



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 10 U.K.

#### INFORMATION

##### *England and Wales and Northern Ireland*

#### 435 Use of information by Director U.K.

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 U.K.

- (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*Status: Point in time view as at 01/04/2006.*

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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 **U.K.**

- (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 **U.K.**

- (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.](#)

**Status:**

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**Changes to legislation:**

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