



# Serious Crime Act 2007

## 2007 CHAPTER 27

### PART 1

#### SERIOUS CRIME PREVENTION ORDERS

##### *Supplementary*

#### **35 Proceedings in the High Court**

- (1) Proceedings before the High Court in relation to serious crime prevention orders are civil proceedings.
- (2) One consequence of this is that the standard of proof to be applied by the court in such proceedings is the civil standard of proof.

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#### **Commencement Information**

**II** [S. 35](#) in force at 6.4.2008 by [S.I. 2008/755](#), [art. 15\(1\)\(f\)](#)

#### **36 Proceedings in the Crown Court**

- (1) Proceedings before the Crown Court arising by virtue of section 19, 20 or 21 are civil proceedings.
- (2) One consequence of this is that the standard of proof to be applied by the court in such proceedings is the civil standard of proof.
- (3) Two other consequences of this are that the court—
  - (a) is not restricted to considering evidence that would have been admissible in the criminal proceedings in which the person concerned was convicted; and
  - (b) may adjourn any proceedings in relation to a serious crime prevention order even after sentencing the person concerned.

*Status: Point in time view as at 06/04/2008.*

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

- (4) The Crown Court, when exercising its jurisdiction in England and Wales under this Part, is a criminal court for the purposes of Part 7 of the Courts Act 2003 (c. 39) (procedure rules and practice directions).
- (5) A serious crime prevention order may be made as mentioned in section 19(7)(b) in spite of anything in sections 12 and 14 of the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) or (as the case may be) Articles 4 and 6 of the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I.24)) (which relate to orders discharging a person absolutely or conditionally and their effect).
- (6) A variation of a serious crime prevention order may be made as mentioned in section 20(6)(b) or 21(6)(b) in spite of anything in sections 12 and 14 of the Act of 2000 or (as the case may be) Articles 4 and 6 of the Order of 1996.

**Commencement Information**

**I2** S. 36 in force at 6.4.2008 by S.I. 2008/755, art. 15(1)(f)

### 37 Functions of applicant authorities

Schedule 2 (functions of applicant authorities under this Part) has effect.

**Commencement Information**

**I3** S. 37 in force at 1.3.2008 for specified purposes by S.I. 2008/219, art. 3(b)

**I4** S. 37 in force at 6.4.2008 in so far as not already in force by S.I. 2008/755, art. 15(1)(g)

### 38 Disclosure of information in accordance with orders

- (1) A person who complies with a requirement imposed by a serious crime prevention order to answer questions, provide information or produce documents does not breach—
  - (a) any obligation of confidence; or
  - (b) any other restriction on making the disclosure concerned (however imposed).
- (2) But see sections 11 to 14 (which limit the requirements that may be imposed by serious crime prevention orders in connection with answering questions, providing information or producing documents).

**Commencement Information**

**I5** S. 38 in force at 6.4.2008 by S.I. 2008/755, art. 15(1)(i)

### 39 Compliance with orders: authorised monitors

- (1) A serious crime prevention order against a body corporate, partnership or unincorporated association may authorise a law enforcement agency to enter into arrangements with—
  - (a) a specified person; or

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- (b) any person who falls within a specified description of persons; to perform specified monitoring services or monitoring services of a specified description.
- (2) A person with whom the agency has entered into arrangements in accordance with such an authorisation is known for the purposes of this section as an authorised monitor.
- (3) A serious crime prevention order which provides for an authorised monitor may, for the purpose of enabling the performance of monitoring services, impose requirements of the type mentioned in section 5(5) as if the references in paragraph (a)(iv) and (b)(iv) of that provision to a law enforcement officer included references to an authorised monitor.
- (4) A serious crime prevention order which provides for an authorised monitor may require any body corporate, partnership or unincorporated association which is the subject of the order to pay to the law enforcement agency concerned some or all of the costs incurred by the agency under the arrangements with the authorised monitor.
- (5) Any such order—
- (a) must specify the period, or periods, within which payments are to be made;
  - (b) may require the making of payments on account;
  - (c) may include other terms about the calculation or payment of costs.
- (6) The tests for making or varying a serious crime prevention order in sections 1(1)(b), (2)(b) and (3), 17(1) and (2), 19(2), (4) and (5), 20(2) and (4) and 21(2) and (4) do not operate in relation to an order so far as the order contains terms of the kind envisaged by subsections (4) and (5) above (or by subsection (1) above for the purposes of those subsections).
- (7) But a court must not include in a serious crime prevention order (whether initially or on a variation) terms of the kind envisaged by subsection (4) or (5) unless it considers that it is appropriate to do so having regard to all the circumstances including, in particular—
- (a) the means of the body corporate, partnership or unincorporated association concerned;
  - (b) the expected size of the costs; and
  - (c) the effect of the terms on the ability of any body corporate, partnership or unincorporated association which is carrying on business to continue to do so.
- (8) A law enforcement agency must inform the subject of a serious crime prevention order which provides for an authorised monitor of the name of, and an address for, any person with whom the agency has entered into arrangements in accordance with the authorisation in the order.
- (9) Nothing in this section affects the ability of law enforcement agencies to enter into arrangements otherwise than in accordance with an authorisation under this section.
- (10) In this section—
- “law enforcement agency” means—
- (a) a police authority or the Northern Ireland Policing Board;
  - (b) the Serious Organised Crime Agency;
  - (c) the Commissioners for Her Majesty's Revenue and Customs; or
  - (d) the Director of the Serious Fraud Office;

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“monitoring services” means—

- (a) analysing some or all information received in accordance with a serious crime prevention order;
- (b) reporting to a law enforcement officer as to whether, on the basis of the information and any other information analysed for this purpose, the subject of the order appears to be complying with the order or any part of it; and
- (c) any related services; and

“specified”, in relation to a serious crime prevention order, means specified in the order.

**Commencement Information**

**I6** S. 39 in force at 6.4.2008 by S.I. 2008/755, art. 15(1)(i)

**40 Costs in relation to authorised monitors**

- (1) The Secretary of State may by order make provision about the practice and procedure for determining the amount of—
  - (a) any costs payable by virtue of section 39(4) and (5); and
  - (b) any interest payable in respect of those costs.
- (2) Such provision may, in particular, include provision about appeals.
- (3) Where any amounts required to be paid by virtue of section 39(4) and (5) have not been paid within a required period, the law enforcement agency concerned must take reasonable steps to recover them and any interest payable in respect of them.
- (4) The Secretary of State must by order provide for what are reasonable steps for the purposes of subsection (3).
- (5) Any amounts which have not been recovered despite the taking of the reasonable steps are recoverable as if due to the law enforcement agency concerned by virtue of a civil order or judgment.
- (6) Where any amounts required to be paid by virtue of section 39(4) and (5) are, in the case of an order of the Crown Court, not paid within a required period, the unpaid balance from time to time carries interest at the rate for the time being specified in section 17 of the Judgments Act 1838 (c. 110) (interest on civil judgment debts).
- (7) For the purposes of section 25, a failure to comply with a requirement imposed by virtue of section 39(4) and (5) to make payments occurs when the amounts become recoverable as mentioned in subsection (5) above (and not before).
- (8) In this section “law enforcement agency” has the same meaning as in section 39.

**Commencement Information**

**I7** S. 40(1)(2)(4) in force at 1.3.2008 by S.I. 2008/219, art. 3(d)

**I8** S. 40(3)s. 40(5)-(8) in force at 6.4.2008 by S.I. 2008/755, art. 15(1)(j)

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#### **41 Powers of law enforcement officers to retain documents**

- (1) A law enforcement officer—
  - (a) may take and retain copies of, or extracts from, any document produced to a law enforcement officer in pursuance of a serious crime prevention order; and
  - (b) may retain any document so produced for as long as he considers that it is necessary to retain it (rather than any copy of it) for the purposes for which the document was obtained.
- (2) A law enforcement officer may retain any document produced to a law enforcement officer in pursuance of a serious crime prevention order until the conclusion of any legal proceedings if he has reasonable grounds for believing that the document—
  - (a) may have to be produced for the purposes of those proceedings; and
  - (b) might be unavailable unless retained.

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##### **Commencement Information**

**19** S. 41 in force at 6.4.2008 by S.I. 2008/755, art. 15(1)(k)

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**Changes to legislation:**

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