



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 8

INVESTIGATIONS

CHAPTER 3

SCOTLAND

Disclosure orders

396 Supplementary

- (1) An application for a disclosure order may be made ex parte to—
 - (a) in the case of an order made in a confiscation investigation [^{F1}or a money laundering investigation], a judge of the High Court of Justiciary;
 - (b) in the case of an order made in a civil recovery investigation, a judge of the Court of Session,
in chambers.
- (2) Provision may be made by rules of court as to the discharge and variation of disclosure orders.
- (3) Rules of court under subsection (2) relating to disclosure orders—
 - (a) made in a confiscation investigation [^{F2}or a money laundering investigation] shall, without prejudice to section 305 of the Criminal Procedure (Scotland) Act 1995 (c. 46) be made by act of adjournal;
 - (b) made in a civil recovery investigation shall, without prejudice to section 5 of the Court of Session Act 1988 (c. 36), be made by act of sederunt.
- (4) An application to discharge or vary a disclosure order may be made to a judge of the court which made the order by—

Changes to legislation: *Proceeds of Crime Act 2002, Section 396 is up to date with all changes known to be in force on or before 24 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

- (a) the Lord Advocate or the Scottish Ministers;
 - (b) any person affected by the order.
- (5) The court may—
- (a) discharge the order;
 - (b) vary the order.

Textual Amendments

- F1** Words in s. 396(1)(a) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 8(4)(a)**, 58(1)(6); S.I. 2018/78, reg. 3(b)
- F2** Words in s. 396(3)(a) inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), **ss. 8(4)(b)**, 58(1)(6); S.I. 2018/78, reg. 3(b)
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Commencement Information

- I1** S. 396 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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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(5)(a)(iia) inserted by [2015 c. 30 Sch. 5 para. 15\(3\)\(d\)](#)
- s. 323(1)(hc) inserted by [2023 c. 20 Sch. para. 45\(2\)](#)
- s. 323(4)(ec) inserted by [2023 c. 20 Sch. para. 45\(3\)](#)
- s. 323(5)(ec) inserted by [2023 c. 20 Sch. para. 45\(4\)](#)