



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 8

INVESTIGATIONS

CHAPTER 2

ENGLAND AND WALES AND NORTHERN IRELAND

Search and seizure warrants

353 Requirements where production order not available

- (1) This section is satisfied in relation to a search and seizure warrant if—
- (a) subsection (2) applies, and
 - (b) either the first or the second set of conditions is complied with.
- (2) This subsection applies if there are reasonable grounds for suspecting that—
- (a) in the case of a confiscation investigation, the person specified in the application for the warrant has benefited from his criminal conduct;
 - [^{F1}(b) in the case of a civil recovery investigation—
 - (i) the person specified in the application for the warrant holds recoverable property or associated property,
 - (ii) that person has, at any time, held property that was recoverable property or associated property at the time, or
 - (iii) the property specified in the application for the warrant is recoverable property or associated property;]
 - [^{F2}(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;

Status: Point in time view as at 01/02/2017. This version of this provision has been superseded.

Changes to legislation: Proceeds of Crime Act 2002, Section 353 is up to date with all changes known to be in force on or before 30 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)

- (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;]
 - (c) in the case of a money laundering investigation, the person specified in the application for the warrant has committed a money laundering offence.
 - [^{F3}(d) in the case of an exploitation proceeds investigation, the person specified in the application for the warrant is within section 346(2A).]
- (3) The first set of conditions is that there are reasonable grounds for believing that—
- (a) any material on the premises specified in the application for the warrant is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought,
 - (b) it is in the public interest for the material to be obtained, having regard to the benefit likely to accrue to the investigation if the material is obtained, and
 - (c) it would not be appropriate to make a production order for any one or more of the reasons in subsection (4).
- (4) The reasons are—
- (a) that it is not practicable to communicate with any person against whom the production order could be made;
 - (b) that it is not practicable to communicate with any person who would be required to comply with an order to grant entry to the premises;
 - (c) that the investigation might be seriously prejudiced unless an appropriate person is able to secure immediate access to the material.
- (5) The second set of conditions is that—
- (a) there are reasonable grounds for believing that there is material on the premises specified in the application for the warrant and that the material falls within subsection (6), (7) [^{F4}, (7A), (7B)] [^{F5}, (8) or (8A)],
 - (b) there are reasonable grounds for believing that it is in the public interest for the material to be obtained, having regard to the benefit likely to accrue to the investigation if the material is obtained, and
 - (c) any one or more of the requirements in subsection (9) is met.
- (6) In the case of a confiscation investigation, material falls within this subsection if it cannot be identified at the time of the application but it—
- (a) relates to the person specified in the application, the question whether he has benefited from his criminal conduct [^{F6}or of realisable property available for satisfying a confiscation order made in respect of him] or any question as to the extent or whereabouts of his benefit from his criminal 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.
- (7) In the case of a civil recovery investigation, material falls within this subsection if it cannot be identified at the time of the application but it—
- [^{F7}(a) relates to the person or property specified in the application or to any of the questions listed in subsection (7ZA), 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.
- [^{F8}(7ZA) Those questions are—
- (a) where a person is specified in the application, any question as to—

Status: Point in time view as at 01/02/2017. This version of this provision has been superseded.

Changes to legislation: Proceeds of Crime Act 2002, Section 353 is up to date with all changes known to be in force on or before 30 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)

- (i) what property the person holds or has held,
 - (ii) whether the property is or has been recoverable property or associated property, or
 - (iii) the nature, extent or whereabouts of the property, and
- (b) where property is specified in the application, any question as to—
- (i) whether the property is or has been recoverable property or associated property,
 - (ii) who holds it or has held it,
 - (iii) whether a person who appears to hold or to have held it holds or has held other property,
 - (iv) whether the other property is or has been recoverable property or associated property, or
 - (v) the nature, extent or whereabouts of the specified property or the other property.]

[^{F9}(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.]

(8) In the case of a money laundering investigation, material falls within this subsection if it cannot be identified at the time of the application but it—

- (a) relates to the person specified in the application or the question whether he has committed a money laundering offence, 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.

[^{F10}(8A) In the case of an exploitation proceeds investigation, material falls within this subsection if it cannot be identified at the time of the application but it—

- (a) relates to the person specified in the application, the question whether exploitation proceeds have been obtained from a relevant offence in relation to that person, any question as to the extent or whereabouts of any benefit as a result of which exploitation proceeds are obtained or any question about the person's available amount, 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.

This subsection is to be construed in accordance with Part 7 of the Coroners and Justice Act 2009 (criminal memoirs etc).]

(9) The requirements are—

Status: Point in time view as at 01/02/2017. This version of this provision has been superseded.

Changes to legislation: Proceeds of Crime Act 2002, Section 353 is up to date with all changes known to be in force on or before 30 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)

- (a) that it is not practicable to communicate with any person entitled to grant entry to the premises;
 - (b) that entry to the premises will not be granted unless a warrant is produced;
 - (c) that the investigation might be seriously prejudiced unless an appropriate person arriving at the premises is able to secure immediate entry to them.
- (10) An appropriate person is—
- ^{F11}(a)
 - (b) a [^{F12}National Crime Agency officer or a member][^{F13}of the staff of the relevant Director], if the warrant is sought for the purposes of a civil recovery investigation.
 - ^{F14}(c) a constable [^{F15} , an accredited financial][^{F16}investigator,] an officer of Revenue and Customs [^{F17}or an immigration officer], if the warrant is sought for the purposes of a detained cash investigation [^{F18} , a confiscation investigation or a money laundering investigation].]
 - ^{F19}(d) a [^{F20}National Crime Agency officer], if the warrant is sought for the purposes of an exploitation proceeds investigation.]
- ^{F21}(11) The reference in paragraph ^{F22}... (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.]

Textual Amendments

- F1** S. 353(2)(b) substituted (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 19 para. 7\(2\)](#); S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)
- F2** S. 353(2)(ba)(bb) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 76\(2\)](#), 94(1); S.I. 2008/755, art. 17(1)(b)
- F3** S. 353(2)(d) inserted (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 19 para. 11\(a\)](#) (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18
- F4** Words in s. 353(5)(a) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 10 para. 8\(2\)](#); S.I. 2008/755, art. 17(1)(d)(ii)
- F5** Words in s. 353(5)(a) substituted (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 19 para. 11\(b\)](#) (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18
- F6** Words in s. 353(6)(a) inserted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), [ss. 38\(2\)](#), 88(1); S.I. 2016/148, reg. 3(c)
- F7** S. 353(7)(a) substituted (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 19 para. 7\(3\)](#); S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)
- F8** S. 353(7ZA) inserted (1.6.2015 for E.W., 1.2.2017 in so far as not already in force) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 19 para. 7\(4\)](#); S.I. 2015/964, art. 2(d) (with art. 3); S.I. 2017/4, art. 2 (with art. 3)
- F9** S. 353(7A)(7B) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 76\(3\)](#), 94(1); S.I. 2008/755, art. 17(1)(b)
- F10** S. 353(8A) inserted (6.4.2010) by [Coroners and Justice Act 2009 \(c. 25\)](#), s. 182(5), [Sch. 19 para. 11\(c\)](#) (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18
- F11** S. 353(10)(a) omitted (17.7.2013) by virtue of [Finance Act 2013 \(c. 29\)](#), [Sch. 48 para. 13\(2\)\(a\)](#)
- F12** Words in s. 353(10)(b) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 138\(a\)](#); S.I. 2013/1682, art. 3(v)

Status: Point in time view as at 01/02/2017. This version of this provision has been superseded.

Changes to legislation: Proceeds of Crime Act 2002, Section 353 is up to date with all changes known to be in force on or before 30 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)

- F13** Words in s. 353(10)(b) substituted (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 8 para. 106**; S.I. 2008/755, **art. 2(1)(a)** (with arts. 3-14)
- F14** S. 353(10)(c) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), **Sch. 10 para. 8(3)**; S.I. 2008/755, art. 17(1)(d)(ii)
- F15** Words in s. 353(10)(c) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 80(3)(b)**, 94(1); S.I. 2008/755, art. 17(1)(g)
- F16** Word in s. 353(10)(c) substituted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 32(b)(i)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)
- F17** Words in s. 353(10)(c) inserted (25.6.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 21 para. 32(b)(ii)** (with Sch. 21 para. 40); S.I. 2013/1042, art. 4(k)
- F18** Words in s. 353(10)(c) inserted (17.7.2013) by Finance Act 2013 (c. 29), **Sch. 48 para. 13(2)(b)**
- F19** S. 353(10)(d) added (6.4.2010) by Coroners and Justice Act 2009 (c. 25), s. 182(5), **Sch. 19 para. 11(d)** (with s. 180); S.I. 2010/816, art. 2, Sch. para. 18
- F20** Words in s. 353(10)(d) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 138(b)**; S.I. 2013/1682, art. 3(v)
- F21** S. 353(11) inserted (6.4.2008) by Serious Crime Act 2007 (c. 27), **ss. 80(4)**, 94(1); S.I. 2008/755, art. 17(1)(g)
- F22** Words in s. 353(11) omitted (17.7.2013) by virtue of Finance Act 2013 (c. 29), **Sch. 48 para. 13(3)**

Commencement Information

- I1** S. 353 in force at 24.2.2003 by S.I. 2003/120, art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

Status:

Point in time view as at 01/02/2017. This version of this provision has been superseded.

Changes to legislation:

Proceeds of Crime Act 2002, Section 353 is up to date with all changes known to be in force on or before 30 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.