



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.

Introductory

60 Investigatory powers of DPP etc.

(1) This Chapter confers powers on—

- (a) the Director of Public Prosecutions,
- ^{F1}(b)
- (c) the Lord Advocate, [^{F2}and
- (d) the Director of Public Prosecutions for Northern Ireland,]

in relation to the giving of disclosure notices in connection with the investigation of offences to which this Chapter applies [^{F3}or in connection with a terrorist investigation].

(2) The Director of Public Prosecutions may, to such extent as he may determine, delegate the exercise of his powers under this Chapter to a Crown prosecutor.

^{F4}(3)

(4) The Lord Advocate may, to such extent as he may determine, delegate the exercise of his powers under this Chapter to a procurator fiscal.

Status: Point in time view as at 30/09/2017.

Changes to legislation: Serious Organised Crime and Police Act 2005, Cross Heading: Introductory is up to date with all changes known to be in force on or before 20 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)

[^{F5}(4A) The Director of Public Prosecutions for Northern Ireland may, to such extent as he may determine, delegate the exercise of his powers under this Chapter to a Public Prosecutor.]

(5) In this Chapter “the Investigating Authority” means—

- (a) the Director of Public Prosecutions,
- ^{F6}(b)
- (c) the Lord Advocate [^{F7},or
- (d) the Director of Public Prosecutions for Northern Ireland.]

(6) But, in circumstances where the powers of any of those persons are exercisable by any other person by virtue of subsection (2), ^{F8}... [^{F9}(4) or (4A)], references to “the Investigating Authority” accordingly include any such other person.

[^{F10}(7) In this Chapter “terrorist investigation” means an investigation of—

- (a) the commission, preparation or instigation of acts of terrorism,
- (b) any act or omission which appears to have been for the purposes of terrorism and which consists in or involves the commission, preparation or instigation of an offence, or
- (c) the commission, preparation or instigation of an offence under the Terrorism Act 2000 (c. 11) or under Part 1 of the Terrorism Act 2006 other than an offence under section 1 or 2 of that Act.]

Textual Amendments

- F1** S. 60(1)(b) 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. 41(2)**
- F2** S. 60(1)(d) and preceding word inserted (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), s. 31(3), **Sch. 3 para. 2(2)**; S.I. 2006/2966, art. 3
- F3** Words in s. 60(1) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 33(1)**, 39(2); S.I. 2006/1013, **art. 2(2)(b)**
- F4** S. 60(3) 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. 41(3)**
- F5** S. 60(4A) inserted (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), s. 31(3), **Sch. 3 para. 2(3)**; S.I. 2006/2966, art. 3
- F6** S. 60(5)(b) 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. 41(4)**
- F7** S. 60(5)(d) and preceding word inserted (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), s. 31(3), **Sch. 3 para. 2(4)**; S.I. 2006/2966, art. 3
- F8** Word in s. 60(6) 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. 41(5)**
- F9** Words in s. 60(6) substituted (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), s. 31(3), **Sch. 3 para. 2(5)**; S.I. 2006/2966, art. 3
- F10** S. 60(7) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\)](#), **ss. 33(2)**, 39(2); S.I. 2006/1013, **art. 2(2)(b)**

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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**

Commencement Information

- I1** S. 60 in force at 1.4.2006 for S. by [S.S.I. 2006/166](#), **art. 2(1)(a)**
I2 S. 60 in force at 1.4.2006 except to the extent that it extends to S. by [S.I. 2005/1521](#), **art. 5(1)**

61 Offences to which this Chapter applies

- (1) This Chapter applies to the following offences—
- (a) any offence listed in Schedule 2 to the Proceeds of Crime Act 2002 (c. 29) (lifestyle offences: England and Wales);
 - (b) any offence listed in Schedule 4 to that Act (lifestyle offences: Scotland);
 - ^[F11](ba) any offence listed in Schedule 5 to that Act (lifestyle offences: Northern Ireland);]
 - (c) any offence under sections 15 to 18 of the Terrorism Act 2000 (c. 11) (offences relating to fund-raising, money laundering etc.);
 - (d) any offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (fraudulent evasion of duty) or section 72 of the Value Added Tax Act 1994 (c. 23) (offences relating to VAT) which is a qualifying offence;
 - (e) any offence under section 17 of the Theft Act 1968 (c. 60) ^[F12]or section 17 of the Theft Act (Northern Ireland) 1969] (false accounting), or any offence at common law of cheating in relation to the public revenue, which is a qualifying offence;
 - (f) any offence under section 1 of the Criminal Attempts Act 1981 (c. 47) ^[F13]or Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983], or in Scotland at common law, of attempting to commit any offence in paragraph (c) or any offence in paragraph (d) or (e) which is a qualifying offence;
 - (g) any offence under section 1 of the Criminal Law Act 1977 (c. 45) ^[F14]or Article 9 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983], or in Scotland at common law, of conspiracy to commit any offence in paragraph (c) or any offence in paragraph (d) or (e) which is a qualifying offence;
 - ^[F15](h) any offence under the Bribery Act 2010.]
 - ^[F16](i) any offence under section 45 or 46 of the Criminal Finances Act 2017 (failure to prevent the facilitation of UK tax evasion offences or foreign tax evasion offences).]
- (2) For the purposes of subsection (1) an offence in paragraph (d) or (e) of that subsection is a qualifying offence if the Investigating Authority certifies that in his opinion—
- (a) in the case of an offence in paragraph (d) or an offence of cheating the public revenue, the offence involved or would have involved a loss, or potential loss, to the public revenue of an amount not less than £5,000;
 - (b) in the case of an offence under section 17 of the Theft Act 1968 (c. 60) ^[F17]or section 17 of the Theft Act (Northern Ireland) 1969], the offence involved or would have involved a loss or gain, or potential loss or gain, of an amount not less than £5,000.

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- (3) A document purporting to be a certificate under subsection (2) is to be received in evidence and treated as such a certificate unless the contrary is proved.
- (4) The Secretary of State may by order—
- (a) amend subsection (1), in its application to England and Wales [^{F18}or Northern Ireland], so as to remove an offence from it or add an offence to it;
 - (b) amend subsection (2), in its application to England and Wales [^{F18}or Northern Ireland], so as to—
 - (i) take account of any amendment made by virtue of paragraph (a) above, or
 - (ii) vary the sums for the time being specified in subsection (2)(a) and (b).
- (5) The Scottish Ministers may by order—
- (a) amend subsection (1), in its application to Scotland, so as to remove an offence from it or add an offence to it;
 - (b) amend subsection (2), in its application to Scotland, so as to—
 - (i) take account of any amendment made by virtue of paragraph (a) above, or
 - (ii) vary the sums for the time being specified in subsection (2)(a) and (b).

Textual Amendments

- F11** S. 61(1)(ba) inserted (1.12.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 31(3), **Sch. 3 para. 3(2)**; S.I. 2006/2966, art. 3
- F12** Words in s. 61(1)(e) inserted (1.12.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 31(3), **Sch. 3 para. 3(3)**; S.I. 2006/2966, art. 3
- F13** Words in s. 61(1)(f) inserted (1.12.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 31(3), **Sch. 3 para. 3(4)**; S.I. 2006/2966, art. 3
- F14** Words in s. 61(1)(g) inserted (1.12.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 31(3), **Sch. 3 para. 3(5)**; S.I. 2006/2966, art. 3
- F15** S. 61(1)(h) substituted (1.7.2011) by Bribery Act 2010 (c. 23), s. 19(1), **Sch. 1 para. 8** (with ss. 16, 19(5)); S.I. 2011/1418, art. 2
- F16** S. 61(1)(i) inserted (27.4.2017 for specified purposes, 30.9.2017 in so far as not already in force) by Criminal Finances Act 2017 (c. 22), **ss. 51(1)**, 58(5)(6); S.I. 2017/739, reg. 3
- F17** Words in s. 61(2)(b) inserted (1.12.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 31(3), **Sch. 3 para. 3(6)**; S.I. 2006/2966, art. 3
- F18** Words in s. 61(4) inserted (1.12.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 31(3), **Sch. 3 para. 3(7)**; 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

- I3** S. 61 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. 61 in force at 1.4.2006 for S. by S.I. 2006/166, **art. 2(1)(a)**

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