



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 10

#### INFORMATION

*England and Wales and Northern Ireland*

#### **435 Use of information by Director**

Information obtained by or on behalf of the Director in connection with the exercise of any of his functions may be used by him in connection with his exercise of any of his other functions.

#### **Commencement Information**

- 11** S. 435 in force at 24.2.2003 for specified purposes by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- 12** S. 435 in force at 24.3.2003 in so far as not already in force by S.I. 2003/333, art. 2, Sch.

#### **436 Disclosure of information to Director**

- (1) Information which is held by or on behalf of a permitted person (whether it was obtained before or after the coming into force of this section) may be disclosed to the Director for the purpose of the exercise by the Director of his functions.
- (2) A disclosure under this section is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (3) But nothing in this section authorises the making of a disclosure—
  - (a) which contravenes the Data Protection Act 1998 (c. 29);
  - (b) which is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23).

*Status: Point in time view as at 01/01/2007.*

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- (4) This section does not affect a power to disclose which exists apart from this section.
- (5) These are permitted persons—
- (a) a constable;
  - [<sup>F1</sup>(b) the Director General of the Serious Organised Crime Agency;]
  - (d) the Director of the Serious Fraud Office;
  - (e) the Commissioners of Inland Revenue;
  - (f) the Commissioners of Customs and Excise;
  - (g) the Director of Public Prosecutions;
  - [<sup>F2</sup>(ga) the Director of Revenue and Customs Prosecutions;]
  - (h) the Director of Public Prosecutions for Northern Ireland.
- (6) The Secretary of State may by order designate as permitted persons other persons who exercise functions which he believes are of a public nature.
- (7) But an order under subsection (6) must specify the functions in respect of which the designation is made.
- (8) Information must not be disclosed under this section on behalf of the Commissioners of Inland Revenue or on behalf of the Commissioners of Customs and Excise unless the Commissioners concerned authorise the disclosure.
- (9) The power to authorise a disclosure under subsection (8) may be delegated (either generally or for a specified purpose)—
- (a) in the case of the Commissioners of Inland Revenue, to an officer of the Board of Inland Revenue;
  - (b) in the case of the Commissioners of Customs and Excise, to a customs officer.

#### Textual Amendments

- F1** S. 436(5)(b) substituted for s. 436(5)(b)(c) (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 4 para. 176](#); S.I. 2006/378, art. 4(1), [Sch. para. 10](#)
- F2** S. 436(5)(ga) inserted (18.4.2005) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 53(1), [Sch. 4 para. 98](#); S.I. 2005/1126, art. 2(2)(h)

#### Commencement Information

- I3** S. 436 in force at 24.2.2003 for specified purposes by [S.I. 2003/120](#), art. 2, [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)
- I4** S. 436 in force at 24.3.2003 in so far as not already in force by [S.I. 2003/333](#), art. 2, [Sch.](#)

### 437 Further disclosure

- (1) Subsection (2) applies to information obtained under section 436 from the Commissioners of Inland Revenue or from the Commissioners of Customs and Excise or from a person acting on behalf of either of them.
- (2) Such information must not be further disclosed except—
- (a) for a purpose connected with the exercise of the Director’s functions, and
  - (b) with the consent of the Commissioners concerned.
- (3) Consent under subsection (2) may be given—

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- (a) in relation to a particular disclosure;
  - (b) in relation to disclosures made in circumstances specified or described in the consent.
- (4) The power to consent to further disclosure under subsection (2)(b) may be delegated (either generally or for a specified purpose)—
- (a) in the case of the Commissioners of Inland Revenue, to an officer of the Board of Inland Revenue;
  - (b) in the case of the Commissioners of Customs and Excise, to a customs officer.
- (5) Subsection (6) applies to information obtained under section 436 from a permitted person other than the Commissioners of Inland Revenue or the Commissioners of Customs and Excise or a person acting on behalf of either of them.
- (6) A permitted person who discloses such information to the Director may make the disclosure subject to such conditions as to further disclosure by the Director as the permitted person thinks appropriate; and the information must not be further disclosed in contravention of the conditions.

#### Commencement Information

- 15** S. 437 in force at 24.2.2003 for specified purposes by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))
- 16** S. 437 in force at 24.3.2003 in so far as not already in force by [S.I. 2003/333](#), [art. 2](#), [Sch.](#)

### 438 Disclosure of information by Director

- (1) Information obtained by or on behalf of the Director in connection with the exercise of any of his functions may be disclosed by him if the disclosure is for the purposes of any of the following—
- (a) any criminal investigation which is being or may be carried out, whether in the United Kingdom or elsewhere;
  - (b) any criminal proceedings which have been or may be started, whether in the United Kingdom or elsewhere;
  - (c) the exercise of the Director's functions;
  - (d) the exercise by the prosecutor of functions under Parts 2, 3 and 4;
  - (e) the exercise by the Scottish Ministers of their functions under Part 5;
  - (f) the exercise by a customs officer or a constable of his functions under Chapter 3 of Part 5;
  - (g) safeguarding national security;
  - (h) investigations or proceedings outside the United Kingdom which have led or may lead to the making of an external order within the meaning of section 447;
  - (i) the exercise of a designated function.
- (2) Subsection (1) does not apply to information obtained by the Director or on his behalf in connection with the exercise of his functions under Part 6.
- (3) But such information may be disclosed by the Director—
- (a) to the Commissioners of Inland Revenue;
  - (b) to the Lord Advocate for the purpose of the exercise by the Lord Advocate of his functions under Part 3.

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- (4) Information disclosed to the Lord Advocate under subsection (3)(b) may be further disclosed by him only to the Scottish Ministers for the purpose of the exercise by them of their functions under Part 5.
- (5) If the Director makes a disclosure of information for a purpose specified in subsection (1) he may make any further disclosure of the information by the person to whom he discloses it subject to such conditions as he thinks fit.
- (6) Such a person must not further disclose the information in contravention of the conditions.
- (7) A disclosure under this section is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (8) But nothing in this section authorises the making of a disclosure—
  - (a) which contravenes the Data Protection Act 1998 (c. 29);
  - (b) which is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23).
- (9) A designated function is a function which the Secretary of State thinks is a function of a public nature and which he designates by order.

#### Commencement Information

- I7** S. 438 in force at 24.2.2003 for specified purposes by [S.I. 2003/120, art. 2, Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))
- I8** S. 438 in force at 24.3.2003 in so far as not already in force by [S.I. 2003/333, art. 2, Sch.](#)

### Scotland

#### 439 Disclosure of information to Lord Advocate and to Scottish Ministers

- (1) Information which is held by or on behalf of a permitted person (whether it was obtained before or after the coming into force of this section) may be disclosed to the Lord Advocate in connection with the exercise of any of his functions under Part 3 or to the Scottish Ministers in connection with the exercise of any of their functions under Part 5.
- (2) A disclosure under this section is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (3) But nothing in this section authorises the making of a disclosure—
  - (a) which contravenes the Data Protection Act 1998;
  - (b) which is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.
- (4) This section does not affect a power to disclose which exists apart from this section.
- (5) These are permitted persons—
  - (a) a constable;
  - <sup>[F3]</sup>(b) the Director General of the Serious Organised Crime Agency;
  - (d) the Director of the Serious Fraud Office;

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- (e) the Commissioners of Inland Revenue;
  - (f) the Commissioners of Customs and Excise;
  - (g) the Director of Public Prosecutions;
  - (h) the Director of Public Prosecutions for Northern Ireland.
- (6) The Scottish Ministers may by order designate as permitted persons other persons who exercise functions which they believe are of a public nature.
- (7) But an order under subsection (6) must specify the functions in respect of which the designation is made.
- (8) Information must not be disclosed under this section on behalf of the Commissioners of Inland Revenue or on behalf of the Commissioners of Customs and Excise unless the Commissioners concerned authorise the disclosure.
- (9) The power to authorise a disclosure under subsection (8) may be delegated (either generally or for a specified purpose)—
- (a) in the case of the Commissioners of Inland Revenue, to an officer of the Board of Inland Revenue;
  - (b) in the case of the Commissioners of Customs and Excise, to a customs officer.

#### Textual Amendments

- F3** S. 439(5)(b) substituted for s. 439(5)(b)(c) (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 4 para. 177](#); S.I. 2006/378, art. 4(1), [Sch. para. 10](#)

#### Commencement Information

- I9** S. 439 in force at 24.2.2003 for specified purposes by [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)
- I10** S. 439 in force at 24.3.2003 in so far as not already in force by [S.I. 2003/333](#), art. 2, [Sch.](#)

## 440 Further disclosure

- (1) Subsection (2) applies to information obtained under section 439 from the Commissioners of Inland Revenue or from the Commissioners of Customs and Excise or from a person acting on behalf of either of them.
- (2) Such information must not be further disclosed except—
- (a) for a purpose connected with the exercise of the functions of the Lord Advocate under Part 3 and of the Scottish Ministers under Part 5, and
  - (b) with the consent of the Commissioners concerned.
- (3) Consent under subsection (2) may be given—
- (a) in relation to a particular disclosure;
  - (b) in relation to disclosures made in circumstances specified or described in the consent.
- (4) The power to consent to further disclosure under subsection (2)(b) may be delegated (either generally or for a specified purpose)—
- (a) in the case of the Commissioners of Inland Revenue, to an officer of the Board of Inland Revenue;
  - (b) in the case of the Commissioners of Customs and Excise, to a customs officer.

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- (5) Subsection (6) applies to information obtained under section 439 from a permitted person other than the Commissioners of Inland Revenue or the Commissioners of Customs and Excise or a person acting on behalf of either of them.
- (6) A permitted person who discloses such information to the Lord Advocate or to the Scottish Ministers may make the disclosure subject to such conditions as to further disclosure by the Lord Advocate or by the Scottish Ministers as the permitted person thinks appropriate; and the information must not be further disclosed in contravention of the conditions.

#### Commencement Information

- I11** S. 440 in force at 24.2.2003 for specified purposes by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- I12** S. 440 in force at 24.3.2003 in so far as not already in force by S.I. 2003/333, art. 2, Sch.

#### 441 Disclosure of information by Lord Advocate and by Scottish Ministers

- (1) Information obtained by or on behalf of the Lord Advocate in connection with the exercise of any of his functions under Chapter 3 of Part 5 may be disclosed to the Scottish Ministers in connection with the exercise of any of their functions under that Part.
- (2) Information obtained by or on behalf of the Lord Advocate in connection with the exercise of any of his functions under Part 3 or by or on behalf of the Scottish Ministers in connection with the exercise of any of their functions under Part 5 may be disclosed by him or by them if the disclosure is for the purposes of any of the following—
  - (a) any criminal investigation which is being or may be carried out whether in the United Kingdom or elsewhere;
  - (b) any criminal proceedings which have been or may be started, whether in the United Kingdom or elsewhere;
  - (c) the exercise of the functions of the Lord Advocate under Part 3;
  - (d) the exercise of the functions of the Scottish Ministers under Part 5;
  - (e) the exercise by the prosecutor of functions under Parts 2, 3 and 4;
  - (f) the exercise of the Director's functions;
  - (g) the exercise by a customs officer or a constable of his functions under Chapter 3 of Part 5;
  - (h) safeguarding national security;
  - (i) investigations or proceedings outside the United Kingdom which have led or may lead to the making of an external order within the meaning of section 447;
  - (j) the exercise of a designated function.
- (3) If the Lord Advocate makes a disclosure of information for a purpose specified in subsection (2) he may make any further disclosure of the information by the person to whom he discloses it subject to such conditions as he thinks fit.
- (4) If the Scottish Ministers make a disclosure of information for a purpose specified in subsection (2) they may make any further disclosure of the information by the person to whom they disclose it subject to such conditions as they think fit.

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- (5) A person mentioned in subsection (3) or (4) must not further disclose the information in contravention of the conditions.
- (6) A disclosure under this section is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (7) But nothing in this section authorises the making of a disclosure—
  - (a) which contravenes the Data Protection Act 1998 (c. 29);
  - (b) which is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23).
- (8) This section does not affect a power to disclose which exists apart from this section.
- (9) A designated function is a function which the Scottish Ministers think is a function of a public nature and which they designate by order.

#### Commencement Information

- I13** S. 441 in force at 24.2.2003 for specified purposes by [S.I. 2003/120, art. 2, Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))
- I14** S. 441 in force at 24.3.2003 in so far as not already in force by [S.I. 2003/333, art. 2, Sch.](#)

#### *Overseas purposes*

### **442 Restriction on disclosure for overseas purposes**

- (1) Section 18 of the Anti-terrorism, Crime and Security Act 2001 (c. 24) (restrictions on disclosure of information for overseas purposes) applies to a disclosure of information authorised by section 438(1)(a) or (b) or 441(2)(a) or (b).
- (2) In the application of section 18 of the Anti-terrorism, Crime and Security Act 2001 by virtue of subsection (1) section 20 of that Act must be ignored and the following subsection is substituted for subsection (2) of section 18 of that Act—
  - “(2) In subsection (1) the reference, in relation to a direction, to a relevant disclosure is a reference to a disclosure which—
    - (a) is made for a purpose authorised by section 438(1)(a) or (b) or 441(2)(a) or (b) of the Proceeds of Crime Act 2002, and
    - (b) is of any such information as is described in the direction.”

#### Commencement Information

- I15** S. 442 in force at 24.2.2003 for specified purposes by [S.I. 2003/120, art. 2, Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))
- I16** S. 442 in force at 24.3.2003 in so far as not already in force by [S.I. 2003/333, art. 2, Sch.](#)

**Status:**

Point in time view as at 01/01/2007.

**Changes to legislation:**

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