



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 8

#### INVESTIGATIONS

### CHAPTER 3

#### SCOTLAND

#### *[<sup>F1</sup>Evidence overseas*

#### **[<sup>F1</sup>408A Evidence overseas**

- (1) This section applies if a person or property is subject to a civil recovery investigation [<sup>F2</sup>, a detained cash investigation, a detained property investigation [<sup>F3</sup>, a frozen funds investigation or a cryptoasset investigation]].
- (2) A judge of the Court of Session may request assistance under this section if—
  - (a) an application is made by an appropriate person or a person subject to the investigation, and
  - (b) the judge thinks that there is relevant evidence in a country or territory outside the United Kingdom.
- (3) An appropriate person may request assistance under this section if the person thinks that there is relevant evidence in a country or territory outside the United Kingdom.
- (4) The assistance that may be requested under this section is assistance in obtaining outside the United Kingdom relevant evidence specified in the request.
- (5) Relevant evidence is—
  - (a) in relation to an application or request made for the purposes of a civil recovery investigation, evidence relevant for the purpose of identifying

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**Changes to legislation:** Proceeds of Crime Act 2002, Section 408A is up to date with all changes known to be in force on or before 17 July 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) View outstanding changes

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- recoverable property or associated property, including evidence as to a matter described in section 341(2)(a) to (d);
- (b) in relation to an application or request made for the purposes of a detained cash investigation, evidence as to a matter described in section 341(3A)(a) or (b).
- <sup>F4</sup>(c) [ in relation to an application or request made for the purposes of a detained property investigation, evidence as to a matter described in section 341(3B)(a) or (b);
- (d) in relation to an application or request made for the purposes of a frozen funds investigation, evidence as to a matter described in section 341(3C)(a) or (b);]
- <sup>F5</sup>(e) [ in relation to an application or request made for the purposes of a cryptoasset investigation, evidence as to a matter described in section 341(3D)(a) to (d).]
- (6) A request for assistance under this section may be sent—
- (a) to a court or tribunal which is specified in the request and which exercises jurisdiction in the place where the evidence is to be obtained,
- (b) to the government of the country or territory concerned, or
- (c) to an authority recognised by the government of the country or territory concerned as the appropriate authority for receiving requests for assistance of that kind.
- (7) Alternatively, a request for assistance under this section may be sent to the Secretary of State with a view to it being forwarded to a court, tribunal, government or authority mentioned in subsection (6).
- (8) The Secretary of State must forward the request for assistance to the court, tribunal, government or authority.
- (9) In a case of urgency, a request for assistance under this section may be sent to—
- (a) the International Criminal Police Organisation, <sup>F6</sup>...
- <sup>F6</sup>(b) .....
- for forwarding to the court, tribunal, government or authority mentioned in subsection (6).
- (10) Rules of court may make provision as to the practice and procedure to be followed in connection with proceedings relating to requests for assistance made by a judge under this section.
- (11) “Evidence” includes documents, information in any other form and material.]

#### Textual Amendments

- F1** Ss. 408A, 408B and cross-heading inserted (22.11.2014 for specified purposes, 1.6.2015 for S. in so far as not already in force) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 19 para. 28](#); [S.I. 2014/3098](#), art. 3; [S.I. 2015/964](#), art. 2(e)
- F2** Words in s. 408A(1) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 70\(2\)](#); [S.I. 2018/78](#), reg. 5(3)(a)(i)(ii); [S.I. 2021/724](#), reg. 4(i)
- F3** Words in s. 408A(1) substituted (26.10.2023 for specified purposes, 26.4.2024 for S. for specified purposes, 26.4.2024 for E.W.N.I. in so far as not already in force) by [Economic Crime and Corporate Transparency Act 2023 \(c. 56\)](#), s. 219(1)(2)(b), [Sch. 9 para. 8\(28\)\(a\)](#); [S.I. 2024/269](#), reg. 4(b)(i)(ii)
- F4** S. 408A(5)(c)(d) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force, 28.6.2021 for N.I. in so far as not

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already in force) by **Criminal Finances Act 2017 (c. 22)**, s. 58(5)(6), **Sch. 5 para. 70(3)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii); S.I. 2021/724, reg. 4(i)

**F5** S. 408A(5)(e) inserted (26.10.2023 for specified purposes, 26.4.2024 for S. for specified purposes, 26.4.2024 for E.W.N.I. in so far as not already in force) by **Economic Crime and Corporate Transparency Act 2023 (c. 56)**, s. 219(1)(2)(b), **Sch. 9 para. 8(28)(b)**; S.I. 2024/269, reg. 4(b)(i)(ii)

**F6** S. 408A(9)(b) and preceding word omitted (31.12.2020) by virtue of **The Law Enforcement and Security (Amendment) (EU Exit) Regulations 2019 (S.I. 2019/742)**, regs. 1, **107(11)**; 2020 c. 1, Sch. 5 para. 1(1)

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(5)(a)(iia) inserted by [2015 c. 30 Sch. 5 para. 15\(3\)\(d\)](#)
- s. 323(1)(hc) inserted by [2023 c. 20 Sch. para. 45\(2\)](#)
- s. 323(4)(ec) inserted by [2023 c. 20 Sch. para. 45\(3\)](#)
- s. 323(5)(ec) inserted by [2023 c. 20 Sch. para. 45\(4\)](#)