

SERIOUS CRIME ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Serious Crime Prevention Orders

General

Information safeguards

Section 13: Restrictions on excluded material and banking information

42. This section sets out further safeguards by placing restrictions on the extent to which an order can require the production of excluded material and banking information. *Subsection (1)* provides that an order may not require a person to produce any excluded material. Excluded material in the case of England and Wales is defined with reference to section 11 of the Police and Criminal Evidence Act 1984. Section 11 provides that excluded material means:
- personal records which a person has acquired or created in the course of any trade, business, profession or other occupation or for the purposes of any paid or unpaid office and which he holds in confidence;
 - human tissue or tissue fluid which has been taken for the purposes of diagnosis or medical treatment and which a person holds in confidence; and
 - journalistic material which a person holds in confidence and which consists of documents or of records other than documents.
43. Excluded material in the case of Northern Ireland is defined with reference to article 13 of the Police and Criminal Evidence (Northern Ireland) Order 1989.
44. *Subsections (2) to (4)* are concerned with banking information. *Subsection (2)* provides that an order may not require a person to disclose any information or produce any document which is the subject of a duty of confidence from a banking business, unless either of the conditions contained in *subsections (3) and (4)* are met. The first condition is that the person to whom the duty is owed consents to the disclosure. The second condition contains two alternatives. The first alternative is that there is specific provision in the order for the disclosure of such information, in other words an express requirement for the production of banking information in general. The second alternative is that there is a specific requirement to disclose specified information or a specified document which amounts to banking information.