigation**]**[F25], an exploitation proceeds investigation**]** or a money laundering investigation, or

(b) property specified in the application is subject to a civil recovery investigation **[**[F26], a detained cash investigation, a detained property investigation or a frozen funds 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) **[**[F27], (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—

[F28](a) . . . . . .

(b) **[**[F29]a Financial Conduct Authority officer,**]** a **[**[F30]**[**[F31]National Crime Agency officer **[**[F32], an officer of Revenue and Customs**]** or a member**]** of the staff of the relevant Director**]**, if the warrant is sought for the purposes of a civil recovery investigation.

[[F33](c) a constable **[**[F34]an SFO officer,**]**[F35], an accredited financial investigator**]** or an officer of Revenue and Customs **[**[F36]or an immigration officer**]**, if the warrant

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is sought for the purposes of a detained cash investigation **[**[F37], a confiscation investigation or a money laundering investigation**].]**

[[F38](ca) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a detained property investigation;

(cb) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a frozen funds investigation;**]**

[[F39](d) a **[**[F40]National Crime Agency officer**]**, if the warrant is sought for the purposes of an exploitation proceeds investigation.**]**

[[F41](5A) In this Part "relevant Director"—

(a) in relation to England and Wales, means the Director of Public Prosecutions [F42]... 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.

[[F43](7) The reference in **[**[F44]paragraph [F45]... (c)**]**[[F44]paragraphs (c), (ca) and (cb)**]** 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 **[**[F46]or the Welsh Ministers**]** under section 453.**]**

[[F47](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

F24 Words in s. 352(2)(a) inserted (1.6.2015 for E.W. for specified purposes, 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 6**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

F25 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

F26 Words in s. 352(2)(b) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 47(2)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F27 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)

F28 S. 352(5)(a) omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), **Sch. 48 para. 12(2)(a)**

F29 Words in s. 352(5)(b) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 47(3)(a)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F30 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)

F31 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)

F32 Words in s. 352(5)(b) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 47(3)(b)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F33 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)

F34 Words in s. 352(5)(c) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 47(3)(c)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F35 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)

F36 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)

F37 Words in s. 352(5)(c) inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 12(2)(b)**

F38 S. 352(5)(ca)(cb) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 47(3)(d)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F39 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

F40 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)

F41 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)

F42 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**

F43 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)

F44 Words in s. 352(7) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 47(4)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F45 Words in s. 352(7) omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), **Sch. 48 para. 12(3)**

F46 Words in s. 352(7) inserted (E.W.) (1.4.2018) by The Tax Collection and Management (Wales) Act 2016 (Consequential and Supplemental Provisions) Regulations 2018 (S.I. 2018/285), regs. 1(2), **5(f)**

F47 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(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)

C33 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))

C34 S. 352(5)(c) modified (E.W.) (1.4.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 (S.I. 2018/196), arts. 1(2), 3, **Sch. para. 4**

C35 S. 352(5)(ca)(cb) modified by S.I. 2018/196, Sch. para. 4 (as amended (E.W.) (20.7.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) (Amendment) Order 2018 (S.I. 2018/767), arts. 1(2), **2(2)(c)**)

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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;

[[F48](b) in the case of a civil recovery investigation—

(i) the person specified in the application for the warrant holds recoverable property or associated property,

(ii) that person has, at any time, held property that was recoverable property or associated property at the time, or

(iii) the property specified in the application for the warrant is recoverable property or associated property;**]**

[[F49](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;**]**

[[F50](bc) in the case of a detained property investigation into the derivation of property, the property specified in the application for the warrant, or a part of it, is recoverable property;

(bd) in the case of a detained property investigation into the intended use of property, 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;

(be) in the case of a frozen funds investigation into the derivation of money held in an account in relation to which an account freezing order made under section 303Z3 has effect (a "frozen account"), the property specified in the application for the warrant, or a part of it, is recoverable property;

(bf) in the case of a frozen funds investigation into the intended use of money held in a frozen account, 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.

[[F51](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,

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(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) **[**[F52], (7A), (7B)**][**[F53], (7C), (7D), (7E), (7F)**][**[F54], (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 **[**[F55]or of realisable property available for satisfying a confiscation order made in respect of him**]** 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—

[[F56](a) relates to the person or property specified in the application or to any of the questions listed in subsection (7ZA), 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.

[[F57](7ZA) Those questions are—

(a) where a person is specified in the application, any question as to—

(i) what property the person holds or has held,

(ii) whether the property is or has been recoverable property or associated property, or

(iii) the nature, extent or whereabouts of the property, and

(b) where property is specified in the application, any question as to—

(i) whether the property is or has been recoverable property or associated property,

(ii) who holds it or has held it,

(iii) whether a person who appears to hold or to have held it holds or has held other property,

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(iv) whether the other property is or has been recoverable property or associated property, or

(v) the nature, extent or whereabouts of the specified property or the other property.**]**

[[F58](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.**]**

[[F59](7C) In the case of a detained property investigation into the derivation of property, 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.

(7D) In the case of a detained property investigation into the intended use of property, 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.

(7E) In the case of a frozen funds investigation into the derivation of money held in a frozen account, 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.

(7F) In the case of a frozen funds investigation into the intended use of money held in a frozen account, material falls within this subsection if it cannot be identified at the time of the application but it—

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(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.

[[F60](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—

[F61](a) . . . . . .

(b) **[**[F62]a Financial Conduct Authority officer,**]** a **[**[F63]National Crime Agency officer **[**[F64], an officer of Revenue and Customs**]** or a member**][**[F65]of the staff of the relevant Director**]**, if the warrant is sought for the purposes of a civil recovery investigation.

[[F66](c) a constable, **[**[F67]an SFO officer,**][**[F68] an accredited financial**][**[F69]investigator,**]** an officer of Revenue and Customs **[**[F70]or an immigration officer**]**, if the warrant is sought for the purposes of a detained cash investigation **[**[F71], a confiscation investigation or a money laundering investigation**].]**

[[F72](ca) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a detained property investigation;

(cb) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a frozen funds investigation;**]**

[[F73](d) a **[**[F74]National Crime Agency officer**]**, if the warrant is sought for the purposes of an exploitation proceeds investigation.**]**

Status: *Point in time view as at 28/06/2021.*
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[[F75](11) The reference in **[**[F76]paragraphs (c), (ca) and (cb)**]** 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 **[**[F77]or the Welsh Ministers**]** under section 453.**]**

Textual Amendments

F48 S. 353(2)(b) substituted (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 7(2)**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

F49 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)

F50 S. 353(2)(bc)-(bf) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 48(2)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F51 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

F52 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)

F53 Words in s. 353(5)(a) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 48(3)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F54 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

F55 Words in s. 353(6)(a) inserted (1.3.2016) by Serious Crime Act 2015 (c. 9), **ss. 38(2)**, 88(1); S.I. 2016/148, reg. 3(c)

F56 S. 353(7)(a) substituted (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 7(3)**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

F57 S. 353(7ZA) inserted (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 7(4)**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

F58 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)

F59 S. 353(7C)-(7F) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 48(4)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F60 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

F61 S. 353(10)(a) omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), **Sch. 48 para. 13(2)(a)**

F62 Words in s. 353(10)(b) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 48(5)(a)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F63 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)

F64 Words in s. 353(10)(b) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not

already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 48(5)(b)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F65 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)

F66 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)

F67 Words in s. 353(10)(c) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 48(5)(c)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F68 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)

F69 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)

F70 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)

F71 Words in s. 353(10)(c) inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 13(2)(b)**

F72 S. 353(10)(ca)(cb) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 48(5)(d)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F73 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

F74 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)

F75 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)

F76 Words in s. 353(11) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 48(6)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F77 Words in s. 353(11) inserted (E.W.) (1.4.2018) by The Tax Collection and Management (Wales) Act 2016 (Consequential and Supplemental Provisions) Regulations 2018 (S.I. 2018/285), regs. 1(2), **5(g)**

Modifications etc. (not altering text)

C36 S. 353(10)(c) modified (E.W.) (1.4.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 (S.I. 2018/196), arts. 1(2), 3, **Sch. para. 5**

C37 S. 353(10)(ca)(cb) modified by S.I. 2018/196, Sch. para. 5 (as amended (E.W.) (20.7.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) (Amendment) Order 2018 (S.I. 2018/767), arts. 1(2), **2(2)(d)**)

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)

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.

Status: *Point in time view as at 28/06/2021.*
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 23 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)*

Modifications etc. (not altering text)

C38 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)

C39 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)**

C40 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)**

C41 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)**

C42 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)

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, **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 [F78, money laundering, detained cash, detained property and frozen funds investigations]

(1) This section applies to—

(a) search and seizure warrants sought for the purposes of a confiscation investigation [F79, a money laundering investigation [F80, a detained cash investigation, a detained property investigation or a frozen funds 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 [F81, in relation to England and Wales,] the provisions to which [F82subsection (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).

[F83(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))—

(a) Article 17 (search warrants -safeguards);

(b) Article 18 (execution of warrants);

(c) Article 23 (access and copying);

(d) Article 24 (retention).

Status: *Point in time view as at 28/06/2021.*
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 23 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

F78 Words in s. 355 heading substituted (27.4.2017 for specified purposes, 30.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 49(2)**; S.I. 2018/78, reg. 2(j); S.I. 2021/724, reg. 4(i)

F79 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)

F80 Words in s. 355(1)(a) substituted (27.4.2017 for specified purposes, 30.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 49(3)**; S.I. 2018/78, reg. 2(j); S.I. 2021/724, reg. 4(i)

F81 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)

F82 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)

F83 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 [F84]... [[F85]and exploitation proceeds investigations]

(1) This section applies to search and seizure warrants sought for the purposes of civil recovery investigations [[F86]or exploitation proceeds investigations][F87]....

(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.

[F88](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.

(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 **[**[F89]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.

[F90](11) . . . . . .

[F91](12) . . . . . .

Textual Amendments

F84 Words in s. 356 heading repealed (1.6.2015 for E.W., 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), ss. 66(7)(a), 116(1), **Sch. 8 Pt. 5**; S.I. 2015/983, art. 2(2)(a)(g) (with art. 5); S.I. 2016/147, art. 3(f)(l) (with art. 5);

F85 Words in s. 356 heading inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 50**; S.I. 2018/78, reg. 5(1)(e); S.I. 2021/724, reg. 4(i)

F86 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

F87 Words in s. 356(1) repealed (1.6.2015 for E.W., 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), ss. 66(7)(b), 116(1), **Sch. 8 Pt. 5**; S.I. 2015/983, art. 2(2)(a)(g) (with art. 5); S.I. 2016/147, art. 3(f)(l) (with art. 5)

F88 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)

F89 Words in s. 356(10) substituted (1.6.2015 for E.W., 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), **ss. 66(7)(c)**, 116(1); S.I. 2015/983, art. 2(2)(a) (with art. 5); S.I. 2016/147, art. 3(f) (with art. 5)

F90 S. 356(11) repealed (1.6.2015 for E.W., 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), ss. 66(7)(d), 116(1), **Sch. 8 Pt. 5**; S.I. 2015/983, art. 2(2)(a)(g) (with art. 5); S.I. 2016/147, art. 3(f)(l) (with art. 5)

F91 S. 356(12) repealed (1.6.2015 for E.W., 1.3.2016 in so far as not already in force) by Policing and Crime Act 2009 (c. 26), ss. 66(7)(d), 116(1), **Sch. 8 Pt. 5**; 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

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)

[[F92]356A Certain offences in relation to execution of search and seizure warrants

(1) A person commits an offence if the person assaults an appropriate person who is acting in the exercise of a power conferred by a search and seizure warrant issued under section 352.

(2) A person commits an offence if the person resists or wilfully obstructs an appropriate person who is acting in the exercise of a power conferred by a search and seizure warrant issued under section 352.

Status: *Point in time view as at 28/06/2021.*
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 23 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 person guilty of an offence under subsection (1) is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine, or to both;

(b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding level 5 on the standard scale, or to both.

(4) A person guilty of an offence under subsection (2) is liable—

(a) on summary conviction in England and Wales, to imprisonment for a term not exceeding 51 weeks, or to a fine not exceeding level 3 on the standard scale, or to both;

(b) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 1 month, or to a fine not exceeding level 3 on the standard scale, or to both.

(5) An appropriate person is—

(a) a National Crime Agency officer, a Financial Conduct Authority officer or a member of the staff of the relevant Director, if the warrant was issued for the purposes of a civil recovery investigation;

(b) a National Crime Agency officer, if the warrant was issued for the purposes of an exploitation proceeds investigation.

(6) In relation to an offence committed before the coming into force of section 281(5) of the Criminal Justice Act 2003 (alteration of penalties for certain summary offences: England and Wales)—

(a) the reference in subsection (3)(a) to 51 weeks is to be read as a reference to 6 months;

(b) the reference in subsection (4)(a) to 51 weeks is to be read as a reference to 1 month.**]**

Textual Amendments

F92 S. 356A inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. for specified purposes, 28.6.2021 for N.I. in so far as not already in force, 28.6.2021 for E.W. for specified purposes) by Criminal Finances Act 2017 (c. 22), **ss. 22**, 58(1)(6); S.I. 2018/78, reg. 3(g); S.I. 2021/724, reg. 2(1)(j)(2)(a)

Disclosure orders

357 Disclosure orders

(1) A judge may, on an application made to him by **[**[F93]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 **[**[F94]detained cash investigation **][**[F95], a detained property investigation or a frozen funds investigation**]**[F96]....

[F97](2A) . . . . . .

Status: *Point in time view as at 28/06/2021.*
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 23 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 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 **[**[F98]an appropriate officer**]** and the order is sought for the purposes of the investigation, or

(b) **[**[F99]a person specified in the application or**]** property specified in the application is subject to a civil recovery investigation and the order is sought for the purposes of the investigation**[**[F100], or

[[F101](ba) a person specified in the application is subject to a money laundering investigation which is being carried out by an appropriate officer and the order is sought for the purposes of the investigation, 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 **[**[F102]an appropriate officer**]** to give to any person **[**[F103]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 **[**[F104]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.

[[F105](7) In this Part "relevant authority" means—

(a) in relation to a confiscation investigation, **[**[F106]an appropriate officer**]**; and

(b) in relation to a civil recovery investigation, **[**[F107]a Financial Conduct Authority officer,**]** a **[**[F108]National Crime Agency officer**][**[F109], an officer of Revenue and Customs**]** or the relevant Director **[**[F110]; and

[[F111](ba) in relation to a money laundering investigation, an appropriate officer, and**]**

(c) in relation to an exploitation proceeds investigation, a **[**[F108]National Crime Agency officer**]**.**]**

[F112](8) . . . . . .

[F112](9) . . . . . .**]**

Textual Amendments

F93 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)

F94 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)

F95 Words in s. 357(2) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not

already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 51(2)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F96 Words in s. 357(2) omitted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by virtue of Criminal Finances Act 2017 (c. 22), **ss. 7(2)(a)**, 58(1)(6); S.I. 2018/78, reg. 3(b); S.I. 2021/724, reg. 2(1)(b)

F97 S. 357(2A) omitted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by virtue of Criminal Finances Act 2017 (c. 22), **ss. 7(2)(b)**, 58(1)(6); S.I. 2018/78, reg. 3(b); S.I. 2021/724, reg. 2(1)(b)

F98 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)

F99 Words in s. 357(3)(b) inserted (1.6.2015 for E.W. for specified purposes, 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 8**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

F100 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

F101 S. 357(3)(ba) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 7(2)(c)**, 58(1)(6); S.I. 2018/78, reg. 3(b); S.I. 2021/724, reg. 2(1)(b)

F102 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)

F103 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)

F104 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)

F105 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)

F106 Words in s. 357(7)(a) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 7(2)(d)(i)**, 58(1)(6); S.I. 2018/78, reg. 3(b); S.I. 2021/724, reg. 2(1)(b)

F107 Words in s. 357(7)(b) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 51(3)(a)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F108 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)

F109 Words in s. 357(7)(b) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 51(3)(b)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F110 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

F111 S. 357(7)(ba) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 7(2)(d)(ii)**, 58(1)(6); S.I. 2018/78, reg. 3(b); S.I. 2021/724, reg. 2(1)(b)

F112 S. 357(8)(9) omitted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by virtue of Criminal Finances Act 2017 (c. 22), **ss. 7(2)(e)**, 58(1)(6); S.I. 2018/78, reg. 3(b); S.I. 2021/724, reg. 2(1)(b)

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)

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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;

[[F113](b) in the case of a civil recovery investigation—

(i) the person specified in the application for the order holds recoverable property or associated property,

(ii) that person has, at any time, held property that was recoverable property or associated property at the time, or

(iii) the property specified in the application for the order is recoverable property or associated property;**]**

[[F114](ba) in the case of a money laundering investigation, the person specified in the application for the order has committed a money laundering offence,**]**

[[F115](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

F113 S. 358(2)(b) substituted (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 9**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

F114 S. 358(2)(ba) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 7(3)**, 58(1)(6); S.I. 2018/78, reg. 3(b); S.I. 2021/724, reg. 2(1)(b)

F115 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

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(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

(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)

C44 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))

C45 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.

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Modifications etc. (not altering text)

C46 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)

C47 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)**)

C48 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)

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) **[**[F116]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 **[**[F117]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

F116 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)

F117 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)

C49 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))

C50 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)

C51 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)**)

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 **[**[F118]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.

[[F119]**[** [F120](4A) An application to discharge or vary a disclosure order need not be made by the same appropriate officer or (as the case may be) the same National Crime Agency officer that applied for the order (but must be made by an appropriate officer of the same description or (as the case may be) by another National Crime Agency officer).

[F120](4AA) If the application for the order was, by virtue of an order under section 453, made by an accredited financial investigator of a particular description, the reference in subsection (4A) to an appropriate officer of the same description is to another accredited financial investigator of that description.**]**

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

(5) Subsections (2) to **[**[F121](4B)**]** do not apply to orders made in England and Wales for the purposes of a civil recovery investigation **[**[F122]or an exploitation proceeds investigation**]**.

Status: *Point in time view as at 28/06/2021.*
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[[F123](6) An appropriate officer may not make an application for a disclosure order, or an application for the discharge or variation of such an order, unless the officer is a senior appropriate officer or is authorised to do so by a senior appropriate officer.**]**

Textual Amendments

F118 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)

F119 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)

F120 S. 362(4A)(4AA) substituted for s. 362(4A) (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 7(4)(a)**, 58(1)(6); S.I. 2018/78, reg. 3(b); S.I. 2021/724, reg. 2(1)(b)

F121 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)

F122 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

F123 S. 362(6) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 7(4)(b)**, 58(1)(6); S.I. 2018/78, reg. 3(b); S.I. 2021/724, reg. 2(1)(b)

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)

[[F124]*Unexplained wealth orders*

Textual Amendments

F124 Ss. 362A-362I and cross-heading inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 1**, 58(1)(6) (as amended (N.I.) (31.12.2020) by S.I. 2019/742, regs. 1, **109(2)**; 2020 c. 1, **Sch. 5 para. 1(1)**); S.I. 2018/78, **reg. 3(a)**; S.I. 2021/724, **reg. 2(1)(a)**

362A Unexplained wealth orders

(1) The High Court may, on an application made by an enforcement authority, make an unexplained wealth order in respect of any property if the court is satisfied that each of the requirements for the making of the order is fulfilled.

(2) An application for an order must—

(a) specify or describe the property in respect of which the order is sought, and

(b) specify the person whom the enforcement authority thinks holds the property ("the respondent") (and the person specified may include a person outside the United Kingdom).

(3) An unexplained wealth order is an order requiring the respondent to provide a statement—

(a) setting out the nature and extent of the respondent's interest in the property in respect of which the order is made,

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(b) explaining how the respondent obtained the property (including, in particular, how any costs incurred in obtaining it were met),

(c) where the property is held by the trustees of a settlement, setting out such details of the settlement as may be specified in the order, and

(d) setting out such other information in connection with the property as may be so specified.

(4) The order must specify—

(a) the form and manner in which the statement is to be given,

(b) the person to whom it is to be given, and

(c) the place at which it is to be given or, if it is to be given in writing, the address to which it is to be sent.

(5) The order may, in connection with requiring the respondent to provide the statement mentioned in subsection (3), also require the respondent to produce documents of a kind specified or described in the order.

(6) The respondent must comply with the requirements imposed by an unexplained wealth order within whatever period the court may specify (and different periods may be specified in relation to different requirements).

(7) In this Chapter "enforcement authority" means—

(a) the National Crime Agency,

(b) Her Majesty's Revenue and Customs,

(c) the Financial Conduct Authority,

(d) the Director of the Serious Fraud Office, or

(e) the Director of Public Prosecutions (in relation to England and Wales) or the Director of Public Prosecutions for Northern Ireland (in relation to Northern Ireland).

362B Requirements for making of unexplained wealth order

(1) These are the requirements for the making of an unexplained wealth order in respect of any property.

(2) The High Court must be satisfied that there is reasonable cause to believe that—

(a) the respondent holds the property, and

(b) the value of the property is greater than £50,000.

(3) The High Court must be satisfied that there are reasonable grounds for suspecting that the known sources of the respondent's lawfully obtained income would have been insufficient for the purposes of enabling the respondent to obtain the property.

(4) The High Court must be satisfied that—

(a) the respondent is a politically exposed person, or

(b) there are reasonable grounds for suspecting that—

(i) the respondent is, or has been, involved in serious crime (whether in a part of the United Kingdom or elsewhere), or

(ii) a person connected with the respondent is, or has been, so involved.

(5) It does not matter for the purposes of subsection (2)(a)—

(a) whether or not there are other persons who also hold the property;

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(b) whether the property was obtained by the respondent before or after the coming into force of this section.

(6) For the purposes of subsection (3)—

(a) regard is to be had to any mortgage, charge or other kind of security that it is reasonable to assume was or may have been available to the respondent for the purposes of obtaining the property;

(b) it is to be assumed that the respondent obtained the property for a price equivalent to its market value;

(c) income is "lawfully obtained" if it is obtained lawfully under the laws of the country from where the income arises;

(d) "known" sources of the respondent's income are the sources of income (whether arising from employment, assets or otherwise) that are reasonably ascertainable from available information at the time of the making of the application for the order;

(e) where the property is an interest in other property comprised in a settlement, the reference to the respondent obtaining the property is to be taken as if it were a reference to the respondent obtaining direct ownership of such share in the settled property as relates to, or is fairly represented by, that interest.

(7) In subsection (4)(a), "politically exposed person" means a person who is—

(a) an individual who is, or has been, entrusted with prominent public functions by an international organisation or by a State other than **[**[F125]the United Kingdom or another EEA State,**]**

[F125]**[** (i) the United Kingdom, or

(ii) an EEA state,**]**

(b) a family member of a person within paragraph (a),

(c) known to be a close associate of a person within that paragraph, or

(d) otherwise connected with a person within that paragraph.

(8) Article 3 of Directive 2015/849/EU of the European Parliament and of the Council of 20 May 2015 applies for the purposes of determining—

(a) whether a person has been entrusted with prominent public functions (see point (9) of that Article),

(b) whether a person is a family member (see point (10) of that Article), and

(c) whether a person is known to be a close associate of another (see point (11) of that Article).

(9) For the purposes of this section—

(a) a person is involved in serious crime in a part of the United Kingdom or elsewhere if the person would be so involved for the purposes of Part 1 of the Serious Crime Act 2007 (see in particular sections 2, 2A and 3 of that Act);

(b) section 1122 of the Corporation Tax Act 2010 ("connected" persons) applies in determining whether a person is connected with another.

(10) Where the property in respect of which the order is sought comprises more than one item of property, the reference in subsection (2)(b) to the value of the property is to the total value of those items.

Status: *Point in time view as at 28/06/2021.*
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 23 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

F125 S. 362B(7)(a)(i)(ii) substituted for words (E.W.) (31.12.2020) by The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, **107(8)**; 2020 c. 1, Sch. 5 para. 1(1)

362C Effect of order: cases of non-compliance

(1) This section applies in a case where the respondent fails, without reasonable excuse, to comply with the requirements imposed by an unexplained wealth order in respect of any property before the end of the response period.

(2) The property is to be presumed to be recoverable property for the purposes of any proceedings taken in respect of the property under Part 5, unless the contrary is shown.

(3) The presumption in subsection (2) applies in relation to property—

(a) only so far as relating to the respondent's interest in the property, and

(b) only if the value of that interest is greater than the sum specified in section 362B(2)(b).

It is for the court hearing the proceedings under Part 5 in relation to which reliance is placed on the presumption to determine the matters in this subsection.

(4) The "response period" is whatever period the court specifies under section 362A(6) as the period within which the requirements imposed by the order are to be complied with (or the period ending the latest, if more than one is specified in respect of different requirements).

(5) For the purposes of subsection (1)—

(a) a respondent who purports to comply with the requirements imposed by an unexplained wealth order is not to be taken to have failed to comply with the order (see instead section 362D);

(b) where an unexplained wealth order imposes more than one requirement on the respondent, the respondent is to be taken to have failed to comply with the requirements imposed by the order unless each of the requirements is complied with or is purported to be complied with.

(6) Subsections (7) and (8) apply in determining the respondent's interest for the purposes of subsection (3) in a case where the respondent to the unexplained wealth order—

(a) is connected with another person who is, or has been, involved in serious crime (see subsection (4)(b)(ii) of section 362B), or

(b) is a politically exposed person of a kind mentioned in paragraph (b), (c) or (d) of subsection (7) of that section (family member, known close associates etc of individual entrusted with prominent public functions).

(7) In a case within subsection (6)(a), the respondent's interest is to be taken to include any interest in the property of the person involved in serious crime with whom the respondent is connected.

(8) In a case within subsection (6)(b), the respondent's interest is to be taken to include any interest in the property of the person mentioned in subsection (7)(a) of section 362B.

(9) Where an unexplained wealth order is made in respect of property comprising more than one item of property, the reference in subsection (3)(b) to the value of the

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respondent's interest in the property is to the total value of the respondent's interest in those items.

362D Effect of order: cases of compliance or purported compliance

(1) This section applies in a case where, before the end of the response period (as defined by section 362C(4)), the respondent complies, or purports to comply, with the requirements imposed by an unexplained wealth order in respect of any property in relation to which the order is made.

(2) If an interim freezing order has effect in relation to the property (see section 362J), the enforcement authority must determine what enforcement or investigatory proceedings, if any, it considers ought to be taken in relation to the property.

(3) A determination under subsection (2) must be made within the period of 60 days starting with the day of compliance.

(4) If the determination under subsection (2) is that no further enforcement or investigatory proceedings ought to be taken in relation to the property, the enforcement authority must notify the High Court of that fact as soon as reasonably practicable (and in any event before the end of the 60 day period mentioned in subsection (3)).

(5) If there is no interim freezing order in effect in relation to the property, the enforcement authority may (at any time) determine what, if any, enforcement or investigatory proceedings it considers ought to be taken in relation to the property.

(6) A determination under this section to take no further enforcement or investigatory proceedings in relation to any property does not prevent such proceedings being taken subsequently (whether as a result of new information or otherwise, and whether or not by the same enforcement authority) in relation to the property.

(7) For the purposes of this section—
- (a) the respondent complies with the requirements imposed by an unexplained wealth order only if all of the requirements are complied with,
- (b) references to the day of compliance are to the day on which the requirements imposed by the order are complied with (or, if the requirements are complied with over more than one day, the last of those days), and
- (c) where an order requires the sending of information in writing to, or the production of documents at, an address specified in the order, compliance with the order (so far as relating to that requirement) occurs when the written information is received, or the documents are produced, at that address,

and in paragraphs (a) to (c) references to compliance include purported compliance.

(8) In this section "enforcement or investigatory proceedings" means any proceedings in relation to property taken under—
- (a) Part 2 or 4 (confiscation proceedings in England and Wales or Northern Ireland) (in relation to cases where the enforcement authority is also a prosecuting authority for the purposes of that Part),
- (b) Part 5 (civil recovery of the proceeds of unlawful conduct), or
- (c) this Chapter.

Status: *Point in time view as at 28/06/2021.*
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 23 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)*

362E Offence

(1) A person commits an offence if, in purported compliance with a requirement imposed by an unexplained wealth order, the person—
- (a) makes a statement that the person knows to be false or misleading in a material particular, or
- (b) recklessly makes a statement that is false or misleading in a material particular.

(2) A person guilty of an offence under this section is liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both;
- (b) on summary conviction in England and Wales, to imprisonment for a term not exceeding 12 months, or to a fine, or to both;
- (c) on summary conviction in Northern Ireland, to imprisonment for a term not exceeding 6 months, or to a fine not exceeding the statutory maximum, or to both.

(3) In relation to an offence committed before the coming into force of section 282 of the Criminal Justice Act 2003 (increase in maximum sentence on summary conviction of offence triable either way), the reference in subsection (2)(b) to 12 months is to be read as a reference to 6 months.

362F Statements

(1) A statement made by a person in response to a requirement imposed by an unexplained wealth order may not be used in evidence against that person in criminal proceedings.

(2) 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 362E,
- (c) on a prosecution for an offence under section 5 of the Perjury Act 1911 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 the person or on the person's behalf in proceedings arising out of the prosecution.

362G Disclosure of information, copying of documents, etc

(1) An unexplained wealth order has effect in spite of any restriction on the disclosure of information (however imposed).

(2) But subsections (1) to (5) of section 361 (rights in connection with privileged information, questions and material) apply in relation to requirements imposed by an unexplained wealth order as they apply in relation to requirements imposed under a disclosure order.

Status: *Point in time view as at 28/06/2021.*
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(3) The enforcement authority may take copies of any documents produced by the respondent in connection with complying with the requirements imposed by an unexplained wealth order.

(4) Documents so produced may also be retained for so long as it is necessary to retain them (as opposed to a copy of them) in connection with an investigation of a kind mentioned in section 341 in relation to the property in respect of which the unexplained wealth order is made.

(5) But if the enforcement authority has reasonable grounds to believe that the documents—
   (a) may need to be produced for the purposes of any legal proceedings, and
   (b) might otherwise be unavailable for those purposes,

   they may be retained until the proceedings are concluded.

362H Holding of property: trusts and company arrangements etc

(1) This section applies for the purposes of sections 362A and 362B.

(2) The cases in which a person (P) is to be taken to "hold" property include those where—
   (a) P has effective control over the property;
   (b) P is the trustee of a settlement in which the property is comprised;
   (c) P is a beneficiary (whether actual or potential) in relation to such a settlement.

(3) A person is to be taken to have "effective control" over property if, from all the circumstances, it is reasonable to conclude that the person—
   (a) exercises,
   (b) is able to exercise, or
   (c) is entitled to acquire,

   direct or indirect control over the property.

(4) Where a person holds property by virtue of subsection (2) references to the person obtaining the property are to be read accordingly.

(5) References to a person who holds or obtains property include any body corporate, whether incorporated or formed under the law of a part of the United Kingdom or in a country or territory outside the United Kingdom.

(6) For further provision about how to construe references to the holding of property, see section 414.

362I Supplementary

(1) An application for an unexplained wealth order may be made without notice.

(2) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to unexplained wealth orders before the High Court in Northern Ireland.

(3) An application to the High Court in Northern Ireland to discharge or vary an unexplained wealth order may be made by—
   (a) the enforcement authority, or
   (b) the respondent.

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(4) The High Court in Northern Ireland—
  (a) may discharge the order;
  (b) may vary the order.**]**

[F126 Unexplained wealth orders: interim freezing of property

Textual Amendments

F126 S. 362J 362R and cross-heading inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 2**, 58(1)(6); S.I. 2018/78, reg. 3(a); S.I. 2021/724, reg. 2(1)(a)

362J Application for interim freezing order

(1) This section applies where the High Court makes an unexplained wealth order in respect of any property.

(2) The court may make an interim freezing order in respect of the property if the court considers it necessary to do so for the purposes of avoiding the risk of any recovery order that might subsequently be obtained being frustrated.

(3) An interim freezing order is an order that prohibits the respondent to the unexplained wealth order, and any other person with an interest in the property, from in any way dealing with the property (subject to any exclusions under section 362L).

(4) An interim freezing order—
  (a) may be made only on the application of the enforcement authority that applied for the unexplained wealth order to which the interim freezing order relates,
  (b) must be made in the same proceedings as those in which the unexplained wealth order is made, and
  (c) may be combined in one document with the unexplained wealth order.

(5) If an application for an unexplained wealth order in respect of any property is made without notice, an application for an interim freezing order in respect of the property must also be made without notice.

362K Variation and discharge of interim freezing order

(1) The High Court may at any time vary or discharge an interim freezing order.

(2) The High Court must discharge an interim freezing order, so far as it has effect in relation to any property, in each of the following three cases.

(3) The first case is where—
  (a) the applicable 48 hour period has ended, and
  (b) a relevant application has not been made before the end of that period in relation to the property concerned.

(4) The second case is where—
  (a) a relevant application has been made before the end of the applicable 48 hour period in relation to the property concerned, and

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(b) proceedings on the application (including any on appeal) have been determined or otherwise disposed of.

(5) The third case is where the court has received a notification in relation to the property concerned under section 362D(4) (notification from enforcement authority of no further proceedings).

(6) The "applicable 48 hour period" is to be read as follows—

(a) in a case where the respondent complies, or purports to comply, with the requirements imposed by an unexplained wealth order before the end of the response period, it is the period of 48 hours beginning with the day after the day with which the 60 day period mentioned in section 362D(3) ends;

(b) in any other case, it is the period of 48 hours beginning with the day after the day with which the response period ends.

(7) In calculating a period of 48 hours for the purposes of subsection (6), no account is to be taken of—

(a) any Saturday or Sunday,

(b) Christmas Day,

(c) Good Friday, or

(d) any day that is a bank holiday under the Banking and Financial Dealings Act 1971 in the part of the United Kingdom in which the interim freezing order concerned is made.

(8) Section 362D(7) applies for the purposes of subsection (6) in determining whether a person complies, or purports to comply, with the requirements imposed by an unexplained wealth order and when such compliance, or purported compliance, takes place.

(9) Before exercising power under this section to vary or discharge an interim freezing order, the court must (as well as giving the parties to the proceedings an opportunity to be heard) give such an opportunity to any person who may be affected by its decision.

(10) Subsection (9) does not apply where the court is acting as required by subsection (2).

(11) In this section—

"relevant application" means an application for—

(a) a restraint order under section 41 or 190,

(b) a property freezing order, or

(c) an interim receiving order;

"response period" has the meaning given by section 362C(4).

362L Exclusions

(1) The power to vary an interim freezing order includes (amongst other things) power to make exclusions as follows—

(a) power to exclude property from the order, and

(b) power, otherwise than by excluding property from the order, to make exclusions from the prohibition on dealing with the property to which the order applies.

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(2) Exclusions from the prohibition on dealing with the property to which the order applies (other than exclusions of property from the order) may also be made when the order is made.

(3) An exclusion may (amongst other things) make provision for the purpose of enabling any person—
  (a) to meet the person's reasonable living expenses, or
  (b) to carry on any trade, business, profession or occupation.

(4) An exclusion may be made subject to conditions.

(5) Where the court exercises the power to make an exclusion for the purpose of enabling a person to meet legal expenses that the person has incurred, or may incur, in respect of proceedings under this Chapter, it must ensure that the exclusion—
  (a) is limited to reasonable legal expenses that the person has reasonably incurred or reasonably incurs,
  (b) specifies the total amount that may be released for legal expenses in pursuance of the exclusion, and
  (c) is made subject to the same conditions as would be the required conditions (see section 286A) if the order had been made under section 245A (in addition to any conditions under subsection (4)).

(6) The court, in deciding whether to make an exclusion for the purpose of enabling a person to meet legal expenses in respect of proceedings under this Chapter—
  (a) must have regard to the desirability of the person being represented in any proceedings under this Chapter in which the person is a participant, and
  (b) must disregard the possibility that legal representation of the person in any such proceedings might, were an exclusion not made, be made available under arrangements made for the purposes of Part 1 of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 or funded by the Northern Ireland Legal Services Commission.

(7) If excluded property is not specified in the order it must be described in the order in general terms.

362M Restrictions on proceedings and remedies

(1) While an interim freezing order has effect—
  (a) the High Court may stay any action, execution or other legal process in respect of the property to which the order applies, and
  (b) no distress may be levied, and no power to use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods) may be exercised, against the property to which the order applies except with the leave of the High Court and subject to any terms the court may impose.

(2) If a court (whether the High Court or any other court) in which proceedings are pending in respect of any property is satisfied that an interim freezing order has been applied for or made in respect of the property, it may—
  (a) stay the proceedings, or
  (b) allow them to continue on any terms it thinks fit.

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(3) If an interim freezing order applies to a tenancy of any premises, a right of forfeiture in relation to the premises is exercisable—
  (a) only with the leave of the High Court, and
  (b) subject to any terms that the court may impose.

(4) The reference in subsection (3) to a "right of forfeiture" in relation to premises is to the right of a landlord or other person to whom rent is payable to exercise a right of forfeiture by peaceable re-entry to the premises in respect of any failure by the tenant to comply with a term or condition of the tenancy.

(5) Before exercising a power conferred by this section, the court must (as well as giving the parties to any proceedings concerned an opportunity to be heard) give such an opportunity to any person who may be affected by the court's decision.

362N Receivers in connection with interim freezing orders

(1) This section applies where the High Court makes an interim freezing order on an application by an enforcement authority.

(2) The court may, on an application by the enforcement authority, by order appoint a receiver in respect of any property to which the interim freezing order applies.

(3) An application under subsection (2) may be made at the same time as the application for the interim freezing order or at any time afterwards.

(4) The application may be made without notice if the circumstances of the case are such that notice of the application would prejudice the right of the enforcement authority to obtain a recovery order in respect of any property.

(5) In its application the enforcement authority must nominate a suitably qualified person for appointment as a receiver.

(6) The person nominated may be a member of staff of the enforcement authority.

(7) The enforcement authority may apply a sum received by it under section 280(2) in making payment of the remuneration and expenses of a receiver appointed under this section.

(8) Subsection (7) does not apply in relation to the remuneration of the receiver if that person is a member of staff of the enforcement authority (but it does apply in relation to such remuneration if the receiver is a person providing services under arrangements made by the enforcement authority).

362O Powers of receivers appointed under section 362N

(1) If the High Court appoints a receiver under section 362N on an application by an enforcement authority, the court may act under this section on the application of the authority.

(2) The court may by order authorise or require the receiver—
  (a) to exercise any of the powers mentioned in paragraph 5 of Schedule 6 (management powers) in relation to any property in respect of which the receiver is appointed;

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(b) to take any other steps the court thinks appropriate in connection with the management of any such property (including securing the detention, custody or preservation of the property in order to manage it).

(3) The court may by order require any person in respect of whose property the receiver is appointed—

(a) to bring the property to a place (in England and Wales or, as the case may be, Northern Ireland) specified by the receiver or to place it in the custody of the receiver (if in either case the person is able to do so);

(b) to do anything the person is reasonably required to do by the receiver for the preservation of the property.

(4) The court may by order require any person in respect of whose property the receiver is appointed to bring any documents relating to the property which are in that person's possession or control to a place (in England and Wales or, as the case may be, Northern Ireland) specified by the receiver or to place them in the custody of the receiver.

(5) Any prohibition on dealing with property imposed by an interim freezing order does not prevent a person from complying with any requirements imposed by virtue of this section.

(6) Subsection (7) applies in a case where—

(a) the receiver deals with property that is not property in respect of which the receiver was appointed under section 362N, but

(b) at the time of dealing with the property the receiver believed on reasonable grounds that he or she was entitled to do so by virtue of the appointment.

(7) The receiver is not liable to any person in respect of any loss or damage resulting from the receiver's dealing with the property.

(8) But subsection (7) does not apply to the extent that the loss or damage is caused by the receiver's negligence.

362P Supervision of section 362N receiver and variations

(1) Any of the following persons may at any time apply to the High Court for directions as to the exercise of the functions of a receiver appointed under section 362N—

(a) the receiver;

(b) a party to the proceedings for the appointment of the receiver or the interim freezing order concerned;

(c) a person affected by an action taken by the receiver;

(d) a person who may be affected by an action proposed to be taken by the receiver.

(2) Before it gives directions under subsection (1) the court must give an opportunity to be heard to—

(a) the receiver;

(b) the parties to the proceedings for the appointment of the receiver and for the interim freezing order concerned;

(c) a person who may be interested in the application under subsection (1).

(3) The court may at any time vary or discharge—

(a) the appointment of a receiver under section 362N,

(b) an order under section 362O, or
(c) directions under this section.

(4) Before exercising a power under subsection (3) the court must give an opportunity to be heard to—
(a) the receiver;
(b) the parties to the proceedings for the appointment of the receiver, for the order under section 362O or (as the case may be) for the directions under this section;
(c) the parties to the proceedings for the interim freezing order concerned;
(d) any person who may be affected by the court's decision.

362Q Registration

Sections 248 (registration: England and Wales) and 249 (registration: Northern Ireland) apply in relation to interim freezing orders as they apply in relation to property freezing orders under section 245A.

Modifications etc. (not altering text)

C52 S. 362Q applied by S.I. 2013/2605, art. 21O (as inserted (E.W.) (12.11.2018) by The Proceeds of Crime Act 2002 (External Investigations and External Orders and Requests) (Amendment) Order 2018 (S.I. 2018/1078), arts. 1(2), **8**)

C53 S. 362Q applied by S.I. 2014/1893, art. 34O (as inserted (E.W.) (12.11.2018) by The Proceeds of Crime Act 2002 (External Investigations and External Orders and Requests) (Amendment) Order 2018 (S.I. 2018/1078), arts. 1(2), **20**)

362R Compensation

(1) Where an interim freezing order in respect of any property is discharged, the person to whom the property belongs may make an application to the High Court for the payment of compensation.

(2) The application must be made within the period of three months beginning with the discharge of the interim freezing order.

(3) The court may order compensation to be paid to the applicant only if satisfied that—
(a) the applicant has suffered loss as a result of the making of the interim freezing order,
(b) there has been a serious default on the part of the enforcement authority that applied for the order, and
(c) the order would not have been made had the default not occurred.

(4) Where the court orders the payment of compensation—
(a) the compensation is payable by the enforcement authority that applied for the interim freezing order, and
(b) the amount of compensation to be paid is the amount that the court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.**]**

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[F127 Unexplained wealth orders: enforcement abroad

Textual Amendments

F127 S. 362S 362T and cross-heading inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 3**, 58(1)(6); S.I. 2018/78, reg. 3(a); S.I. 2021/724, reg. 2(1)(a)

362S Enforcement abroad: enforcement authority

(1) This section applies if—
- (a) the High Court makes an unexplained wealth order in respect of any property,
- (b) it appears to the enforcement authority that the risk mentioned in section 362J(2) applies in relation to the property, and
- (c) the enforcement authority believes that the property is in a country outside the United Kingdom (the receiving country).

(2) The enforcement authority may send a request for assistance in relation to the property to the Secretary of State with a view to it being forwarded under this section.

(3) The Secretary of State may forward the request for assistance to the government of the receiving country.

(4) A request for assistance under this section is a request to the government of the receiving country—
- (a) to secure that any person is prohibited from dealing with the property;
- (b) for assistance in connection with the management of the property, including with securing its detention, custody or preservation.

362T Enforcement abroad: receiver

(1) This section applies if—
- (a) an interim freezing order has effect in relation to property, and
- (b) the receiver appointed under section 362N in respect of the property believes that it is in a country outside the United Kingdom (the receiving country).

(2) The receiver may send a request for assistance in relation to the property to the Secretary of State with a view to it being forwarded under this section.

(3) The Secretary of State must forward the request for assistance to the government of the receiving country.

(4) A request for assistance under this section is a request to the government of the receiving country—
- (a) to secure that any person is prohibited from dealing with the property;
- (b) for assistance in connection with the management of the property, including with securing its detention, custody or preservation.**]**

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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.

[[F128](1A) No application for a customer information order may be made in relation to a detained cash investigation **[**[F129], a detained property investigation or a frozen funds 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 **[**[F130], a civil recovery investigation**][**[F131], an exploitation proceeds investigation**]** or a money laundering investigation, [F132] ...

[F132](b) . . . . . .

(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

F128 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)

F129 Words in s. 363(1A) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 52**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F130 Words in s. 363(2) inserted (1.6.2015 for E.W. for specified purposes, 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 10(a)**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

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F131 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

F132 S. 363(2)(b) and word omitted (1.6.2015 for E.W. for specified purposes, 1.2.2017 in so far as not already in force) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 10(b)**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

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)

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, **[**[F133] 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**[**[F134]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) **[**[F135]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;

[[F136](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**[**[F137] 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 **[**[F138]the Companies Act 2006**]** or corresponding legislation of any country or territory outside the United Kingdom;

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(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 **[**[F139]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) **[**[F140]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;

[[F141](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

[[F142](aa) constitutes an offence specified in section 415(1A) of this Act,**]**

(b) would constitute an offence specified in paragraph (a)**[**[F143]or (aa) **]** if done in the United Kingdom.

[[F144](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

F133 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)**

F134 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)**

F135 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)**

F136 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)**

F137 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)**

F138 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)

F139 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)

F140 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)**

F141 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)**

F142 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)

F143 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)

F144 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)

C54 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

C55 S. 364 modified (31.7.2017) by The Criminal Justice (European Investigation Order) Regulations 2017 (S.I. 2017/730), regs. 1(1), **44(8)** (with reg. 3)

C56 S. 364 modified (31.12.2020) by 2003 c. 32, s. 32(6) (as substituted by European Union (Future Relationship) Act 2020 (c. 29), s. 40(7), **Sch. 3 para. 3(2)** (with Sch. 3 para. 3(4)); S.I. 2020/1662, reg. 2(dd))

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.

[[F145](3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application—

(a) holds recoverable property or associated property, or

(b) has, at any time, held property that was recoverable property or associated property at the time.**]**

(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.

Status: *Point in time view as at 28/06/2021.*
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Textual Amendments

F145 S. 365(3A) substituted for s. 365(3) (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 11**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

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.

(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)

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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)**

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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.

[[F146](5) An application to discharge or vary a customer information order need not be made by the same appropriate officer that applied for the order (but must be made by an appropriate officer of the same description).

(5A) If the application for the order was, by virtue of an order under section 453, made by an accredited financial investigator of a particular description, the reference in subsection (5) to an appropriate officer of the same description is to another accredited financial investigator of that description.**]**

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

(7) An accredited financial investigator, **[**[F147]a **[**[F148]National Crime Agency officer**]**, **[**[F149]a Financial Conduct Authority officer,**]]** a constable **[**[F150], an SFO officer**]** or **[**[F151]an officer of Revenue and Customs**][**[F152]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

F146 S. 369(5)(5A) substituted for s. 369(5) (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 53(2)**; S.I. 2018/78, reg. 5(1)(e); S.I. 2021/724, reg. 4(i)

F147 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)

F148 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)

F149 Words in s. 369(7) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 53(3)(a)**; S.I. 2018/78, reg. 5(1)(e); S.I. 2021/724, reg. 4(i)

F150 Words in s. 369(7) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 53(3)(b)**; S.I. 2018/78, reg. 5(1)(e); S.I. 2021/724, reg. 4(i)

F151 Words in s. 369(7) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 14(3)**

F152 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.

[[F153](1A) No application for an account monitoring order may be made in relation to a detained cash investigation **[**[F154], a detained property investigation or a frozen funds 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 **[**[F155], a civil recovery investigation**][**[F156], an exploitation proceeds investigation**]** or a money laundering investigation, [F157]...

[F157](b) . . . . . .

(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.

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(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

F153 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)

F154 Words in s. 370(1A) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 54**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F155 Words in s. 370(2) inserted (1.6.2015 for E.W. for specified purposes, 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 12(a)**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

F156 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

F157 S. 370(2)(b) and word omitted (1.6.2015 for E.W. for specified purposes, 1.2.2017 in so far as not already in force) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 12(b)**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

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.

(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.

[[F158](3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application holds recoverable property or associated 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

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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.

Textual Amendments

F158 S. 371(3A) substituted for s. 371(3) (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 13**; S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)

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)

Status: *Point in time view as at 28/06/2021.*
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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.

(3) The court—

(a) may discharge the order;

(b) may vary the order.

[[F159](4) An application to discharge or vary an account monitoring order need not be made by the same appropriate officer that applied for the order (but must be made by an appropriate officer of the same description).

(4A) If the application for the order was, by virtue of an order under section 453, made by an accredited financial investigator of a particular description, the reference in subsection (4) to an appropriate officer of the same description is to another accredited financial investigator of that description.**]**

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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 23 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) 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

F159 S. 375(4)(4A) substituted for s. 375(4) (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 55**; S.I. 2018/78, reg. 5(1)(e); S.I. 2021/724, reg. 4(i)

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)

[F160 375A Evidence overseas

(1) This section applies if a person or property is subject to a civil recovery investigation, a detained cash investigation [F161, a detained property investigation, a frozen funds 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.

(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);

[F162 [(ba) in relation to an application or request made for the purposes of a detained property investigation, evidence as to a matter described in section 341(3B)(a) or (b);

(bb) in relation to an application or request made for the purposes of a frozen funds investigation, evidence as to a matter described in section 341(3C)(a) or (b);]

(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).

Status: *Point in time view as at 28/06/2021.*
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 23 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)*

(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, [F163]...

[F163](b) . . . . . .

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

F160 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

F161 Words in s. 375A(1) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 56(2)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F162 S. 375A(5)(ba)(bb) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 56(3)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F163 S. 375A(9)(b) and preceding word omitted (31.12.2020) by virtue of The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742), regs. 1, **107(9)**; 2020 c. 1, Sch. 5 para. 1(1)

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

(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;

[F164(ba) if the request was made for the purposes of a detained property investigation, proceedings under Chapter 3A of Part 5 of this Act arising out of the investigation;

(bb) if the request was made for the purposes of a frozen funds investigation, proceedings under Chapter 3B of Part 5 of this Act arising out of the investigation;**]**

(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

F160 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

F164 S. 375B(3)(ba)(bb) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 57**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

Officers of Revenue and Customs

F165 375C Restriction on exercise of certain powers conferred on officers of Revenue and Customs

. . . . . .

Textual Amendments

F165 S. 375C omitted (27.4.2017 for specified purposes, 27.6.2017 in so far as not already in force) by virtue of Criminal Finances Act 2017 (c. 22), **ss. 18(4)(c)**, 58(4)(6)

Status: *Point in time view as at 28/06/2021.*
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 23 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

[F166]376 Evidence overseas

. . . . . .

Textual Amendments

F166 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 [[F167]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—

[[F168](a) the Director General of the National Crime Agency;

(b) other National Crime Agency officers;]

(c) [[F169]in relation to England and Wales,] accredited financial investigators;

(d) [[F169]in relation to England and Wales,] constables;

[[F170](e) officers of Revenue and Customs;]

[[F171](f) immigration officers.]

[[F172](g) Financial Conduct Authority 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.

[[F173](2A) The Secretary of State must also consult the Treasury about the draft in its application to functions that Financial Conduct Authority officers have under this Chapter.]

(3) After the Secretary of State has proceeded under [[F174]subsections (2) and (2A)] 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 [[F175](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.

(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.

[F176](9) . . . . . .

Textual Amendments

F167 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)

F168 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)

F169 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)

F170 S. 377(1)(e) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 17**

F171 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)

F172 S. 377(1)(g) inserted (27.4.2017 for specified purposes, 31.10.2017 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 58(2)**; S.I. 2017/991, reg. 2(t); S.I. 2021/724, reg. 4(i)

F173 S. 377(2A) inserted (27.4.2017 for specified purposes, 31.10.2017 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 58(3)**; S.I. 2017/991, reg. 2(t); S.I. 2021/724, reg. 4(i)

F174 Words in s. 377(3) inserted (27.4.2017 for specified purposes, 31.10.2017 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 58(4)**; S.I. 2017/991, reg. 2(t); S.I. 2021/724, reg. 4(i)

F175 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)

F176 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)

[F177377ZA 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.

Status: *Point in time view as at 28/06/2021.*
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 23 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) 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

F177 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

F177 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)

[[F178]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 **[**[F179], SFO officers**]**[F180]... and the Director of the Serious Fraud Office of functions they have under this Chapter; and

Status: *Point in time view as at 28/06/2021.*
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 23 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) 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;

(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

F178 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)

F179 Words in s. 377A(1)(a) inserted (27.4.2017 for specified purposes, 31.10.2017 in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 24**; S.I. 2017/991, reg. 2(l); S.I. 2021/724, reg. 3(b)

Status: *Point in time view as at 28/06/2021.*
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 23 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)*

F180 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—

[F181(a) a National Crime Agency officer;]

(b) an accredited financial investigator;

(c) a constable;

[F182(ca) an SFO officer;]

[F183(d) an officer of Revenue and Customs;]

[F184(e) an immigration officer.]

(2) In relation to a confiscation investigation these are senior appropriate officers—

[F185(a) a senior National Crime Agency officer;]

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

[F186(ba) the Director of the Serious Fraud Office;]

(c) [F187an 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;

[F188(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 [F189or the Welsh Ministers] under section 453.

(3) [F190In relation to a civil recovery investigation these are appropriate officers—

(a) a National Crime Agency officer;

(b) the relevant Director;

(c) an officer of Revenue and Customs.

[F191(d) a Financial Conduct Authority officer.]

(3ZA) In relation to a civil recovery investigation these are senior appropriate officers—

(a) a senior National Crime Agency officer;

(b) the Commissioners for Her Majesty's Revenue and Customs or an officer of Revenue and Customs authorised by the Commissioners (whether generally or specifically) for this purpose.]

[F192(c) a senior Financial Conduct Authority officer.]

[F193(3A) In relation to a detained cash investigation these are appropriate officers—

(a) a constable;

[F194(aa) an SFO officer;]

[(ab) an accredited financial investigator;]

Status: *Point in time view as at 28/06/2021.*
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 23 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) an officer of Revenue and Customs.

[F195(c) an immigration officer.]]

[[F196](3AA) In relation to a detailed cash investigation these are senior appropriate officers—

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

[F197(aa) the Director of the Serious Fraud Office;]

(b) 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 [[F198]or the Welsh Ministers] under section 453;

(c) an officer of Revenue and Customs who is not below such grade as is designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that rank.

[F199(d) an immigration officer who is not below such grade as is designated by the Secretary of State as equivalent to that rank.]]

[[F200](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 [[F201]or the Welsh Ministers] under section 453.]

[[F202](3C) In relation to a detained property investigation these are appropriate officers—

(a) a constable;

(b) an SFO officer;

(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 [[F203]or the Welsh Ministers] under section 453;

(d) an officer of Revenue and Customs.

(3D) In relation to a detained property investigation these are senior appropriate officers—

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

(b) the Director of the Serious Fraud Office;

(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 [[F204]or the Welsh Ministers] under section 453;

(d) an officer of Revenue and Customs who is not below such grade as is designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to the police rank of inspector.

(3E) In relation to a frozen funds investigation these are appropriate officers—

(a) a constable;

(b) an SFO officer;

(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 [[F205]or the Welsh Ministers] under section 453;

(d) an officer of Revenue and Customs.

(3F) In relation to a frozen funds investigation these are senior appropriate officers—

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

(b) the Director of the Serious Fraud Office;

Status: *Point in time view as at 28/06/2021.*
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 23 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)*

(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 **[**[F206]or the Welsh Ministers**]** under section 453;

(d) an officer of Revenue and Customs who is not below such grade as is designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to the police rank of inspector.**]**

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

(a) an accredited financial investigator;

(b) a constable;

[[F207](ba) an SFO officer;**]**

[[F208](c) an officer of Revenue and Customs;**]**

[[F209](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 **[**[F210]the **[**[F211]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;

[[F212](aa) the Director of the Serious Fraud Office;**]**

(b) **[**[F213]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;

[[F214](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 **[**[F215]or the Welsh Ministers**]** under section 453.

[[F216](6A) In relation to an exploitation proceeds investigation **[**[F217]—

(a)**]** , **[**[F218]a National Crime Agency officer**]** is an appropriate officer.**]**

[[F219](b) a **[**[F220]senior National Crime Agency officer**]** is a senior appropriate officer.**]**

[F221](7) . . . . . .

[[F222](8) For the purposes of this Part a **[**[F223]senior National Crime Agency officer**]** is—

(a) the **[**[F224]Director General of the National Crime Agency**]**; or

(b) any **[**[F225]other National Crime Agency officer**]** authorised by the Director General (whether generally or specifically) for this purpose.**]**

[[F226](9) For the purposes of this Part—

(a) "Financial Conduct Authority officer" means a member of staff of the Financial Conduct Authority;

(b) "senior Financial Conduct Authority officer" means a Financial Conduct Authority officer who is not below such grade as is designated by the Treasury for those purposes.**]**

Textual Amendments

F181 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)

F182 S. 378(1)(ca) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 25(2)**; S.I. 2018/78, reg. 3(aa); S.I. 2021/724, reg. 3(b)

F183 S. 378(1)(d) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 18(a)**

F184 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)

F185 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)

F186 S. 378(2)(ba) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 25(3)**; S.I. 2018/78, reg. 3(aa); S.I. 2021/724, reg. 3(b)

F187 Words in s. 378(2)(c) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 18(b)**

F188 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)

F189 Words in s. 378(2)(d) inserted (E.W.) (1.4.2018) by The Tax Collection and Management (Wales) Act 2016 (Consequential and Supplemental Provisions) Regulations 2018 (S.I. 2018/285), regs. 1(2), **5(h)**

F190 S. 378(3)(3ZA) substituted for s. 378(3) (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 19(3)**, 58(1)(6); S.I. 2018/78, reg. 3(f); S.I. 2021/724, reg. 2(1)(i)

F191 S. 378(3)(d) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 20(4)**, 58(1)(6); S.I. 2018/78, reg. 3(f); S.I. 2021/724, reg. 2(1)(i)

F192 S. 378(3ZA)(c) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 20(5)**, 58(1)(6); S.I. 2018/78, reg. 3(f); S.I. 2021/724, reg. 2(1)(i)

F193 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)

F194 S. 378(3A)(aa) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 25(4)**; S.I. 2018/78, reg. 3(aa); S.I. 2021/724, reg. 3(b)

F195 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)

F196 S. 378(3AA) inserted (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 27(2)**; S.I. 2015/964, art. 2(e); S.I. 2017/4, art. 2

F197 S. 378(3AA)(aa) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 25(5)**; S.I. 2018/78, reg. 3(aa); S.I. 2021/724, reg. 3(b)

F198 Words in s. 378(3AA)(b) inserted (E.W.) (1.4.2018) by The Tax Collection and Management (Wales) Act 2016 (Consequential and Supplemental Provisions) Regulations 2018 (S.I. 2018/285), regs. 1(2), **5(i)**

F199 S. 378(3AA)(d) inserted (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 29**; S.I. 2015/964, art. 2(f); S.I. 2017/4, art. 2

F200 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)

F201 Words in s. 378(3B) inserted (E.W.) (1.4.2018) by The Tax Collection and Management (Wales) Act 2016 (Consequential and Supplemental Provisions) Regulations 2018 (S.I. 2018/285), regs. 1(2), **5(j)**

F202 S. 378(3C)-(3F) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(5)(6), **Sch. 5 para. 59**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

F203 Words in s. 378(3C)(c) inserted (E.W.) (20.7.2018) by The Tax Collection and Management (Wales) Act 2016 (Supplemental Provision) Regulations 2018 (S.I. 2018/768), regs. 1(2), **2(i)**

F204 Words in s. 378(3D)(c) inserted (E.W.) (20.7.2018) by The Tax Collection and Management (Wales) Act 2016 (Supplemental Provision) Regulations 2018 (S.I. 2018/768), regs. 1(2), **2(j)**

F205 Words in s. 378(3E)(c) inserted (E.W.) (20.7.2018) by The Tax Collection and Management (Wales) Act 2016 (Supplemental Provision) Regulations 2018 (S.I. 2018/768), regs. 1(2), **2(k)**

F206 Words in s. 378(3F)(c) inserted (E.W.) (20.7.2018) by The Tax Collection and Management (Wales) Act 2016 (Supplemental Provision) Regulations 2018 (S.I. 2018/768), regs. 1(2), **2(l)**

F207 S. 378(4)(ba) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 25(6)**; S.I. 2018/78, reg. 3(aa); S.I. 2021/724, reg. 3(b)

F208 S. 378(4)(c) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 18(c)**

F209 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)

F210 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

F211 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)

F212 S. 378(6)(aa) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), **Sch. 1 para. 25(7)**; S.I. 2018/78, reg. 3(aa); S.I. 2021/724, reg. 3(b)

F213 Words in s. 378(6)(b) substituted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 18(b)**

F214 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)

F215 Words in s. 378(6)(c) inserted (E.W.) (1.4.2018) by The Tax Collection and Management (Wales) Act 2016 (Consequential and Supplemental Provisions) Regulations 2018 (S.I. 2018/285), regs. 1(2), **5(k)**

F216 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

F217 Word in s. 378(6A) inserted (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 27(3)(a)**; S.I. 2015/964, art. 2(e); S.I. 2017/4, art. 2

F218 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)

F219 S. 378(6A)(b) inserted (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 27(3)(b)**; S.I. 2015/964, art. 2(e); S.I. 2017/4, art. 2

F220 Words in s. 378(6A)(b) substituted (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 19 para. 30**; S.I. 2015/964, art. 2(f); S.I. 2017/4, art. 2

F221 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)

F222 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)

F223 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)

F224 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)

F225 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)

F226 S. 378(9) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 20(6)**, 58(1)(6); S.I. 2018/78, reg. 3(f); S.I. 2021/724, reg. 2(1)(i)

Modifications etc. (not altering text)

C82 S. 378(1)(b) modified (E.W.) (1.4.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 (S.I. 2018/196), arts. 1(2), 3, **Sch. para. 6**

C83 S. 378(2)(d) modified (E.W.) (1.4.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 (S.I. 2018/196), arts. 1(2), 4, **Sch. para. 12**

C84 S. 378(3A)(ab) modified (E.W.) (1.4.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 (S.I. 2018/196), arts. 1(2), 3, **Sch. para. 7**

C85 S. 378(3AA)(b) modified (E.W.) (1.4.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 (S.I. 2018/196), arts. 1(2), 4, **Sch. para. 13**

C86 S. 378(3C)(c) modified by S.I. 2018/196, Sch. para. 7A (as inserted (E.W.) (20.7.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) (Amendment) Order 2018 (S.I. 2018/767), arts. 1(2), **2(2)(e)**)

C87 S. 378(3D)(c) modified by S.I. 2018/196, Sch. para. 13A (as inserted (E.W.) (20.7.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) (Amendment) Order 2018 (S.I. 2018/767), arts. 1(2), **2(3)(b)**)

C88 S. 378(3E)(c) modified by S.I. 2018/196, Sch. para. 7B (as inserted (E.W.) (20.7.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) (Amendment) Order 2018 (S.I. 2018/767), arts. 1(2), **2(2)(e)**)

C89 S. 378(3F)(c) modified by S.I. 2018/196, Sch. para. 13B (as inserted (E.W.) (20.7.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) (Amendment) Order 2018 (S.I. 2018/767), arts. 1(2), **2(3)(b)**)

C90 S. 378(4)(a) modified (E.W.) (1.4.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 (S.I. 2018/196), arts. 1(2), 3, **Sch. para. 8**

C91 S. 378(6)(c) modified (E.W.) (1.4.2018) by The Proceeds of Crime Act 2002 (References to Welsh Revenue Authority Financial Investigators) Order 2018 (S.I. 2018/196), arts. 1(2), 4, **Sch. para. 14**

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)

Status:
Point in time view as at 28/06/2021.

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 23 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.