



# Serious Crime Act 2015

## 2015 CHAPTER 9

### PART 3

#### ORGANISED, SERIOUS AND GANG-RELATED CRIME

##### *Organised crime groups*

#### **45 Offence of participating in activities of organised crime group**

- (1) A person who participates in the criminal activities of an organised crime group commits an offence.
- (2) For this purpose, a person participates in the criminal activities of an organised crime group if the person takes part in any activities that the person knows or reasonably suspects—
  - (a) are criminal activities of an organised crime group, or
  - (b) will help an organised crime group to carry on criminal activities.
- (3) “Criminal activities” are activities within subsection (4) or (5) that are carried on with a view to obtaining (directly or indirectly) any gain or benefit.
- (4) Activities are within this subsection if—
  - (a) they are carried on in England or Wales, and
  - (b) they constitute an offence in England and Wales punishable on conviction on indictment with imprisonment for a term of 7 years or more.
- (5) Activities are within this subsection if—
  - (a) they are carried on outside England and Wales,
  - (b) they constitute an offence under the law in force of the country where they are carried on, and
  - (c) they would constitute an offence in England and Wales of the kind mentioned in subsection (4)(b) if the activities were carried on in England and Wales.
- (6) “Organised crime group” means a group that—

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- (a) has as its purpose, or as one of its purposes, the carrying on of criminal activities, and
  - (b) consists of three or more persons who act, or agree to act, together to further that purpose.
- (7) For a person to be guilty of an offence under this section it is not necessary—
- (a) for the person to know any of the persons who are members of the organised crime group,
  - (b) for all of the acts or omissions comprising participation in the group’s criminal activities to take place in England and Wales (so long as at least one of them does), or
  - (c) for the gain or benefit referred to in subsection (3) to be financial in nature.
- (8) It is a defence for a person charged with an offence under this section to prove that the person’s participation was necessary for a purpose related to the prevention or detection of crime.
- (9) A person guilty of an offence under this section is liable on conviction on indictment to imprisonment for a term not exceeding 5 years.

*Serious crime prevention orders*

**46 Extension of Part 1 of Serious Crime Act 2007 to Scotland**

Schedule 1 (amendments of Serious Crime Act 2007: Scotland) has effect.

**47 Serious crime prevention orders: meaning of “serious offence”**

- (1) Part 1 of Schedule 1 to the Serious Crime Act 2007 (serious offences in England and Wales) is amended as set out in subsections (2) to (4).
- (2) In paragraph 1 (drug trafficking), after paragraph (b) of sub-paragraph (1) insert—  
“(ba) section 6 (restriction of cultivation of cannabis plant);”.
- (3) For paragraph 3 substitute—

*“Firearms offences*

- 3 (1) An offence under any of the following provisions of the Firearms Act 1968—
  - (a) section 1(1) (possession etc of firearms or ammunition without certificate);
  - (b) section 2(1) (possession etc of shot gun without certificate);
  - (c) section 3(1) (dealing etc in firearms or ammunition by way of trade or business without being registered);
  - (d) section 5(1), (1A) or (2A) (possession, manufacture etc of prohibited weapons).
- (2) An offence under either of the following provisions of the Customs and Excise Management Act 1979 if it is committed in connection with a firearm or ammunition—
  - (a) section 68(2) (exportation of prohibited or restricted goods);

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(b) section 170 (fraudulent evasion of duty etc).

(3) In sub-paragraph (2) “firearm” and “ammunition” have the same meanings as in section 57 of the Firearms Act 1968.”

(4) After paragraph 11 insert—

*“Computer misuse*

11A An offence under any of the following provisions of the Computer Misuse Act 1990—

- (a) section 1 (unauthorised access to computer material);
- (b) section 2 (unauthorised access with intent to commit or facilitate commission of further offences);
- (c) section 3 (unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer etc);
- (d) section 3ZA (unauthorised acts causing, or creating risk of, serious damage to human welfare etc);
- (e) section 3A (making, supplying or obtaining articles for use in offence under section 1, 3 or 3ZA).”

(5) Part 2 of that Schedule (serious offences in Northern Ireland) is amended as set out in subsections (6) to (8).

(6) In paragraph 17 (drug trafficking), after paragraph (b) of sub-paragraph (1) insert—  
“(ba) section 6 (restriction of cultivation of cannabis plant);”.

(7) In paragraph 19 (arms trafficking), for sub-paragraph (2) substitute—

“(2) An offence under any of the following provisions of the Firearms (Northern Ireland) Order 2004 (S.I. 2004/702 (N.I. 3))—

- (a) Article 3 (possession etc of firearms or ammunition without certificate);
- (b) Article 24 (dealing etc in firearms or ammunition by way of trade or business without being registered);
- (c) Article 45 (possession, manufacture etc of prohibited weapons).”

(8) After paragraph 27 insert—

*“Computer misuse*

27A An offence under any of the following provisions of the Computer Misuse Act 1990—

- (a) section 1 (unauthorised access to computer material);
- (b) section 2 (unauthorised access with intent to commit or facilitate commission of further offences);
- (c) section 3 (unauthorised acts with intent to impair, or with recklessness as to impairing, operation of computer etc);
- (d) section 3ZA (unauthorised acts causing, or creating risk of, serious damage to human welfare etc);
- (e) section 3A (making, supplying or obtaining articles for use in offence under section 1, 3 or 3ZA).”

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#### **48 Powers of Crown Court to replace orders on breach**

- (1) Section 21 of the Serious Crime Act 2007 (powers of Crown Court to vary orders on breach) is amended as follows.
- (2) In subsection (2)—
  - (a) after “vary” insert “or replace”;
  - (b) after “the order as varied” insert “, or the new order,”.
- (3) In subsection (4)—
  - (a) after “vary” insert “or replace”;
  - (b) after “the order as varied” insert “, or the new order,”.
- (4) In subsection (5), for “A variation under this section may be made” substitute “An order may be varied or replaced under this section”.
- (5) In subsection (6), after “variation” insert “or new order”.
- (6) After subsection (7) insert—
  - “(8) A reference in this section to replacing a serious crime prevention order is to making a new serious crime prevention order and discharging the existing one.”

#### **49 Extension of order where person charged**

After section 22D of the Serious Crime Act 2007 (inserted by paragraph 17 of Schedule 1) insert—

*“Powers to extend orders where person charged*

##### **22E Extension of orders pending outcome of criminal proceedings**

- (1) This section applies where a person subject to a serious crime prevention order is charged with—
  - (a) a serious offence, or
  - (b) an offence under section 25 of failing to comply with the serious crime prevention order.
- (2) The relevant applicant authority may make an application under this section to—
  - (a) the Crown Court in England and Wales, in the case of a serious crime prevention order in England and Wales;
  - (b) the High Court of Justiciary or the sheriff, in the case of a serious crime prevention order in Scotland;
  - (c) the Crown Court in Northern Ireland, in the case of a serious crime prevention order in Northern Ireland.
- (3) On an application under this section, the court or sheriff may vary the serious crime prevention order so that it continues in effect until one of the events listed in subsection (4) occurs (if the order would otherwise cease to have effect before then).
- (4) The events are—

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- (a) following the person’s conviction of the offence mentioned in subsection (1)—
    - (i) the order is varied under section 20 or 21, or under section 22B or 22C, by reference to the offence,
    - (ii) a new serious crime prevention order is made under section 19 or 21, or under section 22A or 22C, by reference to the offence, or
    - (iii) the court or sheriff deals with the person for the offence without varying the order or making a new one;
  - (b) the person is acquitted of the offence;
  - (c) the charge is withdrawn;
  - (d) in the case of a serious crime prevention order in England and Wales or Northern Ireland—
    - (i) proceedings in respect of the charge are discontinued, or
    - (ii) an order is made for the charge to lie on the file;
  - (e) in the case of a serious crime prevention order in Scotland—
    - (i) proceedings against the person are deserted *simpliciter*,
    - (ii) proceedings against the person are deserted *pro loco et tempore* and no trial diet is appointed,
    - (iii) the indictment or complaint relating to the person falls or for any other reason does not proceed to trial, or
    - (iv) the diet not having been continued, adjourned or postponed, no further proceedings are in contemplation in relation to the person.
- (5) An order may be made under this section only if—
- (a) the serious crime prevention order is still in force, and
  - (b) the court or sheriff has reasonable grounds for believing that the order would protect the public by preventing, restricting or disrupting involvement by the person in serious crime.
- (6) In subsection (5)(b) “serious crime” means—
- (a) serious crime in England and Wales, in the case of a serious crime prevention order in England and Wales;
  - (b) serious crime in Scotland, in the case of a serious crime prevention order in Scotland;
  - (c) serious crime in Northern Ireland, in the case of a serious crime prevention order in Northern Ireland.”

## **50 Serious crime prevention orders and financial reporting etc**

- (1) In Chapter 3 of Part 2 of the Serious Organised Crime and Police Act 2005 (financial reporting orders)—
  - (a) omit section 76 (making financial reporting orders in England and Wales);
  - (b) omit section 77 (making financial reporting orders in Scotland);
  - (c) omit section 78 (making financial reporting orders in Northern Ireland).
- (2) In Part 1 of the Serious Crime Act 2007 (serious crime prevention orders), after section 5 insert—

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### **“5A Verification and disclosure of information**

- (1) This section applies where information is provided to a law enforcement officer in response to an information requirement imposed by a serious crime prevention order.
- “Information requirement” means a requirement of the kind referred to in section 5(5)(a) or (b).
- (2) The law enforcement officer may, for the purpose of—
- (a) checking the accuracy of the information, or
  - (b) discovering the true position,
- disclose the information to any person who the officer reasonably believes may be able to contribute to doing either of those things.
- (3) Any other person may disclose information to—
- (a) the law enforcement officer, or
  - (b) a person to whom the law enforcement officer has disclosed information under subsection (2),
- for the purpose of contributing to doing either of the things mentioned in subsection (2)(a) and (b).
- (4) The law enforcement officer may also disclose the information referred to in subsection (1) for the purposes of—
- (a) the prevention, detection, investigation or prosecution of criminal offences, whether in the United Kingdom or elsewhere, or
  - (b) the prevention, detection or investigation of conduct for which penalties other than criminal penalties are provided under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.
- (5) A disclosure under this section does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
  - (b) any other restriction on the disclosure of information (however imposed).
- (6) But nothing in this section authorises a disclosure, in contravention of any provisions of the Data Protection Act 1998, of personal data which are not exempt from those provisions.”

### *Gang injunctions*

## **51 Injunctions to prevent gang-related violence and drug-dealing activity**

In Part 4 of the Policing and Crime Act 2009 (injunctions: gang-related violence), for section 34 substitute—

**“34 Injunctions to prevent gang-related violence and drug-dealing activity**

- (1) A court may grant an injunction under this section against a respondent aged 14 or over if the first and second conditions are met.
- (2) The first condition is that the court is satisfied on the balance of probabilities that the respondent has engaged in or has encouraged or assisted—
  - (a) gang-related violence, or
  - (b) gang-related drug-dealing activity.
- (3) The second condition is that the court thinks it is necessary to grant the injunction for either or both of the following purposes—
  - (a) to prevent the respondent from engaging in, or encouraging or assisting, gang-related violence or gang-related drug-dealing activity;
  - (b) to protect the respondent from gang-related violence or gang-related drug-dealing activity.
- (4) An injunction under this section may (for either or both of those purposes)—
  - (a) prohibit the respondent from doing anything described in the injunction;
  - (b) require the respondent to do anything described in the injunction.
- (5) For the purposes of this section, something is “gang-related” if it occurs in the course of, or is otherwise related to, the activities of a group that—
  - (a) consists of at least three people, and
  - (b) has one or more characteristics that enable its members to be identified by others as a group.
- (6) In this section “violence” includes a threat of violence.
- (7) In this Part “drug-dealing activity” means the unlawful production, supply, importation or exportation of a controlled drug.

“Production”, “supply” and “controlled drug” here have the meanings given by section 37(1) of the Misuse of Drugs Act 1971.”