



# Serious Crime Act 2007

## 2007 CHAPTER 27

### PART 3

#### OTHER MEASURES TO PREVENT OR DISRUPT SERIOUS AND OTHER CRIME

#### CHAPTER 1

#### PREVENTION OF FRAUD

#### *Sharing information with anti-fraud organisations*

#### **68 Disclosure of information to prevent fraud**

- (1) A public authority may, for the purposes of preventing fraud or a particular kind of fraud, disclose information as a member of a specified anti-fraud organisation or otherwise in accordance with any arrangements made by such an organisation.
- (2) The information—
  - (a) may be information of any kind; and
  - (b) may be disclosed to the specified anti-fraud organisation, any members of it or any other person to whom disclosure is permitted by the arrangements concerned.
- (3) Disclosure under this section does not breach—
  - (a) any obligation of confidence owed by the public authority disclosing the information; or
  - (b) any other restriction on the disclosure of information (however imposed).
- (4) But nothing in this section authorises any disclosure of information which—
  - (a) contravenes [<sup>F1</sup>the data protection legislation]; or
  - (b) is prohibited by [<sup>F2</sup>any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016].

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- (5) Nothing in this section authorises any disclosure by a relevant public authority of information whose subject-matter is a matter about which provision would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament.
- (6) In subsection (5) “relevant public authority” means a public authority which has (whether alone or in addition to other functions) functions which are exercisable within devolved competence (within the meaning given by section 54 of the Scotland Act 1998 (c. 46)).
- (7) This section does not limit the circumstances in which information may be disclosed apart from this section.
- (8) In this section—
- “an anti-fraud organisation” means any unincorporated association, body corporate or other person which enables or facilitates any sharing of information to prevent fraud or a particular kind of fraud or which has any of these functions as its purpose or one of its purposes;
- [<sup>F3</sup>“ the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).]
- “information” includes documents;
- “public authority” means any public authority within the meaning of section 6 of the Human Rights Act 1998 (c. 42) (acts of public authorities); and
- “specified” means specified by an order made by the Secretary of State.

#### Textual Amendments

- F1** Words in s. 68(4)(a) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 145\(2\)](#) (with [ss. 117, 209, 210](#)); [S.I. 2018/625](#), reg. 2(1)(g)
- F2** Words in s. 68(4)(b) substituted (27.6.2018) by [Investigatory Powers Act 2016 \(c. 25\)](#), s. 272(1), [Sch. 10 para. 19\(2\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2018/652](#), reg. 12(g)(iii)
- F3** Words in s. 68(8) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\)](#), s. 212(1), [Sch. 19 para. 145\(3\)](#) (with [ss. 117, 209, 210](#)); [S.I. 2018/625](#), reg. 2(1)(g)

#### Commencement Information

- I1** S. 68(1)-(7) in force at 1.10.2008 by [S.I. 2008/2504](#), [art. 2\(b\)](#)
- I2** S. 68(8) in force at 1.3.2008 by [S.I. 2008/219](#), [art. 3\(e\)](#)

## 69 Offence for certain further disclosures of information

- (1) A person (“B”) commits an offence, subject as follows, if—
- (a) B discloses protected information which has been disclosed by a public authority—
- (i) as a result of the public authority being a member of a specified anti-fraud organisation; or
- (ii) otherwise in accordance with any arrangements made by such an organisation;
- (b) the information—
- (i) has been so disclosed by the public authority to B; or

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- (ii) has come into B's possession as a result (whether directly or indirectly) of such a disclosure by the public authority to another person; and
  - (c) B knows or suspects, or has reasonable grounds for suspecting, that the information is information of the kind mentioned in paragraphs (a) and (b).
- (2) Subsection (1) does not apply to a disclosure made by B—
  - (a) where B is acting (whether as an employee or otherwise) on behalf of the person to whom the information was disclosed by the public authority concerned and the disclosure by B is to another person acting (whether as an employee or otherwise) on behalf of that person;
  - (b) for the purposes of the detection, investigation or prosecution of an offence in the United Kingdom;
  - (c) with the consent of the public authority concerned; or
  - (d) in pursuance of an [F<sup>4</sup>EU] obligation or a duty imposed by an enactment;but it does apply to a disclosure made by B which does not fall within paragraphs (a) to (d) above but which (but for the offence) would have been permitted by a power conferred by an enactment.
- (3) Subsection (1) does not apply to a disclosure made by B of information—
  - (a) which has been disclosed by a relevant public authority; and
  - (b) whose subject-matter is a matter about which provision would be within the legislative competence of the Scottish Parliament if it were included in an Act of that Parliament;and subsection (6) of section 68 applies for the purposes of this subsection as it applies for the purposes of subsection (5) of that section.
- (4) It is a defence for a person charged with an offence under this section to prove that the person reasonably believed—
  - (a) that the disclosure was lawful; or
  - (b) that the information had already and lawfully been made available to the public.
- (5) In this section “protected information” means—
  - (a) any revenue and customs information disclosed by Revenue and Customs and revealing the identity of the person to whom it relates; or
  - (b) any specified information disclosed by a specified public authority.
- (6) For the purposes of this section—
  - (a) “revenue and customs information” means information about, acquired as a result of or held in connection with the exercise of a function of the Commissioners of Revenue and Customs or an officer of Revenue and Customs in respect of a person;
  - (b) revenue and customs information reveals a person's identity if—
    - (i) it specifies his identity; or
    - (ii) his identity can be deduced from it; and
  - (c) revenue and customs information relates to a person if he is the person in respect of whom the function mentioned in paragraph (a) is exercised.
- (7) In this section—

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“Commissioners of Revenue and Customs” means Commissioners for Her Majesty's Revenue and Customs;

“enactment” has the same meaning as in section 14;

“public authority” has the same meaning as in section 68;

“Revenue and Customs” means—

- (a) the Commissioners of Revenue and Customs;
- (b) an officer of Revenue and Customs; or
- (c) a person acting on behalf of the Commissioners or an officer of Revenue and Customs;

“specified anti-fraud organisation” means any person which is a specified anti-fraud organisation for the purposes of section 68;

“specified information” means information specified or described in an order made by the Secretary of State; and

“specified public authority” means a public authority specified or described in an order made by the Secretary of State.

#### Textual Amendments

- F4** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 4 (with art. 3(2)(3)4(2)6(4)6(5))

#### Commencement Information

- I3** S. 69 in force at 1.10.2008 by [S.I. 2008/2504](#), art. 2(c)

## 70 Penalty and prosecution for offence under section 69

- (1) A person who commits an offence under section 69 is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.
- (2) A prosecution for an offence under section 69 may be begun in England and Wales <sup>F5</sup>only by or with the consent of the Director of Public Prosecutions]
- (3) A prosecution for an offence under section 69 may be begun in Northern Ireland only—
  - (a) in the case of revenue and customs information disclosed by Revenue and Customs—
    - (i) by the Commissioners of Revenue and Customs; or
    - (ii) with the consent of the Director of Public Prosecutions for Northern Ireland; and
  - (b) in any other case, with the consent of the Director of Public Prosecutions for Northern Ireland.
- (4) If an offence under section 69 committed by a body corporate or a partnership is proved to have been committed with the consent or connivance of—
  - (a) an officer of the body corporate or (as the case may be) a partner or a senior officer of the partnership; or
  - (b) a person who was purporting to act in any such capacity;

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he (as well as the body corporate or partnership) is guilty of the offence and liable to be proceeded against and punished accordingly.

(5) In the application of subsection (1)(a) in Northern Ireland, the reference to 12 months is to be read as a reference to 6 months.

(6) In this section—

“body corporate” includes a limited liability partnership;

“Commissioners of Revenue and Customs”, “Revenue and Customs” and “revenue and customs information” have the same meaning as in section 69;

“director”, in relation to a body corporate whose affairs are managed by its members, means a member of the body corporate;

“officer of a body corporate” means any director, manager, secretary or other similar officer of the body corporate; and

“senior officer of a partnership” means any person who has the control or management of the business carried on by the partnership at the principal place where it is carried on.

#### Textual Amendments

- F5** Words in s. 70(2) substituted (27.3.2014) by [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), [Sch. 2 para. 50](#)

#### Commencement Information

- I4** S. 70 in force at 1.10.2008 by [S.I. 2008/2504](#), [art. 2\(c\)](#)

## 71 Code of practice for disclosure of information to prevent fraud

- (1) The Secretary of State must prepare, and keep under review, a code of practice with respect to the disclosure, for the purposes of preventing fraud or a particular kind of fraud, of information by public authorities as members of specified anti-fraud organisations or otherwise in accordance with any arrangements made by such organisations.
- (2) Before preparing or altering the code, the Secretary of State must consult—
- any specified anti-fraud organisation;
  - the Information Commissioner; and
  - such other persons as the Secretary of State considers appropriate.
- (3) A public authority must have regard to the code in (or in connection with) disclosing information, for the purposes of preventing fraud or a particular kind of fraud, as a member of a specified anti-fraud organisation or otherwise in accordance with any arrangements made by such an organisation.
- (4) Nothing in this section applies in relation to any disclosure by a relevant public authority of information whose subject-matter is a matter about which provision would be within the legislative competence of the Scottish Parliament if it were included in an Act of the Scottish Parliament.
- (5) The Secretary of State must—
- lay a copy of the code, and of any alterations to it, before Parliament; and

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(b) from time to time publish the code as for the time being in force.

(6) In this section—

“information” and “public authority” have the same meaning as in section 68;

“relevant public authority” has the meaning given by section 68(6); and

“specified anti-fraud organisation” means any person which is a specified anti-fraud organisation for the purposes of section 68.

**Commencement Information**

**I5** S. 71(1)(2)(4)(5) in force at 1.3.2008 by S.I. 2008/219, art. 3(f)

**I6** S. 71(3)(6) in force at 1.10.2008 by S.I. 2008/2504, art. 2(d)

**72 Data protection rules**

In Schedule 3 to the Data Protection Act 1998 (c. 29) (conditions for processing sensitive personal data), after paragraph 7, insert—

“7A (1) The processing—

(a) is either—

(i) the disclosure of sensitive personal data by a person as a member of an anti-fraud organisation or otherwise in accordance with any arrangements made by such an organisation; or

(ii) any other processing by that person or another person of sensitive personal data so disclosed; and

(b) is necessary for the purposes of preventing fraud or a particular kind of fraud.

(2) In this paragraph “an anti-fraud organisation” means any unincorporated association, body corporate or other person which enables or facilitates any sharing of information to prevent fraud or a particular kind of fraud or which has any of these functions as its purpose or one of its purposes.”

**Commencement Information**

**I7** S. 72 in force at 1.10.2008 by S.I. 2008/2504, art. 2(e)

*Data matching*

**73 Data matching**

Schedule 7 (which makes provision about data matching) has effect.

**Commencement Information**

**I8** S. 73 in force at 1.3.2008 for specified purposes by S.I. 2008/219, art. 3(g)

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**19** S. 73 in force at 6.4.2008 by S.I. 2008/755, **art. 16(a)**

## CHAPTER 2

### PROCEEDS OF CRIME

#### *Assets Recovery Agency*

#### **74 Abolition of Assets Recovery Agency and redistribution of functions etc.**

- (1) The Assets Recovery Agency and the corporation sole that is its Director shall cease to exist on such day as the Secretary of State may by order appoint.
- (2) The following Parts of Schedule 8 (abolition of Assets Recovery Agency and its Director) have effect—
  - (a) Part 1 (abolition of confiscation functions);
  - (b) Part 2 (transfer to SOCA and prosecution authorities of civil recovery functions);
  - (c) Part 3 (transfer to SOCA of Revenue functions and power to abolish those functions);
  - (d) Part 4 (transfer of investigation functions);
  - (e) Part 5 (transfer of accreditation and training functions to National Policing Improvement Agency);
  - (f) Part 6 (other amendments to the Proceeds of Crime Act 2002 (c. 29)); and
  - (g) Part 7 (amendments to other enactments).
- (3) Schedule 9 (which makes provision about the transfer of the Director and staff of the Agency, and property, rights and liabilities of the Director and the Agency, to SOCA and the National Policing Improvement Agency) has effect.
- (4) In this section and Schedules 8 and 9 “SOCA” means the Serious Organised Crime Agency.

#### **Commencement Information**

- I10** S. 74(1) in force at 1.3.2008 for specified purposes by S.I. 2008/219, **art. 3(k)**
- I11** S. 74(2)(a)-(c)(e)(f) in force at 1.4.2008 by S.I. 2008/755, **art. 2(1)(a)** (with arts. 3-14)
- I12** S. 74(2)(d)(g) in force at 1.3.2008 for specified purposes by S.I. 2008/219, **art. 3(l)**
- I13** S. 74(2)(d)(g) in force at 1.4.2008 in so far as not already in force by S.I. 2008/755, **art. 2(1)(a)** (with arts. 3-14)
- I14** S. 74(3) in force at 1.3.2008 by S.I. 2008/219, **art. 3(o)**
- I15** S. 74(4) in force at 1.4.2008 by S.I. 2008/755, **art. 2(1)(b)** (with arts. 3-14)

#### *Detained cash investigations: use of production orders and warrants*

#### **75 Use of production orders for detained cash investigations**

- (1) After section 341(3) of the Proceeds of Crime Act 2002 (types of investigation to which Part 8 applies) insert—

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- “(3A) For the purposes of this Part a detained cash investigation is—
- (a) an investigation for the purposes of Chapter 3 of Part 5 into the derivation of cash detained under section 295 or a part of such cash, or
  - (b) an investigation for the purposes of Chapter 3 of Part 5 into whether cash detained under section 295, or a part of such cash, is intended by any person to be used in unlawful conduct.”
- (2) In section 345(2) of that Act (investigations in respect of which production orders may be made), in paragraph (b), after “a civil recovery investigation” insert “ or a detained cash investigation ”.
- (3) In section 346(2) of that Act (reasonable suspicion requirement for making a production order), after paragraph (b), insert—
- “(ba) in the case of a detained cash investigation into the derivation of cash, the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
  - (bb) in the case of a detained cash investigation into the intended use of cash, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;”.
- (4) In section 380(3) of that Act (investigations in respect of which production orders may be made in Scotland), in paragraph (b), after “a civil recovery investigation” insert “ or a detained cash investigation ”.
- (5) In section 381(2) of that Act (reasonable suspicion requirement for making a production order in Scotland), after paragraph (b), insert—
- “(ba) in the case of a detained cash investigation into the derivation of cash, the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
  - (bb) in the case of a detained cash investigation into the intended use of cash, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;”.

#### **Commencement Information**

**I16** S. 75(1)-(3) in force at 6.4.2008 by S.I. 2008/755, art. 17(1)(a)

**I17** S. 75(4)(5) in force at 18.6.2009 by S.S.I. 2009/224, art. 2(1)(a)

## **76 Use of search warrants etc. for detained cash investigations**

- (1) In section 352(2) of the Proceeds of Crime Act 2002 (c. 29) (investigations in respect of which a search and seizure warrant may be issued), in paragraph (b), after “a civil recovery investigation” insert “ or a detained cash investigation ”.
- (2) In section 353(2) of that Act (reasonable suspicion grounds for warrant where no production order), after paragraph (b), insert—
- “(ba) in the case of a detained cash investigation into the derivation of cash, the property specified in the application for the warrant, or a part of it, is recoverable property;



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- (bb) in the case of a detained cash investigation into the intended use of cash, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;”.
- (3) After section 353(7) of that Act (types of material in respect of which warrant may be issued where no production order) insert—
- “(7A) In the case of a detained cash investigation into the derivation of cash, material falls within this subsection if it cannot be identified at the time of the application but it—
- (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.
- (7B) In the case of a detained cash investigation into the intended use of cash, material falls within this subsection if it cannot be identified at the time of the application but it—
- (a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.”
- (4) In section 387(3) of that Act (investigations in respect of which a search warrant may be issued in Scotland), in paragraph (b), after “a civil recovery investigation” insert “ or a detained cash investigation ”.
- (5) In section 388(2) of that Act (reasonable suspicion grounds for issue of warrant in Scotland where no production order), after paragraph (b), insert—
- “(ba) in the case of a detained cash investigation into the derivation of cash, the property specified in the application for the warrant, or a part of it, is recoverable property;
- (bb) in the case of a detained cash investigation into the intended use of cash, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;”.
- (6) After section 388(7) of that Act (types of material in respect of which warrant may be issued in Scotland where no production order) insert—
- “(7A) In the case of a detained cash investigation into the derivation of cash, material falls within this subsection if it cannot be identified at the time of the application but it—
- (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.
- (7B) In the case of a detained cash investigation into the intended use of cash, material falls within this subsection if it cannot be identified at the time of the application but it—

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- (a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and
- (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.”

**Commencement Information**

**I18** S. 76(1)-(3) in force at 6.4.2008 by S.I. 2008/755, **art. 17(1)(b)**

**I19** S. 76(4)-(6) in force at 18.6.2009 by S.S.I. 2009/224, **art. 2(1)(b)**

**77 Further provision about detained cash investigations**

Schedule 10 (which makes further provision about detained cash investigations) has effect.

**Commencement Information**

**I20** S. 77 in force at 1.4.2008 for specified purposes by S.I. 2008/755, **art. 2(2)** (with arts. 3-14)

**I21** S. 77 in force at 6.4.2008 for specified purposes by S.I. 2008/755, **art. 17(1)(c)**

**I22** S. 77 in force at 18.6.2009 in so far as not already in force by S.S.I. 2009/224, **art. 2(1)(c)**

*Extension of powers of accredited financial investigators*

**F678 Powers to seize property to which restraint orders apply**

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**Textual Amendments**

**F6** S. 78 repealed (1.6.2015 for specified purposes, 1.3.2016 in so far as not already in force) by *Policing and Crime Act 2009 (c. 26)*, s. 116(1), **Sch. 8 Pt. 4**; S.I. 2015/983, art. 2(2)(f); S.I. 2016/147, art. 3(k)

**79 Powers to recover cash**

Schedule 11 (which gives accredited financial investigators powers to recover cash under Chapter 3 of Part 5 of the Proceeds of Crime Act 2002 (c. 29) and makes related amendments) has effect.

**Commencement Information**

**I23** S. 79 in force at 6.4.2008 by S.I. 2008/755, **art. 17(1)(f)**

**80 Powers in relation to certain investigations**

- (1) In section 352(5) of the Proceeds of Crime Act 2002 (search and seizure warrants in connection with confiscation, money laundering and detained cash investigations etc.)—

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- <sup>F7</sup>(a) .....
- (b) in paragraph (c) (as inserted by Schedule 10 to this Act), after “constable” insert “, an accredited financial investigator”.

(2) After section 352(6) of that Act insert—

“(7) The reference in paragraph (a) or (c) of subsection (5) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that paragraph by the Secretary of State under section 453.”

(3) In section 353(10) of that Act (requirements in relation to search and seizure warrants)

- <sup>F8</sup>(a) .....
- (b) in paragraph (c) (as inserted by Schedule 10 to this Act), after “constable” insert “, an accredited financial investigator”.

(4) After section 353(10) of that Act insert—

“(11) The reference in paragraph (a) or (c) of subsection (10) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that paragraph by the Secretary of State under section 453.”

<sup>F9</sup>(5) .....

<sup>F9</sup>(6) .....

(7) In section 378(3A) of that Act (as inserted by Schedule 10 to this Act) (meaning of “officers” for purposes of Part 8 in relation to detained cash investigations) after paragraph (a) insert—

“(ab) an accredited financial investigator;”.

(8) After section 378(3A) of that Act (as inserted by Schedule 10 to this Act) insert—

“(3B) The reference in paragraph (ab) of subsection (3A) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that paragraph by the Secretary of State under section 453.”

#### Textual Amendments

- F7** S. 80(1)(a) omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 23](#)
- F8** S. 80(3)(a) omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 23](#)
- F9** S. 80(5)(6) repealed (1.6.2015 for E.W.S., 1.3.2016 in so far as not already in force) by [Policing and Crime Act 2009 \(c. 26\)](#), s. 116(1), [Sch. 8 Pt. 5](#); S.I. 2015/983, art. 2(2)(g); S.I. 2016/147, art. 3(1) (with art. 5)

#### Commencement Information

- I24** S. 80 in force at 6.4.2008 by [S.I. 2008/755](#), [art. 17\(1\)\(g\)](#)

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## 81 Supplementary provision in relation to new powers

- (1) In section 453(2) of the Proceeds of Crime Act 2002 (c. 29) (power to modify references to accredited financial investigators)—
- (a) after “may” insert “, in particular, ”; and
  - (b) after “person” insert “ or by reference to particular types of training undertaken ”.
- (2) After section 453 of that Act insert—

### “453A Certain offences in relation to financial investigators

- (1) A person commits an offence if he assaults an accredited financial investigator who is acting in the exercise of a relevant power.
- (2) A person commits an offence if he resists or wilfully obstructs an accredited financial investigator who is acting in the exercise of a relevant power.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction—
  - (a) to imprisonment for a term not exceeding 51 weeks; or
  - (b) to a fine not exceeding level 5 on the standard scale;
 or to both.
- (4) A person guilty of an offence under subsection (2) is liable on summary conviction—
  - (a) to imprisonment for a term not exceeding 51 weeks; or
  - (b) to a fine not exceeding level 3 on the standard scale;
 or to both.
- (5) In this section “relevant power” means a power exercisable under—
  - (a) section 45 or 194 (powers to seize property to which restraint orders apply);
  - (b) section 289 (powers to search for cash);
  - (c) section 294 (powers to seize cash);
  - (d) section 295(1) (power to detain seized cash); or
  - (e) a search and seizure warrant issued under section 352.
- (6) In the application of this section to England and Wales in relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (alteration of penalties for summary offences), and in the application of this section to Northern Ireland—
  - (a) the reference to 51 weeks in subsection (3)(a) is to be read as a reference to 6 months; and
  - (b) the reference to 51 weeks in subsection (4)(a) is to be read as a reference to 1 month.”

#### Commencement Information

**I25** S. 81 in force at 6.4.2008 by S.I. 2008/755, art. 17(1)(g)

*Status: Point in time view as at 27/06/2018.*

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### Miscellaneous

## 82 Powers of management receivers and enforcement receivers

- (1) After section 49(8) of the Proceeds of Crime Act 2002 (c. 29) (opportunity for persons to make representations before powers conferred on management receivers to manage or otherwise deal with property: England and Wales) insert—

“(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—

- (a) is perishable; or
- (b) ought to be disposed of before its value diminishes.”

- (2) After section 51(8) of that Act (opportunity for persons to make representations before powers conferred on enforcement receivers to manage or otherwise deal with property: England and Wales) insert—

“(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—

- (a) is perishable; or
- (b) ought to be disposed of before its value diminishes.”

- (3) After section 197(8) of that Act (opportunity for persons to make representations before powers conferred on management receivers to manage or otherwise deal with property: Northern Ireland) insert—

“(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—

- (a) is perishable; or
- (b) ought to be disposed of before its value diminishes.”

- (4) After section 199(8) of that Act (opportunity for persons to make representations before powers conferred on enforcement receivers to manage or otherwise deal with property: Northern Ireland) insert—

“(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—

- (a) is perishable; or
- (b) ought to be disposed of before its value diminishes.”

#### Commencement Information

**I26** S. 82 in force at 6.4.2008 by S.I. 2008/755, art. 17(1)(h) (with art. 17(3))

## 83 Civil recovery management receivers

- (1) After section 245D of the Proceeds of Crime Act 2002 (property freezing orders) insert—

### “245E Receivers in connection with property freezing orders

- (1) Subsection (2) applies if—

*Status: Point in time view as at 27/06/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2007, Part 3. (See end of Document for details)*

- (a) the High Court makes a property freezing order on an application by an enforcement authority, and
  - (b) the authority applies to the court to proceed under subsection (2) (whether as part of the application for the property freezing order or at any time afterwards).
- (2) The High Court may by order appoint a receiver in respect of any property to which the property freezing order applies.
- (3) An application for an order under this section may be made without notice if the circumstances are such that notice of the application would prejudice any right of the enforcement authority to obtain a recovery order in respect of any property.
- (4) In its application for an order under this section, the enforcement authority must nominate a suitably qualified person for appointment as a receiver.
- (5) Such a person may be a member of staff of the enforcement authority.
- (6) The enforcement authority may apply a sum received by it under section 280(2) in making payment of the remuneration and expenses of a receiver appointed under this section.
- (7) Subsection (6) does not apply in relation to the remuneration of the receiver if he is a member of the staff of the enforcement authority (but it does apply in relation to such remuneration if the receiver is a person providing services under arrangements made by the enforcement authority).

#### **245F Powers of receivers appointed under section 245E**

- (1) If the High Court appoints a receiver under section 245E on an application by an enforcement authority, the court may act under this section on the application of the authority.
- (2) The court may by order authorise or require the receiver—
- (a) to exercise any of the powers mentioned in paragraph 5 of Schedule 6 (management powers) in relation to any property in respect of which the receiver is appointed,
  - (b) to take any other steps the court thinks appropriate in connection with the management of any such property (including securing the detention, custody or preservation of the property in order to manage it).
- (3) The court may by order require any person in respect of whose property the receiver is appointed—
- (a) to bring the property to a place (in England and Wales or, as the case may be, Northern Ireland) specified by the receiver or to place it in the custody of the receiver (if, in either case, he is able to do so),
  - (b) to do anything he is reasonably required to do by the receiver for the preservation of the property.
- (4) The court may by order require any person in respect of whose property the receiver is appointed to bring any documents relating to the property which are in his possession or control to a place (in England and Wales or, as the

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case may be, Northern Ireland) specified by the receiver or to place them in the custody of the receiver.

- (5) In subsection (4) “document” means anything in which information of any description is recorded.
- (6) Any prohibition on dealing with property imposed by a property freezing order does not prevent a person from complying with any requirements imposed by virtue of this section.
- (7) If—
  - (a) the receiver deals with any property which is not property in respect of which he is appointed under section 245E, and
  - (b) at the time he deals with the property he believes on reasonable grounds that he is entitled to do so by virtue of his appointment,the receiver is not liable to any person in respect of any loss or damage resulting from his dealing with the property except so far as the loss or damage is caused by his negligence.

#### **245G Supervision of section 245E receiver and variations**

- (1) Any of the following persons may at any time apply to the High Court for directions as to the exercise of the functions of a receiver appointed under section 245E—
  - (a) the receiver,
  - (b) any party to the proceedings for the appointment of the receiver or the property freezing order concerned,
  - (c) any person affected by any action taken by the receiver,
  - (d) any person who may be affected by any action proposed to be taken by the receiver.
- (2) Before giving any directions under subsection (1), the court must give an opportunity to be heard to—
  - (a) the receiver,
  - (b) the parties to the proceedings for the appointment of the receiver and for the property freezing order concerned,
  - (c) any person who may be interested in the application under subsection (1).
- (3) The court may at any time vary or set aside the appointment of a receiver under section 245E, any order under section 245F or any directions under this section.
- (4) Before exercising any power under subsection (3), the court must give an opportunity to be heard to—
  - (a) the receiver,
  - (b) the parties to the proceedings for the appointment of the receiver, for the order under section 245F or, as the case may be, for the directions under this section;
  - (c) the parties to the proceedings for the property freezing order concerned,
  - (d) any person who may be affected by the court's decision.”

*Status: Point in time view as at 27/06/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2007, Part 3. (See end of Document for details)*

- (2) In sections 273(4)(b) and 277(7)(b) of that Act (recovery orders and consent orders: recovery of costs of pension scheme trustees or managers) after “enforcement authority,” insert “ receiver appointed under section 245E, ”.
- (3) In paragraph 1 of Schedule 10 to that Act (disapplication of special income tax and capital gains tax rules for receivers), after paragraph (c), insert—  
“(ca) a receiver appointed under section 245E;”.

**Commencement Information**

**I27** S. 83 in force at 6.4.2008 by S.I. 2008/755, art. 17(1)(h)

**84 Powers for prosecutors to appear in cash recovery proceedings**

- (1) After section 302 of the Proceeds of Crime Act 2002 (c. 29) (recovery of cash in summary proceedings: compensation) insert—

**“302A Powers for prosecutors to appear in proceedings**

- (1) The Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland may appear for a constable in proceedings under this Chapter if the Director—
  - (a) is asked by, or on behalf of, a constable to do so, and
  - (b) considers it appropriate to do so.
- (2) The Director of Revenue and Customs Prosecutions may appear for the Commissioners for Her Majesty's Revenue and Customs or an officer of Revenue and Customs in proceedings under this Chapter if the Director—
  - (a) is asked by, or on behalf of, the Commissioners for Her Majesty's Revenue and Customs or (as the case may be) an officer of Revenue and Customs to do so, and
  - (b) considers it appropriate to do so.
- (3) The Directors may charge fees for the provision of services under this section.”

- (2) After section 2C(3) of that Act (prosecuting authorities) (as inserted by Schedule 8 to this Act) insert—

“(3A) Subsection (3) does not apply to the functions of the Director of Public Prosecutions for Northern Ireland and the Director of Revenue and Customs Prosecutions under section 302A.”

<sup>F10</sup>(3) .....

<sup>F10</sup>(4) .....

**Textual Amendments**

**F10** S. 84(3)(4) omitted (27.3.2014) by virtue of [The Public Bodies \(Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions\) Order 2014 \(S.I. 2014/834\)](#), art. 1(1), [Sch. 2 para. 51](#)



*Status: Point in time view as at 27/06/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2007, Part 3. (See end of Document for details)*

### **Commencement Information**

**I28** S. 84 in force at 6.4.2008 by [S.I. 2008/755](#), [art. 17\(1\)\(h\)](#)

## **85 Disclosure of information by Revenue and Customs**

- (1) This section applies to information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (confidentiality).
- (2) Information to which this section applies may be disclosed by or with the authority of the Commissioners of Revenue and Customs—
  - (a) to the Criminal Assets Bureau in Ireland (“the CAB”) for the purpose of enabling or assisting the CAB to exercise any of its functions in connection with any matter within subsection (3); or
  - (b) to any specified public authority (in the United Kingdom or elsewhere)—
    - (i) for the purpose of enabling or assisting the public authority to exercise any of its functions in connection with any matter within subsection (3); or
    - (ii) (if the specifying order so provides) for the purpose of enabling or assisting the public authority to exercise any of its functions in connection with any matter within that subsection that is specified, or of a description specified, in the order.
- (3) The matters within this subsection are—
  - (a) the identification of proceeds of crime;
  - (b) the bringing of civil proceedings for enforcement purposes in relation to proceeds of crime; and
  - (c) the taking of other action in relation to proceeds of crime.
- (4) Information disclosed in accordance with subsection (2) must not be further disclosed except—
  - (a) in connection with the exercise of any of the functions of the CAB or a specified public authority in connection with any matter within subsection (3) (or, in a subsection (2)(b)(ii) case, any such matter as is mentioned there); and
  - (b) with the consent of the Commissioners of Revenue and Customs or an authorised officer of the Commissioners of Revenue and Customs.
- (5) For the purposes of this section any consent or authorisation may be general or specific.
- (6) If a person in the United Kingdom discloses, in contravention of subsection (4), any revenue and customs information relating to a person whose identity—
  - (a) is specified in the disclosure; or
  - (b) can be deduced from it;section 19 of the 2005 Act (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act.
- (7) Any reference in this section to a disclosure to the CAB or a specified public authority is a reference to a disclosure to such person, or to persons of such description, as may be specified in relation to the CAB or the public authority (as the case may be).
- (8) Nothing in this section authorises any disclosure of information which—

*Status: Point in time view as at 27/06/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2007, Part 3. (See end of Document for details)*

- (a) contravenes [<sup>F11</sup>the data protection legislation]; or
- (b) is prohibited by [<sup>F12</sup>any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016].

(9) In this section—

“the 2005 Act” means the Commissioners for Revenue and Customs Act 2005 (c. 11);

“assets” means property of any description, wherever situated;

“civil proceedings” means civil proceedings of whatever nature and whether brought in the United Kingdom or elsewhere;

“Commissioners of Revenue and Customs” means the Commissioners for Her Majesty's Revenue and Customs;

[<sup>F13</sup>“the data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3 of that Act).]

“enforcement purposes”, in relation to the proceeds of crime, means with a view to—

- (a) recovering, forfeiting or freezing assets constituting proceeds of crime; or
- (b) otherwise depriving persons (to any extent) of, or of access to, such assets or the benefit of such assets;

“functions” includes powers, duties and objectives, and references to the exercise of functions include the pursuit of objectives;

“proceeds of crime” means assets derived, or suspected to be derived, directly or indirectly from criminal conduct (wherever occurring);

“public authority” means any body or person discharging functions of a public nature;

“revenue and customs information relating to a person” has the meaning given by section 19(2) of the 2005 Act;

“specified” means specified in an order made by the Treasury; and

“the specifying order”, in relation to a specified public authority, means the order specifying the authority for the purposes of this section.

#### Textual Amendments

- F11** Words in s. 85(8)(a) substituted (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 146\(2\)](#) (with [ss. 117, 209, 210](#)); [S.I. 2018/625, reg. 2\(1\)\(g\)](#)
- F12** Words in s. 85(8)(b) substituted (27.6.2018) by [Investigatory Powers Act 2016 \(c. 25\), s. 272\(1\), Sch. 10 para. 19\(3\)](#) (with [Sch. 9 paras. 7, 8, 10](#)); [S.I. 2018/652, reg. 12\(g\)\(iii\)](#)
- F13** Words in s. 85(9) inserted (25.5.2018) by [Data Protection Act 2018 \(c. 12\), s. 212\(1\), Sch. 19 para. 146\(3\)](#) (with [ss. 117, 209, 210](#)); [S.I. 2018/625, reg. 2\(1\)\(g\)](#)

#### Commencement Information

- I29** S. 85 in force at 15.2.2008 by [S.I. 2008/219, art. 2\(a\)](#)

## 86 Use of force in executing search warrants: Scotland

In section 387 of the Proceeds of Crime Act 2002 (c. 29) (issue of search warrants in Scotland in connection with certain investigations), after subsection (4), insert—

*Status: Point in time view as at 27/06/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2007, Part 3. (See end of Document for details)*

“(4A) A proper person may, if necessary, use reasonable force in executing a search warrant.”

**Commencement Information**

**I30** S. 86 in force at 28.4.2008 by S.S.I. 2008/152, art. 2

**CHAPTER 3**

OTHER MEASURES

**87 Incidents involving serious violence: powers to stop and search**

- (1) In section 60(1) of the Criminal Justice and Public Order Act 1994 (c. 33) (powers to authorise stop and search if reasonable belief that there may be incidents involving serious violence etc.), before the word “or” at the end of paragraph (a), insert—
  - “(aa) that—
    - (i) an incident involving serious violence has taken place in England and Wales in his police area;
    - (ii) a dangerous instrument or offensive weapon used in the incident is being carried in any locality in his police area by a person; and
    - (iii) it is expedient to give an authorisation under this section to find the instrument or weapon;”.
- (2) In section 60(9) of that Act (authorisation must be in writing), at the beginning, insert “ Subject to subsection (9ZA), ”.
- (3) After section 60(9) of that Act insert—

“(9ZA) An authorisation under subsection (1)(aa) need not be given in writing where it is not practicable to do so but any oral authorisation must state the matters which would otherwise have to be specified under subsection (9) and must be recorded in writing as soon as it is practicable to do so.”
- (4) In section 60(9A) of that Act (application to British Transport Police)—
  - (a) after “place” insert “ in England and Wales ”; and
  - (b) after “2003” insert “ and as if the reference in subsection (1)(aa)(i) above to his police area were a reference to any place falling within section 31(1)(a) to (f) of the Act of 2003 ”.
- (5) In section 60(11) of that Act (definitions), in the definition of “offensive weapon”, after “1995” insert “ ; but in subsections (1)(aa), (4), (5) and (6) above and subsection (11A) below includes, in the case of an incident of the kind mentioned in subsection (1)(aa) (i) above, any article used in the incident to cause or threaten injury to any person or otherwise to intimidate ”.
- (6) In the heading to section 60 of that Act after “of” insert “ , or after, ”.

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*Status: Point in time view as at 27/06/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2007, Part 3. (See end of Document for details)*

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**Commencement Information**

**I31** [S. 87](#) in force at 6.4.2008 by [S.I. 2008/755](#), **art. 18**

**88 Extension of investigatory powers of Revenue and Customs**

Schedule 12 (which makes provision about the regulation of investigatory powers of Her Majesty's Revenue and Customs) has effect.

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**Commencement Information**

**I32** [S. 88](#) in force at 15.2.2008 by [S.I. 2008/219](#), **art. 2(b)**

**Status:**

Point in time view as at 27/06/2018.

**Changes to legislation:**

There are currently no known outstanding effects for the Serious Crime Act 2007, Part 3.