

2008 No. 298

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) (Amendment) Order 2008

Made - - - - - *12th February 2008*

Laid before Parliament *19th February 2008*

Coming into force in accordance with article 1

At the Court at Buckingham Palace, the 12th day of February 2008

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 443(1)(d) and (e), (3) and (4) of the Proceeds of Crime Act 2002(a), is pleased, by and with the advice of Her Privy Council, to order as follow:

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) (Amendment) Order 2008 and, subject to paragraph (2), shall come into force on 1st April 2008.

(2) Article 2(3) and (6) shall come into force on 6th April 2008.

(3) In this Order, “the Act” means the Proceeds of Crime Act 2002.

Amendment to the Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003

2.—(1) The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003(b) is amended as follows.

(2) In article 2 (interpretation), in the definitions of “an English or Welsh appropriate officer” and “a Northern Ireland appropriate officer, for “the Director” substitute “a member of SOCA’s staff”.

(3) For article 5(4) (modifications of section 352(5) of the Act), substitute—

“The modifications are—

(a) for paragraphs (a), (b) and (c), there are substituted—

(a) 2002 c.29.
(b) S.I. 2003/425.

- “(a) an officer of Revenue and Customs;
 - (b) a constable of a police force in England and Wales;
 - (c) a constable of the Police Service of Northern Ireland; or
 - (d) an accredited financial investigator.”; and
- (b) in subsection (7), for “paragraph (a) or (c)” substitute “paragraph (d).”
- (4) In article 7(1) and (5) (Northern Ireland disclosure orders), for “the Director” substitute “a Northern Ireland appropriate officer”.
- (5) In article 8 (Scottish disclosure orders)—
 - (a) in paragraph (5), for the words “modification that” to the end, substitute “modifications in paragraph (5A)”; and
 - (b) after paragraph (5), insert—
 - “(5A) The modifications are that—
 - (a) in subsection (7), for “An appropriate officer” there is substituted “The Lord Advocate”; and
 - (b) in subsection (9), for “an appropriate officer” there is substituted “the Lord Advocate.”
- (6) For article 15(4) (modifications of section 352(5) of the Act), substitute—
 - “The modifications are that—
 - (a) for paragraphs (a), (b) and (c), there are substituted—
 - “(a) an officer of Revenue and Customs;
 - (b) a constable of a police force in England and Wales;
 - (c) a constable of the Police Service of Northern Ireland; or
 - (d) an accredited financial investigator.”; and
 - (b) in subsection (7), for “paragraph (a) or (c)” substitute “paragraph (d).”
- (7) In article 17(1) and (5) (English or Welsh disclosure orders), for “the Director” substitute “an English or Welsh appropriate officer”.
- (8) In article 18 (Scottish disclosure orders)—
 - (a) In paragraph (5), for the words “modification that” to the end, substitute “modifications in paragraph (5A)”; and
 - (b) after paragraph (5), insert—
 - “(5A) The modifications are that—
 - (a) in subsection (7), for “An appropriate officer” there is substituted “The Lord Advocate”; and
 - (b) in subsection (9), for “an appropriate officer” there is substituted “the Lord Advocate.”
- (9) In article 27 (English or Welsh disclosure orders), for “the Director” in each place those words appear, substitute “an English or Welsh appropriate officer”.
- (10) In article 28 (Northern Ireland disclosure orders), for “the Director” in each place those words appear, substitute “a Northern Ireland appropriate officer”.

Judith Simpson
Clerk to the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) (Amendment) Order 2003 ('the 2003 Order') in line with amendments made to the Proceeds of Crime Act 2002 ('the 2002 Act') by section 74(2) of and Schedule 8 to the Serious Crime Act 2007 ('the 2007 Act'). These amendments to the 2002 Act abolish the confiscation functions of the Assets Recovery Agency ('ARA') and its Director, and transfer the civil recovery functions of the ARA and its Director to other enforcement authorities. This Order amends the 2003 Order (which makes provision for orders and warrants made or issued under Part 8 of the 2002 Act in one part of the United Kingdom to be enforced in another part of the United Kingdom) to reflect this. Accordingly, article 2(2) amends the definitions of an English or Welsh and a Northern Ireland appropriate officer (who have functions in relation to the enforcement of Part 8 orders and warrants) to refer to a member of staff of the Serious Organised Crime Agency rather than to the Director of the ARA.

This Order also amends the 2003 Order to take account of the amendments made to the 2002 Act by section 80 of the 2007 Act (powers in relation to certain investigations) which extends the powers that may be exercised under a search and seizure warrant issued under Part 8 of the 2002 Act, in England and Wales and Northern Ireland, to accredited financial investigators.

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