
STATUTORY INSTRUMENTS

2013 No. 2605

The Proceeds of Crime Act 2002
(External Investigations) Order 2013

PART 2

[^{F1}Requirements for making of unexplained wealth order

46B.—(1) These are the requirements for the making of an unexplained wealth order in respect of any property.

(2) The Court of Session must be satisfied that there is reasonable cause to believe that—

- (a) the respondent holds the property, and
- (b) the value of the property is greater than that of the sum for the time being specified in section 396B(2)(b) of the Proceeds of Crime Act 2002 (requirements for making of unexplained wealth order).

(3) The Court of Session must be satisfied that there are reasonable grounds for suspecting that the known sources of the respondent's lawfully obtained income would have been insufficient for the purposes of enabling the respondent to obtain the property.

(4) The Court of Session must be satisfied that—

- (a) the respondent is a politically exposed person, or
- (b) there are reasonable grounds for suspecting that—
 - (i) the respondent is, or has been, involved in serious crime (whether [^{F2}in a part of the United Kingdom] or elsewhere), or
 - (ii) a person connected with the respondent is, or has been, so involved.

(5) It does not matter for the purposes of paragraph (2)(a)—

- (a) whether or not there are other persons who also hold the property;
- (b) whether the property was obtained by the respondent before or after the coming into force of this article.

(6) For the purposes of paragraph (3)—

- (a) regard is to be had to any heritable security, charge or other kind of security that it is reasonable to assume was or may have been available to the respondent for the purpose of obtaining the property;
- (b) it is to be assumed that the respondent obtained the property for a price equivalent to its market value;
- (c) income is “lawfully obtained” if it is obtained lawfully under the laws of the country from where the income arises;
- (d) “known” sources of the respondent's income are the sources of income (whether arising from employment, assets or otherwise) that are reasonably ascertainable from available information at the time of the making of the application for the order;

- (e) where the property is an interest in other property comprised in a settlement, the reference to the respondent obtaining property is to be taken as if it were a reference to the respondent obtaining direct ownership of such share in the settled property as relates to, or is fairly represented by, that interest.
- (7) In paragraph (4)(a), “politically exposed person” has the same meaning as for the time being specified in section 396B of the Proceeds of Crime Act 2002.
- (8) For the purposes of this article—
- (a) a person is involved in serious crime [^{F3}in a part of the United Kingdom] or elsewhere if the person would be so involved for the purposes of Part 1 of the Serious Crime Act 2007 (see in particular [^{F4}sections 2, 2A and 3] of that Act) ^{F5} ...;
- (b) section 1122 of the Corporation Tax Act 2010 (“connected” persons) applies in determining whether a person is connected with another.
- (9) Where the property in respect of which the order is sought comprises more than one item of property, the reference in paragraph (2)(b) to the value of the property is to the total value of those items.]

Textual Amendments

- F1** Arts. 46A-46H inserted (12.11.2018) by [The Proceeds of Crime Act 2002 \(External Investigations and External Orders and Requests\) \(Amendment\) Order 2018 \(S.I. 2018/1078\)](#), arts. 1(2), **13**
- F2** Words in art. 46B(4)(b)(i) substituted (28.6.2021) by virtue of [The Proceeds of Crime Act 2002 \(External Investigations and External Orders and Requests\) \(Amendment\) Order 2021 \(S.I. 2021/638\)](#), arts. 1(2), **51(a)**
- F3** Words in art. 46B(8)(a) substituted (28.6.2021) by virtue of [The Proceeds of Crime Act 2002 \(External Investigations and External Orders and Requests\) \(Amendment\) Order 2021 \(S.I. 2021/638\)](#), arts. 1(2), **51(b)(i)**
- F4** Words in art. 46B(8)(a) substituted (28.6.2021) by [The Proceeds of Crime Act 2002 \(External Investigations and External Orders and Requests\) \(Amendment\) Order 2021 \(S.I. 2021/638\)](#), arts. 1(2), **51(b)(ii)**
- F5** Words in art. 46B(8)(a) omitted (28.6.2021) by virtue of [The Proceeds of Crime Act 2002 \(External Investigations and External Orders and Requests\) \(Amendment\) Order 2021 \(S.I. 2021/638\)](#), arts. 1(2), **51(b)(iii)**

Changes to legislation:

There are currently no known outstanding effects for the The Proceeds of Crime Act 2002 (External Investigations) Order 2013, Section 46B.