

2021 No. 637

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) (Amendment) Order 2021

<i>Made</i>	- - - -	<i>26th May 2021</i>
<i>Laid before Parliament</i>		<i>2nd June 2021</i>
<i>Coming into force</i>	- -	<i>28th June 2021</i>

At the Court at Windsor Castle, the 26th day of May 2021

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred on Her by sections 443(1)(ca), (d) and (e) and 459(2) of the Proceeds of Crime Act 2002(a), is pleased, by and with the advice of Her Privy Council, to order as follows.

Citation and commencement

1.—(1) This Order may be cited as the Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) (Amendment) Order 2021.

(2) This Order comes into force on 28th June 2021.

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

2. The Schedule amends the Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003(b).

Richard Tilbrook
Clerk of the Privy Council

(a) 2002 c. 29. Section 443 was amended by paragraph 137 of Schedule 8 to the Serious Crime Act 2007 (c. 27); paragraph 148 of Schedule 8 to the Crime and Courts Act 2013 (c. 22); subsection (1)(ca) was inserted by paragraph 83 of Schedule 5 to the Criminal Finances Act 2017 (c. 22).

(b) S.I. 2003/425; amended by S.I. 2008/298, 2015/925, 2016/291, 2017/1280.

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

Part 1, article 2 (interpretation)

1. Article 2 (interpretation) is amended as follows.

(1) In the definition of “an English or Welsh disclosure order” omit “, for the purposes of Part 4 of this Order (Enforcement in Scotland of English, Welsh and Northern Ireland orders and warrants);”.

(2) In the definition of “an English or Welsh production order” omit “or for the purposes of Part 4 of this Order (Enforcement in Scotland of English, Welsh and Northern Ireland orders and warrants)”.

(3) In the definition of “an English or Welsh search and seizure warrant” omit “or for the purposes of Part 4 of this Order (Enforcement in Scotland of English, Welsh and Northern Ireland orders and warrants)”.

(4) In the definition of “a Northern Ireland appropriate officer”, after paragraph (c), insert—

“(d) in relation to a detained property investigation—

- (i) an accredited financial investigator,
- (ii) a constable of the Police Service of Northern Ireland, or
- (iii) an officer of Revenue and Customs;

(e) in relation to a frozen funds investigation—

- (i) an accredited financial investigator,
- (ii) a constable of the Police Service of Northern Ireland, or
- (iii) an officer of Revenue and Customs;”.

(5) In the definition of “a Northern Ireland disclosure order” insert at the end “or a money laundering investigation”.

(6) After the definition of “a Northern Ireland further information order” insert—

““a Northern Ireland moratorium extension order” means an order made by a court in Northern Ireland under section 336A of the Act(a) (power of court to extend the moratorium period);”.

(7) In the definition of “a Northern Ireland production order” for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.

(8) In the definition of “a Northern Ireland search and seizure warrant” for “or a detained cash investigation” substitute “, a detained cash investigation, a detained property investigation or a frozen funds investigation”.

(9) In the definition of “a Scottish disclosure order” omit “, for the purposes of part 2 of this Order (Enforcement in England and Wales of Scottish and Northern Ireland orders and warrants);”.

Part 2 (enforcement in England and Wales of Scottish and Northern Ireland orders and warrants)

2. After article 12B insert—

(a) Section 336A was inserted by section 10(4) of the Criminal Finances Act 2017 (c. 22).

“Northern Ireland moratorium extension orders

12BA.—(1) This article applies where a Northern Ireland moratorium extension order is made in respect of a person in England and Wales.

(2) The moratorium extension order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to each interested person, or
- (b) personally by an English or Welsh senior officer or by a Northern Ireland appropriate officer,

and any rules of court as to the service of documents and any other requirements in law as to the service of documents do not apply.”.

Part 3 (enforcement in Northern Ireland of English, Welsh and Scottish orders and warrants)

3. After article 22B insert—

“English or Welsh moratorium extension orders

22C.—(1) This article applies where an English or Welsh moratorium extension order is made in respect of a person in Northern Ireland.

(2) The moratorium extension order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to each interested person, or
- (b) personally by a Northern Ireland appropriate officer or by an English or Welsh senior officer,

and any rules of court as to the service of documents and any other requirements in law as to the service of documents do not apply.

Scottish moratorium extension orders

22D.—(1) This article applies where a Scottish moratorium extension order is made in respect of a person in Northern Ireland.

(2) The moratorium extension order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to each interested person, or
- (b) personally by a Northern Ireland appropriate officer or by a constable of a police force in Scotland,

and any rules of court as to the service of documents and any other requirements in law as to the service of documents do not apply.”.

Part 4 (enforcement in Scotland of English, Welsh and Northern Ireland orders and warrants)

4. After article 32C insert—

“Northern Ireland moratorium extension orders

32D.—(1) This article applies where a Northern Ireland moratorium extension order is made in respect of a person in Scotland.

(2) The moratorium extension order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to each interested person, or

(b) personally by a constable of a police force in Scotland or by a Northern Ireland appropriate officer,
and any rules of court as to the service of documents and any other requirements in law as to the service of documents do not apply.”.

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) Order 2003 (S.I. 2003/425) (the “2003 Order”).

The Proceeds of Crime Act 2002 (c. 29) (the “2002 Act”) provides for orders to be made and warrants to be issued under Part 8 to support various types of investigation (see section 341). The 2003 Order makes provision for the enforcement of orders made and warrants issued in one part of the United Kingdom in another part (where this is not governed by the Civil Jurisdiction and Judgments Act 1982 (c. 27) (the “1982 Act”).

The 2002 Act was amended by the Criminal Finances Act 2017 (c. 22) (the “2017 Act”) in three relevant respects—

(1) The power to make production orders and issue search and seizure warrants in Part 8 of the 2002 Act was extended to two new types of investigation. These are ‘detained property investigations’ and ‘frozen funds investigations’. These investigations relate to new powers to forfeit, respectively, various listed types of tangible property and funds in bank accounts (2002 Act, Part 5, Chapters 3A and 3B, as inserted by the 2017 Act, sections 15 and 16).

(2) The power to make disclosure orders under Part 8 of the 2002 Act was extended to money laundering investigations (2017 Act, sections 7 and 8).

(3) A power to extend moratorium periods in relation to money laundering investigations was inserted in Part 7 of the 2002 Act (2017 Act, section 10).

These changes were commenced for England and Wales and Scotland in 2018. The necessary changes to the 2003 Order were made by the Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) (Amendment) Order 2017 (S.I. 2017/1280).

This Order makes the further amendments necessary in connection with the commencement of these provisions for Northern Ireland.

Paragraph 3 of the Schedule amends the definitions in article 2 of the 2003 Order to provide for the enforcement of orders and execution of warrants for detained property investigations and frozen funds investigations (in sub-paragraphs (3) to (5), (8) and (9)). That is, for Northern Ireland orders and warrants to be enforced or executed in England and Wales and Scotland and for English or Welsh orders and warrants to be enforced or executed in Northern Ireland. (No provision is needed for Northern Ireland in respect of Scottish orders and warrants in this context because of section 18(2)(g) of the 1982 Act.)

Paragraph 3 of the Schedule also amends article 2 definitions to make the changes necessary as a result of disclosure orders being extended to money laundering investigations (in sub-paragraphs (2), (6) and (10)).

The remaining provisions of paragraph 3, together with paragraphs 4 to 6, of the Schedule make the changes necessary to provide for moratorium extension orders made in Northern Ireland to be enforced in England and Wales and Scotland and such orders made in England and Wales or Scotland to be enforced in Northern Ireland.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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