



Serious Organised Crime and Police Act 2005

2005 CHAPTER 15

PART 2

INVESTIGATIONS, PROSECUTIONS, PROCEEDINGS AND PROCEEDS OF CRIME

CHAPTER 3

FINANCIAL REPORTING ORDERS

76 Financial reporting orders: making

- (1) A court sentencing or otherwise dealing with a person convicted of an offence mentioned in subsection (3) may also make a financial reporting order in respect of him.
- (2) But it may do so only if it is satisfied that the risk of the person's committing another offence mentioned in subsection (3) is sufficiently high to justify the making of a financial reporting order.
- (3) The offences are—
 - (a) an offence under any of the following provisions of the Theft Act 1968 (c. 60)—
 - section 15 (obtaining property by deception),
 - section 15A (obtaining a money transfer by deception),
 - section 16 (obtaining a pecuniary advantage by deception),
 - section 20(2) (procuring execution of valuable security, etc.),
 - (b) an offence under either of the following provisions of the Theft Act 1978 (c. 31)—
 - section 1 (obtaining services by deception),
 - section 2 (evasion of liability by deception),

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- (c) any offence specified in Schedule 2 to the Proceeds of Crime Act 2002 (c. 29) (“lifestyle offences”).
- (4) The Secretary of State may by order amend subsection (3) so as to remove an offence from it or add an offence to it.
- (5) A financial reporting order—
 - (a) comes into force when it is made, and
 - (b) has effect for the period specified in the order, beginning with the date on which it is made.
- (6) If the order is made by a magistrates' court, the period referred to in subsection (5) (b) must not exceed 5 years.
- (7) Otherwise, that period must not exceed—
 - (a) if the person is sentenced to imprisonment for life, 20 years,
 - (b) otherwise, 15 years.

77 Financial reporting orders: making in Scotland

- (1) A court sentencing or otherwise dealing with a person convicted of an offence mentioned in subsection (3) may also make a financial reporting order in respect of him.
- (2) But he or it may do so only if satisfied that the risk of the person’s committing another offence mentioned in subsection (3) is sufficiently high to justify the making of a financial reporting order.
- (3) The offences are—
 - (a) at common law, the offence of fraud,
 - (b) any offence specified in Schedule 4 to the Proceeds of Crime Act 2002 (c. 29) (“lifestyle offences”: Scotland).
- (4) The Scottish Ministers may by order amend subsection (3) so as to remove an offence from it or add an offence to it.
- (5) A financial reporting order—
 - (a) comes into force when it is made, and
 - (b) has effect for the period specified in the order, beginning with the date on which it is made.
- (6) If the order is made by the sheriff, the period referred to in subsection (5)(b) must not exceed 5 years.
- (7) If the order is made by the High Court of Justiciary, that period must not exceed—
 - (a) if the person is sentenced to imprisonment for life, 20 years,
 - (b) otherwise, 15 years.

78 Financial reporting orders: making in Northern Ireland

- (1) A court sentencing or otherwise dealing with a person convicted of an offence mentioned in subsection (3) may also make a financial reporting order in respect of him.

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- (2) But the court may do so only if it is satisfied that the risk of the person's committing another offence mentioned in subsection (3) is sufficiently high to justify the making of a financial reporting order.
- (3) The offences are—
 - (a) an offence under any of the following provisions of the Theft Act (Northern Ireland) 1969 (c. 16 (N.I.))—
 - section 15 (obtaining property by deception),
 - section 15A (obtaining a money transfer by deception),
 - section 16 (obtaining a pecuniary advantage by deception),
 - section 19(2) (procuring execution of valuable security, etc.),
 - (b) an offence under either of the following provisions of the Theft (Northern Ireland) Order 1978 (S.I. 1978/1407 (N.I. 23))—
 - Article 3 (obtaining services by deception),
 - Article 4 (evasion of liability by deception),
 - (c) any offence specified in Schedule 5 to the Proceeds of Crime Act 2002 ("lifestyle offences": Northern Ireland).
- (4) A financial reporting order—
 - (a) comes into force when it is made, and
 - (b) has effect for the period specified in the order, beginning with the date on which it is made.
- (5) If the order is made by a magistrates' court, or by the county court on appeal, the period referred to in subsection (4)(b) must not exceed 5 years.
- (6) Otherwise, that period must not exceed—
 - (a) if the person is sentenced to imprisonment for life, 20 years,
 - (b) otherwise, 15 years.

79 Financial reporting orders: effect

- (1) A person in relation to whom a financial reporting order has effect must do the following.
- (2) He must make a report, in respect of—
 - (a) the period of a specified length beginning with the date on which the order comes into force, and
 - (b) subsequent periods of specified lengths, each period beginning immediately after the end of the previous one.
- (3) He must set out in each report, in the specified manner, such particulars of his financial affairs relating to the period in question as may be specified.
- (4) He must include any specified documents with each report.
- (5) He must make each report within the specified number of days after the end of the period in question.
- (6) He must make each report to the specified person.
- (7) Rules of court may provide for the maximum length of the periods which may be specified under subsection (2).

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- (8) In this section, “specified” means specified by the court in the order.
- (9) In Scotland the specified person must be selected by the court from a list set out in an order made for the purposes of this section by the Scottish Ministers.
- (10) A person who without reasonable excuse includes false or misleading information in a report, or otherwise fails to comply with any requirement of this section, is guilty of an offence and is liable on summary conviction to—
 - (a) imprisonment for a term not exceeding—
 - (i) in England and Wales, 51 weeks,
 - (ii) in Scotland, 12 months,
 - (iii) in Northern Ireland, 6 months, or
 - (b) a fine not exceeding level 5 on the standard scale,
 or to both.

80 Financial reporting orders: variation and revocation

- (1) An application for variation or revocation of a financial reporting order may be made by—
 - (a) the person in respect of whom it has been made,
 - (b) the person to whom reports are to be made under it (see section 79(6)).
- (2) The application must be made to the court which made the order.
- (3) But if the order was made on appeal, the application must be made to the court which originally sentenced the person in respect of whom the order was made.
- (4) If (in either case) that court was a magistrates' court, the application may be made to any magistrates' court acting in the same local justice area (or in Northern Ireland for the same county court division) as that court.
- (5) Subsections (3) and (4) do not apply to Scotland.

81 Financial reporting orders: verification and disclosure

- (1) In this section, “the specified person” means the person to whom reports under a financial reporting order are to be made.
- (2) The specified person may, for the purpose of doing either of the things mentioned in subsection (4), disclose a report to any person who he reasonably believes may be able to contribute to doing either of those things.
- (3) Any other person may disclose information to—
 - (a) the specified person, or
 - (b) a person to whom the specified person has disclosed a report,
 for the purpose of contributing to doing either of the things mentioned in subsection (4).
- (4) The things mentioned in subsections (2) and (3) are—
 - (a) checking the accuracy of the report or of any other report made pursuant to the same order,
 - (b) discovering the true position.

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- (5) The specified person may also disclose a report for the purposes of—
- (a) the prevention, detection, investigation or prosecution of criminal offences, whether in the United Kingdom or elsewhere,
 - (b) the prevention, detection or investigation of conduct for which penalties other than criminal penalties are provided under the law of any part of the United Kingdom or of any country or territory outside the United Kingdom.
- (6) A disclosure under this section does not breach—
- (a) any obligation of confidence owed by the person making the disclosure, or
 - (b) any other restriction on the disclosure of information (however imposed).
- (7) But nothing in this section authorises a disclosure, in contravention of any provisions of the Data Protection Act 1998 (c. 29), of personal data which are not exempt from those provisions.
- (8) In this section, references to a report include any of its contents, any document included with the report, or any of the contents of such a document.