



# Serious Crime Act 2007

## 2007 CHAPTER 27

### PART 1

#### SERIOUS CRIME PREVENTION ORDERS

##### *Enforcement*

#### **25 Offence of failing to comply with order**

- (1) A person who, without reasonable excuse, fails to comply with a serious crime prevention order commits an offence.
- (2) A person who commits an offence under this section is liable—
  - (a) on summary conviction, to imprisonment for a term not exceeding 12 months or to a fine not exceeding the statutory maximum or to both;
  - (b) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or to both.
- (3) In the application of subsection (2)(a) in Northern Ireland, the reference to 12 months is to be read as a reference to 6 months.
- (4) In proceedings for an offence under this section, a copy of the original order or any variation of it, certified as such by the proper officer of the court which made it, is admissible as evidence of its having been made and of its contents to the same extent that oral evidence of those things is admissible in those proceedings.

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#### **Commencement Information**

**II** S. 25 in force at 6.4.2008 by S.I. 2008/755, art. 15(1)(f)

*Status: Point in time view as at 12/04/2010.*

*Changes to legislation: There are currently no known outstanding effects for the Serious Crime Act 2007, Cross Heading: Enforcement. (See end of Document for details)*

## 26 Powers of forfeiture in respect of offence

- (1) The court before which a person is convicted of an offence under section 25 may order the forfeiture of anything in his possession at the time of the offence which the court considers to have been involved in the offence.
- (2) Before making an order under subsection (1) in relation to anything the court must give an opportunity to make representations to any person (in addition to the convicted person) who claims to be the owner of that thing or otherwise to have an interest in it.
- (3) An order under subsection (1) may not be made so as to come into force at any time before there is no further possibility (ignoring any power to appeal out of time) of the order being varied or set aside on appeal.
- (4) Where the court makes an order under subsection (1), it may also make such other provision as it considers to be necessary for giving effect to the forfeiture.
- (5) That provision may, in particular, include provision relating to the retention, handling, destruction or other disposal of what is forfeited.
- (6) Provision made by virtue of this section may be varied at any time by the court that made it.

### Commencement Information

**I2** S. 26 in force at 6.4.2008 by S.I. 2008/755, art. 15(1)(f)

## 27 Powers to wind up companies etc: England and Wales and Scotland

- (1) The Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions or the Director of the Serious Fraud Office may present a petition to the court for the winding up of a company, partnership or relevant body if—
  - (a) the company, partnership or relevant body has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
  - (b) the Director concerned considers that it would be in the public interest for the company, partnership or (as the case may be) relevant body to be wound up.
- (2) The Insolvency Act 1986 (c. 45) applies in relation to—
  - (a) a petition under this section for the winding up of a company; and
  - (b) the company's winding up;
 as it applies in relation to a petition under section 124A of the Act of 1986 for the winding up of a company and the company's winding up (winding up on grounds of public interest) but subject to the modifications in subsections (3) and (4).
- (3) Section 124(4)(b) of the Act of 1986 (application for winding up) applies in relation to a petition under this section as if it permits the petition to be presented by the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions or the Director of the Serious Fraud Office.
- (4) The court may make an order under section 125 of the Act of 1986 (powers of court on hearing of petition) to wind up the company only if—
  - (a) the company has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
  - (b) the court considers that it is just and equitable for the company to be wound up.

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*Status: Point in time view as at 12/04/2010.*

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- (5) Section 420 of the Act of 1986 (power to make provision about insolvent partnerships) applies for the purposes of this section as if the reference to an insolvent partnership were a reference to a partnership to which this section applies.
- (6) The appropriate Minister may by order provide for the Act of 1986 to apply, with such modifications as that person considers appropriate, in relation to a petition under this section for the winding up of a relevant body and the relevant body's winding up.
- (7) An order made by virtue of subsection (5) or (6) must ensure that the court may make an order to wind up the partnership or relevant body only if—
- (a) the partnership or relevant body has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
  - (b) the court considers that it is just and equitable for the partnership or relevant body to be wound up.
- (8) No petition may be presented to, or order to wind up made by, a court in Scotland by virtue of this section in respect of a company, partnership or relevant body whose estate may be sequestrated under the Bankruptcy (Scotland) Act 1985 (c. 66).
- (9) No petition may be presented, or order to wind up made, by virtue of this section if—
- (a) an appeal against conviction for the offence concerned has been made and not finally determined; or
  - (b) the period during which such an appeal may be made has not expired.
- (10) No petition may be presented, or order to wind up made, by virtue of this section if the company, partnership or relevant body is already being wound up by the court.
- (11) In deciding for the purposes of subsection (9) whether an appeal is finally determined or whether the period during which an appeal may be made has expired, any power to appeal out of time is to be ignored.
- (12) In this section—
- “appropriate Minister” means—
    - (a) in relation to a relevant body falling within paragraphs (a) to (c) of the definition of “relevant body” below, the Treasury; and
    - (b) in relation to any other relevant body, the Secretary of State;
  - [<sup>F1</sup>“company” means—
    - (a) a company registered under the Companies Act 2006 in England and Wales or Scotland, or
    - (b) an unregistered company within the meaning of Part 5 of the Insolvency Act 1986 (see section 220 of that Act),but does not include a relevant body;]
  - [<sup>F2</sup>“the court”, in relation to a company, means a court in England and Wales or Scotland having jurisdiction to wind up the company;]
  - “an industrial and provident society” means a society registered under the Industrial and Provident Societies Act 1965 (c. 12) or a society deemed by virtue of section 4 of that Act to be so registered;
  - “partnership” does not include a relevant body; and
  - “relevant body” means—
    - (a) a building society (within the meaning of the Building Societies Act 1986 (c. 53));

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- (b) an incorporated friendly society (within the meaning of the Friendly Societies Act 1992 (c. 40));
- (c) an industrial and provident society;
- (d) a limited liability partnership; or
- (e) such other description of person as may be specified by order made by the Secretary of State;

and the references to sections 124 to 125 of the Insolvency Act 1986 (c. 45) include references to those sections as applied by section 221(1) of that Act (unregistered companies).

#### Textual Amendments

- F1** Words in s. 27(12) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 265(2)(a)** (with art. 10)
- F2** Words in s. 27(12) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#), art. 1(2), **Sch. 1 para. 265(2)(b)** (with art. 10)

#### Commencement Information

- I3** S. 27 in force at 6.4.2008 by [S.I. 2008/755](#), art. 15(1)(f)

## 28 Powers to wind up companies etc: Northern Ireland

- (1) The Director of Public Prosecutions for Northern Ireland may present a petition to the court for the winding up of a company, partnership or relevant body if—
  - (a) the company, partnership or relevant body has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
  - (b) the Director of Public Prosecutions for Northern Ireland considers that it would be in the public interest for the company, partnership or (as the case may be) relevant body to be wound up.
- (2) The Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I.19)) applies in relation to—
  - (a) a petition under this section for the winding up of a company; and
  - (b) the company's winding up;
 as it applies in relation to a petition under Article 104A of the Order of 1989 for the winding up of a company and the company's winding up (winding up on grounds of public interest) but subject to the modifications in subsections (3) and (4).
- (3) Article 104(5)(b) of the Order of 1989 (application for winding up) applies in relation to a petition under this section as if it permits the petition to be presented by the Director of Public Prosecutions for Northern Ireland.
- (4) The court may make an order under Article 105 of the Order of 1989 (powers of court on hearing of petition) to wind up the company only if—
  - (a) the company has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
  - (b) the court considers that it is just and equitable for the company to be wound up.

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- (5) Article 364 of the Order of 1989 (power to make provision about insolvent partnerships) applies for the purposes of this section as if the reference to an insolvent partnership were a reference to a partnership to which this section applies.
- (6) The appropriate Minister may by order provide for the Order of 1989 to apply, with such modifications as that person considers appropriate, in relation to a petition under this section for the winding up of a relevant body and the relevant body's winding up.
- (7) An order made by virtue of subsection (5) or (6) must ensure that the court may make an order to wind up the partnership or relevant body only if—
- (a) the partnership or relevant body has been convicted of an offence under section 25 in relation to a serious crime prevention order; and
  - (b) the court considers that it is just and equitable for the partnership or relevant body to be wound up.
- (8) No petition may be presented, or order to wind up made, by virtue of this section if—
- (a) an appeal against conviction for the offence concerned has been made and not finally determined; or
  - (b) the period during which such an appeal may be made has not expired.
- (9) No petition may be presented, or order to wind up made, by virtue of this section if the company, partnership or relevant body is already being wound up by the court.
- (10) In deciding for the purposes of subsection (8) whether an appeal is finally determined or whether the period during which an appeal may be made has expired, any power to appeal out of time is to be ignored.
- (11) In this section—
- “appropriate Minister” means—
    - (a) in relation to a relevant body falling within paragraph (a) or (b) of the definition of “relevant body” below, the Treasury; and
    - (b) in relation to any other relevant body, the [<sup>F3</sup>Department of Justice in Northern Ireland];
  - [<sup>F4</sup>“company” means—
    - (a) a company registered under the Companies Act 2006 in Northern Ireland, or
    - (b) an unregistered company within the meaning of Part 6 of the Insolvency (Northern Ireland) Order 1989 (see Article 184 of that Order),]
  - “the court ” means the High Court in Northern Ireland;
  - “an industrial and provident society ” means a society registered under the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24) or a society deemed by virtue of section 4 of that Act to be so registered;
  - “partnership ” does not include a relevant body; and
  - “relevant body ” means—
    - (a) a building society (within the meaning of the Building Societies Act 1986 (c. 53));
    - (b) an incorporated friendly society (within the meaning of the Friendly Societies Act 1992 (c. 40));
    - (c) an industrial and provident society;
    - (d) a limited liability partnership; or

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(e) such other description of person as may be specified by order made by the [<sup>F5</sup>Department of Justice in Northern Ireland];  
 and the references to Articles 104 to 105 of the Insolvency (Northern Ireland) Order 1989 ( S.I. 1989/2405 (N.I.19)) include references to those Articles as applied by Article 185(1) of that Order (unregistered companies).

#### Textual Amendments

- F3** Words in s. 28(11) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), **Sch. 10 para. 5(2)(a)** (with arts. 28-31)
- F4** Words in s. 28(11) substituted (1.10.2009) by [The Companies Act 2006 \(Consequential Amendments, Transitional Provisions and Savings\) Order 2009 \(S.I. 2009/1941\)](#) , art. 1(2) , **Sch. 1 para. 265(3)** (with art. 10 )
- F5** Words in s. 28(11) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), **Sch. 10 para. 5(2)(b)** (with arts. 28-31)

#### Commencement Information

- I4** S. 28 in force at 6.4.2008 by [S.I. 2008/755](#) , **art. 15(1)(f)**

## 29 Powers to wind up: supplementary

- (1) The Secretary of State may by order make such modifications as he considers appropriate to the application of—
- (a) the Insolvency Act 1986 (c. 45) by virtue of section 27(2); or
  - <sup>F6</sup>(b) .....
- [<sup>F7</sup>(1A) The Department of Justice in Northern Ireland may by order make such modifications as the Department considers appropriate to the application of the Insolvency (Northern Ireland) Order 1989 by virtue of section 28(2).]
- (2) Any modifications made by virtue of subsection (1) [<sup>F8</sup>or (1A)] are in addition to the modifications made by section 27(3) and (4) or (as the case may be) section 28(3) and (4).
- (3) The Secretary of State may by order make such consequential or supplementary provision, applying with or without modifications any provision made by or under an enactment, as he considers appropriate in connection with section 27(2) to (4) <sup>F9</sup>....
- [<sup>F10</sup>(3A) The Department of Justice in Northern Ireland may by order make such consequential or supplementary provision, applying with or without modifications any provision made by or under an enactment, as the Department considers appropriate in connection with section 28(2) to (4).]
- (4) An order made by virtue of section 27(5) or (6), section 28(5) or (6) or subsection (1) [<sup>F11</sup>or (1A)] above may, in particular, contain consequential or supplementary provision applying, with or without modifications, any provision made by or under an enactment.

#### Textual Amendments

- F6** S. 29(1)(b) omitted (12.4.2010) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), **Sch. 10 para. 6(2)** (with arts. 28-31)

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- F7** S. 29(1A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), **Sch. 10 para. 6(3)** (with arts. 28-31)
- F8** Words in s. 29(2) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), **Sch. 10 para. 6(4)** (with arts. 28-31)
- F9** Words in s. 29(3) omitted (12.4.2010) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), **Sch. 10 para. 6(5)** (with arts. 28-31)
- F10** S. 29(3A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), **Sch. 10 para. 6(6)** (with arts. 28-31)
- F11** Words in s. 29(4) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), **Sch. 10 para. 6(7)** (with arts. 28-31)

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**Commencement Information**

- I5** S. 29 in force at 6.4.2008 by [S.I. 2008/755](#), **art. 15(1)(f)**

**Status:**

Point in time view as at 12/04/2010.

**Changes to legislation:**

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