



# Serious Organised Crime and Police Act 2005

## 2005 CHAPTER 15

### PART 2

#### INVESTIGATIONS, PROSECUTIONS, PROCEEDINGS AND PROCEEDS OF CRIME

#### CHAPTER 1

#### INVESTIGATORY POWERS OF DPP, ETC.

#### *Introductory*

#### **60 Investigatory powers of DPP etc.**

- (1) This Chapter confers powers on—
  - (a) the Director of Public Prosecutions,
  - (b) the Director of Revenue and Customs Prosecutions, and
  - (c) the Lord Advocate, [<sup>F1</sup>and
  - (d) the Director of Public Prosecutions for Northern Ireland,]in relation to the giving of disclosure notices in connection with the investigation of offences to which this Chapter applies [<sup>F2</sup>or in connection with a terrorist investigation].
- (2) The Director of Public Prosecutions may, to such extent as he may determine, delegate the exercise of his powers under this Chapter to a Crown prosecutor.
- (3) The Director of Revenue and Customs Prosecutions may, to such extent as he may determine, delegate the exercise of his powers under this Chapter to a Revenue and Customs Prosecutor.

*Status: Point in time view as at 01/12/2006.*

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- (4) The Lord Advocate may, to such extent as he may determine, delegate the exercise of his powers under this Chapter to a procurator fiscal.
- [<sup>F3</sup>(4A) The Director of Public Prosecutions for Northern Ireland may, to such extent as he may determine, delegate the exercise of his powers under this Chapter to a Public Prosecutor.]
- (5) In this Chapter “the Investigating Authority” means—
- (a) the Director of Public Prosecutions,
  - (b) the Director of Revenue and Customs Prosecutions, or
  - (c) the Lord Advocate [<sup>F4</sup>, or
  - (d) the Director of Public Prosecutions for Northern Ireland.]
- (6) But, in circumstances where the powers of any of those persons are exercisable by any other person by virtue of subsection (2), (3)[<sup>F5</sup>, (4) or (4A)], references to “the Investigating Authority” accordingly include any such other person.
- [<sup>F6</sup>(7) In this Chapter ‘terrorist investigation’ means an investigation of—
- (a) the commission, preparation or instigation of acts of terrorism,
  - (b) any act or omission which appears to have been for the purposes of terrorism and which consists in or involves the commission, preparation or instigation of an offence, or
  - (c) the commission, preparation or instigation of an offence under the Terrorism Act 2000 (c. 11) or under Part 1 of the Terrorism Act 2006 other than an offence under section 1 or 2 of that Act.]

#### Textual Amendments

- F1** S. 60(1)(d) and preceding word inserted (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\), s. 31\(3\), Sch. 3 para. 2\(2\)](#); S.I. 2006/2966, art. 3
- F2** Words in s. 60(1) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), ss. 33\(1\), 39\(2\)](#); S.I. 2006/1013, [art. 2\(2\)\(b\)](#)
- F3** S. 60(4A) inserted (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\), s. 31\(3\), Sch. 3 para. 2\(3\)](#); S.I. 2006/2966, art. 3
- F4** S. 60(5)(d) and preceding word inserted (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\), s. 31\(3\), Sch. 3 para. 2\(4\)](#); S.I. 2006/2966, art. 3
- F5** Words in s. 60(6) substituted (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\), s. 31\(3\), Sch. 3 para. 2\(5\)](#); S.I. 2006/2966, art. 3
- F6** S. 60(7) inserted (13.4.2006) by [Terrorism Act 2006 \(c. 11\), ss. 33\(2\), 39\(2\)](#); S.I. 2006/1013, [art. 2\(2\)\(b\)](#)

#### Modifications etc. (not altering text)

- C1** Ss. 60-67 extended (Northern Ireland) (1.12.2006) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\), ss. 26\(1\), 31\(3\)](#); S.I. 2006/2966, art. 3

#### Commencement Information

- I1** S. 60 in force at 1.4.2006 for S. by [S.I. 2006/166, art. 2\(1\)\(a\)](#)
- I2** S. 60 in force at 1.4.2006 except to the extent that it extends to S. by [S.I. 2005/1521, art. 5\(1\)](#)

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## 61 Offences to which this Chapter applies

- (1) This Chapter applies to the following offences—
- (a) any offence listed in Schedule 2 to the Proceeds of Crime Act 2002 (c. 29) (lifestyle offences: England and Wales);
  - (b) any offence listed in Schedule 4 to that Act (lifestyle offences: Scotland);
  - [<sup>F7</sup>(ba) any offence listed in Schedule 5 to that Act (lifestyle offences: Northern Ireland);]
  - (c) any offence under sections 15 to 18 of the Terrorism Act 2000 (c. 11) (offences relating to fund-raising, money laundering etc.);
  - (d) any offence under section 170 of the Customs and Excise Management Act 1979 (c. 2) (fraudulent evasion of duty) or section 72 of the Value Added Tax Act 1994 (c. 23) (offences relating to VAT) which is a qualifying offence;
  - (e) any offence under section 17 of the Theft Act 1968 (c. 60) [<sup>F8</sup>or section 17 of the Theft Act (Northern Ireland) 1969] (false accounting), or any offence at common law of cheating in relation to the public revenue, which is a qualifying offence;
  - (f) any offence under section 1 of the Criminal Attempts Act 1981 (c. 47) [<sup>F9</sup>or Article 3 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983], or in Scotland at common law, of attempting to commit any offence in paragraph (c) or any offence in paragraph (d) or (e) which is a qualifying offence;
  - (g) any offence under section 1 of the Criminal Law Act 1977 (c. 45) [<sup>F10</sup>or Article 9 of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983], or in Scotland at common law, of conspiracy to commit any offence in paragraph (c) or any offence in paragraph (d) or (e) which is a qualifying offence.
- [<sup>F11</sup>(h) in England and Wales—
- (i) any common law offence of bribery;
  - (ii) any offence under section 1 of the Public Bodies Corrupt Practices Act 1889 (c. 69) (corruption in office);
  - (iii) the first two offences under section 1 of the Prevention of Corruption Act 1906 (c. 34) (bribes obtained by or given to agents). ]
- (2) For the purposes of subsection (1) an offence in paragraph (d) or (e) of that subsection is a qualifying offence if the Investigating Authority certifies that in his opinion—
- (a) in the case of an offence in paragraph (d) or an offence of cheating the public revenue, the offence involved or would have involved a loss, or potential loss, to the public revenue of an amount not less than £5,000;
  - (b) in the case of an offence under section 17 of the Theft Act 1968 (c. 60) [<sup>F12</sup>or section 17 of the Theft Act (Northern Ireland) 1969], the offence involved or would have involved a loss or gain, or potential loss or gain, of an amount not less than £5,000.
- (3) A document purporting to be a certificate under subsection (2) is to be received in evidence and treated as such a certificate unless the contrary is proved.
- (4) The Secretary of State may by order—
- (a) amend subsection (1), in its application to England and Wales [<sup>F13</sup>or Northern Ireland], so as to remove an offence from it or add an offence to it;

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- (b) amend subsection (2), in its application to England and Wales [<sup>F13</sup>or Northern Ireland], so as to—
  - (i) take account of any amendment made by virtue of paragraph (a) above, or
  - (ii) vary the sums for the time being specified in subsection (2)(a) and (b).
- (5) The Scottish Ministers may by order—
  - (a) amend subsection (1), in its application to Scotland, so as to remove an offence from it or add an offence to it;
  - (b) amend subsection (2), in its application to Scotland, so as to—
    - (i) take account of any amendment made by virtue of paragraph (a) above, or
    - (ii) vary the sums for the time being specified in subsection (2)(a) and (b).

#### Textual Amendments

- F7** S. 61(1)(ba) inserted (1.12.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 31(3), **Sch. 3 para. 3(2)**; S.I. 2006/2966, art. 3
- F8** Words in s. 61(1)(e) inserted (1.12.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 31(3), **Sch. 3 para. 3(3)**; S.I. 2006/2966, art. 3
- F9** Words in s. 61(1)(f) inserted (1.12.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 31(3), **Sch. 3 para. 3(4)**; S.I. 2006/2966, art. 3
- F10** Words in s. 61(1)(g) inserted (1.12.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 31(3), **Sch. 3 para. 3(5)**; S.I. 2006/2966, art. 3
- F11** S. 61(1)(h) added (E.W.) (20.6.2006) by Serious Organised Crime and Police Act 2005 (Amendment of Section 61(1)) Order 2006 (S.I. 2006/1629), arts. 1(1), **2**
- F12** Words in s. 61(2)(b) inserted (1.12.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 31(3), **Sch. 3 para. 3(6)**; S.I. 2006/2966, art. 3
- F13** Words in s. 61(4) inserted (1.12.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 31(3), **Sch. 3 para. 3(7)**; S.I. 2006/2966, art. 3

#### Modifications etc. (not altering text)

- C1** Ss. 60-67 extended (Northern Ireland) (1.12.2006) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), **ss. 26(1), 31(3)**; S.I. 2006/2966, art. 3

#### Commencement Information

- I3** S. 61 in force at 1.4.2006 except to the extent that it extends to S. by S.I. 2005/1521, **art. 5(1)**
- I4** S. 61 in force at 1.4.2006 for S. by S.I. 2006/166, **art. 2(1)(a)**

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