



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 8

INVESTIGATIONS

CHAPTER 3

SCOTLAND

[^{F1}Unexplained wealth orders

[^{F1}396A Unexplained wealth orders

- (1) The Court of Session may, on an application made by the Scottish Ministers, make an unexplained wealth order in respect of any property if the court is satisfied that each of the requirements for the making of the order is fulfilled.
- (2) An application for an order must—
 - (a) specify or describe the property in respect of which the order is sought, and
 - (b) specify the person whom the Scottish Ministers think holds the property (“the respondent”) (and the person specified may include a person outside the United Kingdom).

[In a case where the respondent is not an individual, the application may also specify
^{F2}(2A) a person who is a responsible officer of the respondent (and a person specified may include a person outside the United Kingdom).]

- (3) An unexplained wealth order is an order requiring the respondent [^{F3}or any responsible officer specified in the order (a “specified responsible officer”)] to provide a statement—
 - (a) setting out the nature and extent of the respondent's interest in the property in respect of which the order is made,

Status: Point in time view as at 15/05/2022.

Changes to legislation: Proceeds of Crime Act 2002, Section 396A is up to date with all changes known to be in force on or before 19 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (b) explaining how the respondent obtained the property (including, in particular, how any costs incurred in obtaining it were met),
 - (c) where the property is held by the trustees of a settlement, setting out such details of the settlement as may be specified in the order, and
 - (d) setting out such other information in connection with the property as may be so specified.
- (4) The order must specify—
- (a) the form and manner in which the statement is to be given,
 - (b) the person to whom it is to be given, and
 - (c) the place at which it is to be given or, if it is to be given in writing, the address to which it is to be sent.
- (5) The order may, in connection with requiring the respondent [^{F4}or any specified responsible officer] to provide the statement mentioned in subsection (3), also [^{F5}require them] to produce documents of a kind specified or described in the order.
- (6) The respondent [^{F6}or any specified responsible officer] must comply with the requirements imposed by an unexplained wealth order within whatever period the court may specify (and different periods may be specified in relation to different requirements).

[For the purposes of this Chapter, each of the following is a “responsible officer” of ^{F7}(7) the respondent (in a case where the respondent is not an individual)—

- (a) any director of the respondent, including any person occupying the position of a director, by whatever name called;
- (b) any member of a body of the respondent equivalent to a board of directors;
- (c) any other manager, secretary or similar officer of the respondent;
- (d) where the respondent is a partnership, a partner or member of the partnership;
- (e) any person in accordance with whose directions or instructions the board of directors or equivalent body of the respondent are accustomed to act.]]

Textual Amendments

- F1** Ss. 396A-396I and cross-heading inserted (27.4.2017 for specified purposes, 31.1.2018 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 4, 58\(1\)\(6\)](#); S.I. 2018/78, reg. 3(a)
- F2** S. 396A(2A) inserted (15.5.2022) by [Economic Crime \(Transparency and Enforcement\) Act 2022 \(c. 10\)](#), [ss. 46\(3\)](#), 69(1); S.I. 2022/519, regs. 1(3), 2
- F3** Words in s. 396A(3) inserted (15.5.2022) by [Economic Crime \(Transparency and Enforcement\) Act 2022 \(c. 10\)](#), [ss. 46\(4\)](#), 69(1); S.I. 2022/519, regs. 1(3), 2
- F4** Words in s. 396A(5) inserted (15.5.2022) by [Economic Crime \(Transparency and Enforcement\) Act 2022 \(c. 10\)](#), [ss. 46\(5\)\(a\)](#), 69(1); S.I. 2022/519, regs. 1(3), 2
- F5** Words in s. 396A(5) substituted (15.5.2022) by [Economic Crime \(Transparency and Enforcement\) Act 2022 \(c. 10\)](#), [ss. 46\(5\)\(b\)](#), 69(1); S.I. 2022/519, regs. 1(3), 2
- F6** Words in s. 396A(6) inserted (15.5.2022) by [Economic Crime \(Transparency and Enforcement\) Act 2022 \(c. 10\)](#), [ss. 46\(6\)](#), 69(1); S.I. 2022/519, regs. 1(3), 2
- F7** S. 396A(7) inserted (15.5.2022) by [Economic Crime \(Transparency and Enforcement\) Act 2022 \(c. 10\)](#), [ss. 46\(7\)](#), 69(1); S.I. 2022/519, regs. 1(3), 2

Status:

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