

# SERIOUS CRIME ACT 2007

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 1: Serious Crime Prevention Orders

##### General

##### Supplementary

##### *Section 39: Compliance with orders: authorised monitors*

131. This section relates to the inclusion of a term in an order authorising the appointment of a person to monitor whether an order is being complied with (“an authorised monitor”). The section goes on to provide that a monitor can be given information under the terms of an order and that the subject of an order can be ordered to pay the costs of the monitor. Requirements under this section can only be imposed on a body corporate, partnership or unincorporated association, they cannot be imposed on an individual.
132. *Subsection (1)* provides that an order can authorise a law enforcement body to employ a “specified person” or “any person who falls within a specified description of persons” to perform specified monitoring services or monitoring services of a specified description, in relation to enforcement of other terms of an order. This person is an “authorised monitor”, as set out in *subsection (2)*.
133. *Subsection (3)* provides that the authorised monitor will be able to receive information from the organisation subject to the order under a term imposed under section 5(5) as if it were a law enforcement body. For example, the order might state that the organisation has to provide its accounts on a quarterly basis – this section means that these can be provided to the monitor. *Subsection (4)* provides that some or all of the costs incurred by the agency under the arrangements with the authorised monitor can be recovered from the organisation.
134. *Subsection (6)* states that the test in section 1(1)(b) (and the other places the same test appears in Part 1) does not apply in relation to recovering the costs of authorised monitors. This means that the court does not have to have reasonable grounds to believe that the appointment and costs of an authorised monitor would protect the public by preventing, restricting or disrupting involvement by the person in serious crime. The reason for this is that it would be very difficult to demonstrate (even though there is no question of proof under 1(1)(b)) that recovering the costs of monitors would *directly* prevent serious crime. Rather, the purpose is to ensure that other terms of an order (which *would* directly prevent serious crime) are complied with by enabling law enforcement to engage such monitors to look at potentially complex information.
135. *Subsection (7)* replaces the test in section 1(1)(b) and elsewhere. It provides the framework within which the court must decide whether it would be appropriate to include a term requiring the payment of costs in an order. The court can only do so where it considers it is appropriate to do so having regard to all the circumstances including, in particular–

*These notes refer to the Serious Crime Act 2007 (c.27)  
which received Royal Assent on 30th October 2007*

- (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.
136. *Subsection (8)* sets out that, where an authorised monitor is employed by a law enforcement body under an authorisation in an order, they must inform the subject of the order of the name and address of that authorised monitor.
137. *Subsection (9)* makes clear that nothing in these provisions affects the ability of a law enforcement body to enter into any arrangements with third parties outside the scope of these provisions. *Subsection (10)* defines some of the terms used in the section.