



Serious Organised Crime and Police Act 2005

2005 CHAPTER 15

PART 2

INVESTIGATIONS, PROSECUTIONS, PROCEEDINGS AND PROCEEDS OF CRIME

CHAPTER 1

INVESTIGATORY POWERS OF DPP, ETC.

Disclosure notices

62 Disclosure notices

- (1) If it appears to the Investigating Authority—
- (a) that there are reasonable grounds for suspecting that an offence to which this Chapter applies has been committed,
 - (b) that any person has information (whether or not contained in a document) which relates to a matter relevant to the investigation of that offence, and
 - (c) that there are reasonable grounds for believing that information which may be provided by that person in compliance with a disclosure notice is likely to be of substantial value (whether or not by itself) to that investigation,
- he may give, or authorise an appropriate person to give, a disclosure notice to that person.

- [^{F1}(1A) If it appears to the Investigating Authority—
- (a) that any person has information (whether or not contained in a document) which relates to a matter relevant to a terrorist investigation, and

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- (b) that there are reasonable grounds for believing that information which may be provided by that person in compliance with a disclosure notice is likely to be of substantial value (whether or not by itself) to that investigation,
 he may give, or authorise an appropriate person to give, a disclosure notice to that person.]
- (2) In this Chapter “appropriate person” means—
- (a) a constable,
 - [^{F2}(b) a National Crime Agency officer who is for the time being designated under section 9 or 10 of the Crime and Courts Act 2013, or]
 - (c) an officer of Revenue and Customs.
- [^{F3}But in the application of this Chapter to Northern Ireland, this subsection has effect as if paragraph (b) was omitted.]
- (3) In this Chapter “disclosure notice” means a notice in writing requiring the person to whom it is given to do all or any of the following things in accordance with the specified requirements, namely—
- (a) answer questions with respect to any matter relevant to the investigation;
 - (b) provide information with respect to any such matter as is specified in the notice;
 - (c) produce such documents, or documents of such descriptions, relevant to the investigation as are specified in the notice.
- (4) In subsection (3) “the specified requirements” means such requirements specified in the disclosure notice as relate to—
- (a) the time at or by which,
 - (b) the place at which, or
 - (c) the manner in which,
- the person to whom the notice is given is to do any of the things mentioned in paragraphs (a) to (c) of that subsection; and those requirements may include a requirement to do any of those things at once.
- (5) A disclosure notice must be signed or counter-signed by the Investigating Authority.
- (6) This section has effect subject to section 64 (restrictions on requiring information etc.).

Textual Amendments

- F1** S. 62(1A) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 33(3)**, 39(2); S.I. 2006/1013, art. 2(2) (b)
- F2** S. 62(2)(b) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 159**; S.I. 2013/1682, art. 3(v)
- F3** Words in s. 62(2) inserted (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), s. 31(3), **Sch. 3 para. 4**; S.I. 2006/2966, art. 3

Modifications etc. (not altering text)

- C1** Ss. 60-67 extended (Northern Ireland) (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), **ss. 26(1)**, 31(3); S.I. 2006/2966, art. 3

Commencement Information

- I1** S. 62 in force at 1.4.2006 for S. by [S.S.I. 2006/166](#), art. 2(1)(a)

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I2 S. 62 in force at 1.4.2006 except to the extent that it extends to S. by [S.I. 2005/1521, art. 5\(1\)](#)

63 Production of documents

- (1) This section applies where a disclosure notice has been given under section 62.
- (2) An authorised person may—
 - (a) take copies of or extracts from any documents produced in compliance with the notice, and
 - (b) require the person producing them to provide an explanation of any of them.
- (3) Documents so produced may be retained for so long as the Investigating Authority considers that it is necessary to retain them (rather than copies of them) in connection with the investigation for the purposes of which the disclosure notice was given.
- (4) If the Investigating Authority has reasonable grounds for believing—
 - (a) that any such documents may have to be produced for the purposes of any legal proceedings, and
 - (b) that they might otherwise be unavailable for those purposes,they may be retained until the proceedings are concluded.
- (5) If a person who is required by a disclosure notice to produce any documents does not produce the documents in compliance with the notice, an authorised person may require that person to state, to the best of his knowledge and belief, where they are.
- (6) In this section “authorised person” means any appropriate person who either—
 - (a) is the person by whom the notice was given, or
 - (b) is authorised by the Investigating Authority for the purposes of this section.
- (7) This section has effect subject to section 64 (restrictions on requiring information etc.).

Modifications etc. (not altering text)

C1 Ss. 60-67 extended (Northern Ireland) (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), [ss. 26\(1\), 31\(3\)](#); [S.I. 2006/2966, art. 3](#)

Commencement Information

I3 S. 63 in force at 1.4.2006 except to the extent that it extends to S. by [S.I. 2005/1521, art. 5\(1\)](#)
I4 S. 63 in force at 1.4.2006 for S. by [S.S.I. 2006/166, art. 2\(1\)\(a\)](#)

64 Restrictions on requiring information etc.

- (1) A person may not be required under section 62 or 63—
 - (a) to answer any privileged question,
 - (b) to provide any privileged information, or
 - (c) to 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.

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- (3) “Privileged information” is information which the person would be entitled to refuse to provide on grounds of legal professional privilege in such proceedings.
- (4) A “privileged document” is a document which the person would be entitled to refuse to produce on grounds of legal professional privilege in such proceedings.
- (5) A person may not be required under section 62 to produce any excluded material (as defined by section 11 of the Police and Criminal Evidence Act 1984 (c. 60) [^{F4}or, in relation to Northern Ireland, Article 13 of the Police and Criminal Evidence (Northern Ireland) Order 1989]).
- (6) In the application of this section to Scotland—
- (a) subsections (1) to (5) do not have effect, but
 - (b) a person may not be required under section 62 or 63 to answer any question, provide any information or produce any document which he would be entitled, on grounds of legal privilege, to refuse to answer or (as the case may be) provide or produce.
- (7) In subsection (6)(b), “legal privilege” has the meaning given by section 412 of the Proceeds of Crime Act 2002 (c. 29).
- (8) A person may not be required under section 62 or 63 to disclose any information or produce any document in respect of which he owes an obligation of confidence by virtue of carrying on any banking business, unless—
- (a) the person to whom the obligation of confidence is owed consents to the disclosure or production, or
 - (b) the requirement is made by, or in accordance with a specific authorisation given by, the Investigating Authority.
- (9) Subject to the preceding provisions, any requirement under section 62 or 63 has effect despite any restriction on disclosure (however imposed).

Textual Amendments

F4 Words in s. 64(5) inserted (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), s. 31(3), [Sch. 3 para. 5](#); S.I. 2006/2966, art. 3

Modifications etc. (not altering text)

C1 Ss. 60-67 extended (Northern Ireland) (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), [ss. 26\(1\)](#), 31(3); S.I. 2006/2966, art. 3

Commencement Information

I5 S. 64 in force at 1.4.2006 except to the extent that it extends to S. by [S.I. 2005/1521](#), [art. 5\(1\)](#)

I6 S. 64 in force at 1.4.2006 for S. by [S.S.I. 2006/166](#), [art. 2\(1\)\(a\)](#)

65 Restrictions on use of statements

- (1) A statement made by a person in response to a requirement imposed under section 62 or 63 (“the relevant statement”) may not be used in evidence against him in any criminal proceedings unless subsection (2) or (3) applies.
- (2) This subsection applies where the person is being prosecuted—
- (a) for an offence under section 67 of this Act, or

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- (b) for an offence under section 5 of the Perjury Act 1911 (c. 6) (false statements made on oath otherwise than in judicial proceedings or made otherwise than on oath), or
 - (c) for an offence under [^{F5}section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 (c.39)] (false statutory declarations and other false statements without oath) or at common law for an offence of attempting to pervert the course, or defeat the ends, of justice^{F6}, or
 - (d) for an offence under Article 10 of the Perjury (Northern Ireland) Order 1979 (false statements made otherwise than on oath).]
- (3) This subsection applies where the person is being prosecuted for some other offence and—
- (a) the person, when giving evidence in the proceedings, makes a statement inconsistent with the relevant statement, and
 - (b) in the proceedings evidence relating to the relevant statement is adduced, or a question about it is asked, by or on behalf of the person.

Textual Amendments

- F5** Words in s. 65(2)(c) substituted (S.) (28.3.2011) by [Criminal Justice and Licensing \(Scotland\) Act 2010 \(asp 13\)](#), s. 206(1), [Sch. 7 para. 77](#); S.I. 2011/178, art. 2, Sch.
- F6** S. 65(2)(d) and preceding word inserted (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), s. 31(3), [Sch. 3 para. 6](#); S.I. 2006/2966, art. 3
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Modifications etc. (not altering text)

- C1** Ss. 60-67 extended (Northern Ireland) (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), [ss. 26\(1\)](#), 31(3); S.I. 2006/2966, art. 3
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Commencement Information

- I7** S. 65 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, [art. 5\(1\)](#)
- I8** S. 65 in force at 1.4.2006 for S. by S.I. 2006/166, [art. 2\(1\)\(a\)](#)

Changes to legislation:

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Commencement Orders yet to be applied to the Serious Organised Crime and Police Act 2005

Commencement Orders bringing provisions within this Act into force:

- [S.I. 2006/2182 art. 3](#) amendment to earlier commencing SI 2006/1871