

## SCHEDULES

### SCHEDULE 19

#### PROCEEDS OF CRIME: INVESTIGATIONS

##### PART 2

##### EVIDENCE OVERSEAS

- 24 Part 8 of the Proceeds of Crime Act 2002 (investigations) is amended as follows.
- 25 In section 341(3A) (definition of detained cash investigation)—
- (a) after “investigation is” insert “an investigation for the purposes of Chapter 3 of Part 5 into—”, and
  - (b) in paragraphs (a) and (b), omit “an investigation for the purposes of Chapter 3 of Part 5 into”.
- 26 In Chapter 2 (England and Wales and Northern Ireland), after section 375 and the heading “Evidence overseas” insert—

##### “375A Evidence overseas

- (1) This section applies if a person or property is subject to a civil recovery investigation, a detained cash investigation or an exploitation proceeds investigation.
- (2) A judge may request assistance under this section if—
  - (a) an application is made by an appropriate officer or a person subject to the investigation, and
  - (b) the judge thinks that there is relevant evidence in a country or territory outside the United Kingdom.
- (3) The relevant Director or a senior appropriate officer may request assistance under this section if the Director or officer thinks that there is relevant evidence in a country or territory outside the United Kingdom.
- (4) The assistance that may be requested under this section is assistance in obtaining outside the United Kingdom relevant evidence specified in the request.
- (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);

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- (c) in relation to an application or request made for the purposes of an exploitation proceeds investigation, evidence as to a matter described in section 341(5)(a) to (d).
- (6) A request for assistance under this section may be sent—
  - (a) to a court or tribunal which is specified in the request and which exercises jurisdiction in the place where the evidence is to be obtained,
  - (b) to the government of the country or territory concerned, or
  - (c) to an authority recognised by the government of the country or territory concerned as the appropriate authority for receiving requests for assistance of that kind.
- (7) Alternatively, a request for assistance under this section may be sent to the Secretary of State with a view to it being forwarded to a court, tribunal, government or authority mentioned in subsection (6).
- (8) The Secretary of State must forward the request for assistance to the court, tribunal, government or authority.
- (9) In a case of urgency, a request for assistance under this section may be sent to—
  - (a) the International Criminal Police Organisation, or
  - (b) any person competent to receive it under any provisions adopted under the EU Treaties,for forwarding to the court, tribunal, government or authority mentioned in subsection (6).
- (10) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to requests for assistance made by a judge under this section.
- (11) “Evidence” includes documents, information in any other form and material.

### **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;

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- (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.”
- 27 (1) Section 378 (officers) is amended as follows.
- (2) After subsection (3A) insert—
  - “(3AA) In relation to a detained cash investigation these are senior appropriate officers—
    - (a) a police officer who is not below the rank of superintendent;
    - (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 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.”
- (3) In subsection (6A)—
  - (a) after “investigation” insert “—
    - (a)”,
    - and
  - (b) at the end insert—
    - “(b) a senior member of SOCA’s staff is a senior appropriate officer.”

28 In Chapter 3 (Scotland), after section 408 insert—

*“Evidence overseas*

**408A Evidence overseas**

- (1) This section applies if a person or property is subject to a civil recovery investigation or a detained cash investigation.
- (2) A judge of the Court of Session may request assistance under this section if—
  - (a) an application is made by an appropriate person 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) An appropriate person may request assistance under this section if the person 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—

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- (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).
- (6) A request for assistance under this section may be sent—
  - (a) to a court or tribunal which is specified in the request and which exercises jurisdiction in the place where the evidence is to be obtained,
  - (b) to the government of the country or territory concerned, or
  - (c) to an authority recognised by the government of the country or territory concerned as the appropriate authority for receiving requests for assistance of that kind.
- (7) Alternatively, a request for assistance under this section may be sent to the Secretary of State with a view to it being forwarded to a court, tribunal, government or authority mentioned in subsection (6).
- (8) The Secretary of State must forward the request for assistance to the court, tribunal, government or authority.
- (9) In a case of urgency, a request for assistance under this section may be sent to—
  - (a) the International Criminal Police Organisation, or
  - (b) any person competent to receive it under any provisions adopted under the EU Treaties,for forwarding to the court, tribunal, government or authority mentioned in subsection (6).
- (10) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to requests for assistance made by a judge under this section.
- (11) “Evidence” includes documents, information in any other form and material.

#### **408B Evidence overseas: restrictions on use**

- (1) This section applies to evidence obtained by means of a request for assistance under section 408A.
- (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;

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- (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.
- (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.
- (5) The evidence may be received in evidence without being sworn to by anyone, so far as that may be done without unfairness to any party.”