

STATUTORY INSTRUMENTS

2015 No. 206

The Proceeds of Crime Act 2002 (External Investigations) (Scotland) Order 2015

PROSPECTIVE

PART 5

Account monitoring orders

Account monitoring orders

29.—(1) The sheriff may, on an application made to the sheriff by the procurator fiscal, make an account monitoring order if the sheriff is satisfied that each of the requirements for the making of the order is fulfilled.

(2) The application for an account monitoring order must state that—

- (a) article 3(2) is satisfied;
- (b) the order is sought for the purposes of the external investigation;
- (c) the order is sought against the financial institution specified in the application in relation to account information of the description so specified.

(3) Account information is information relating to an account or accounts held at the financial institution specified in the application by the person so specified (whether solely or jointly with another).

(4) The application for an account monitoring order may specify information relating to—

- (a) all accounts held by the person specified in the application for the order at the financial institution so specified;
- (b) a particular description, or particular descriptions, of accounts so held; or
- (c) a particular account, or particular accounts, so held.

(5) An account monitoring order is an order that the financial institution specified in the application for the order must, for the period stated in the order, provide account information of the description specified in the order to a constable in the manner, and at or by the time or times, stated in the order.

(6) The period stated in an account monitoring order must not exceed the period of 90 days beginning with the day on which the order is made.

Commencement Information

II Art. 29 in force at 16.3.2015, see [art. 1\(b\)](#)

Status: This version of this part contains provisions that are prospective.

Changes to legislation: There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Proceeds of Crime Act 2002 (External Investigations) (Scotland) Order 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

Requirements for making of account monitoring order

30.—(1) These are the requirements for the making of an account monitoring order.

(2) There must be reasonable grounds for suspecting that the application relates to an external investigation.

(3) There must be reasonable grounds for believing that—

- (a) account information which may be provided in compliance with the order is likely to be of substantial value (whether or not by itself) to the external investigation; and
- (b) it is in the public interest for the account information to be provided, having regard to the benefit likely to accrue to the external investigation if the information is obtained.

Commencement Information

I2 Art. 30 in force at 16.3.2015, see [art. 1\(b\)](#)

Statements

31.—(1) A statement made by a financial institution in response to an account monitoring order may not be used in evidence against it in criminal proceedings.

(2) But paragraph (1) does not apply—

- (a) in the case of proceedings under Part 3 of the Act;
- (b) in the case of proceedings for contempt of court; or
- (c) on a prosecution for an offence where, in giving evidence, the financial institution makes a statement inconsistent with the statement mentioned in paragraph (1).

(3) A statement may not be used by virtue of paragraph (2)(c) against a financial institution unless—

- (a) evidence relating to it is adduced; or
- (b) a question relating to it is asked,

by or on behalf of the financial institution in the proceedings arising out of the prosecution.

Commencement Information

I3 Art. 31 in force at 16.3.2015, see [art. 1\(b\)](#)

Applications

32. An application for an account monitoring order may be made *ex parte* to a sheriff in chambers.

Commencement Information

I4 Art. 32 in force at 16.3.2015, see [art. 1\(b\)](#)

Disclosure of information

33. An account monitoring order has effect in spite of any restriction on the disclosure of information (however imposed).

Status: This version of this part contains provisions that are prospective.

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Commencement Information

I5 Art. 33 in force at 16.3.2015, see [art. 1\(b\)](#)

Supplementary

34.—(1) An application to discharge or vary an account monitoring order may be made to the sheriff by—

- (a) the procurator fiscal;
 - (b) any person affected by the order.
- (2) The sheriff may—
- (a) discharge the order;
 - (b) vary the order.

Commencement Information

I6 Art. 34 in force at 16.3.2015, see [art. 1\(b\)](#)

Status:

This version of this part contains provisions that are prospective.

Changes to legislation:

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Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- art. 23(2)(ea) inserted by [2020 c. 29 Sch. 3 para. 5\(3\)\(c\)](#)
- art. 23(3)(ha) inserted by [2020 c. 29 Sch. 3 para. 5\(4\)\(c\)](#)
- art. 23(5) inserted by [2020 c. 29 Sch. 3 para. 5\(5\)](#)