



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.

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 ^[F1], 21 or 22E 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.

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 [^{F2}sections 79, 80 and 82 of the Sentencing Code] 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.

Textual Amendments

- F1** Words in s. 36(1) substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), [Sch. 4 para. 80](#); [S.I. 2015/820](#), reg. 2(r)(xv)
- F2** Words in s. 36(5) substituted (1.12.2020) by [Sentencing Act 2020 \(c. 17\)](#), s. 416(1), [Sch. 24 para. 264](#) (with [Sch. 24 para. 447](#), [Sch. 27](#)); [S.I. 2020/1236](#), reg. 2

Commencement Information

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

[^{F3}36A Proceedings in the High Court of Justiciary and sheriff court

- (1) Proceedings before the High Court of Justiciary (the “High Court”) or the sheriff arising by virtue of section 22A, 22B, 22C or 22E are civil proceedings.
- (2) One consequence of this is that the standard of proof to be applied by the High Court or (as the case may be) the sheriff in such proceedings is the civil standard of proof.
- (3) Two other consequences of this are that the High Court or (as the case may be) the sheriff—
 - (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.
- (4) Despite subsection (1), an Act of Adjournal under section 305 of the Criminal Procedure (Scotland) Act 1995 (Acts of Adjournal) may be made in relation to proceedings before the High Court or the sheriff arising by virtue of section 22A, 22B, 22C or 22E.
- (5) A serious crime prevention order may be made as mentioned in section 22A(6)(b) in spite of anything in sections 246 and 247 of the Criminal Procedure (Scotland) Act 1995 (which relate to orders discharging a person absolutely and their effect).
- (6) A variation of a serious crime prevention order may be made as mentioned in section 22B(4)(b), or (as the case may be) a variation of or a new serious crime prevention order may be made as mentioned in section 22C(4)(b), in spite of anything in sections 246 and 247 of the Criminal Procedure (Scotland) Act 1995.]

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)

Textual Amendments

- F3** S. 36A inserted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), [Sch. 1 para. 25](#); S.I. 2016/148, reg. 3(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
 - (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.

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- (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—
- (za) [^{F4}the chief constable of a police force maintained under section 2 of the Police Act 1996;
 - (zb) the Commissioner of Police of the Metropolis;
 - (zc) the Common Council of the City of London in its capacity as police authority;]
 - (zd) [^{F5}the chief constable of the Police Service of Scotland;]
 - (a) [^{F6}... the Northern Ireland Policing Board;
 - (b) [^{F7}the National Crime Agency;]
 - (c) the Commissioners for Her Majesty's Revenue and Customs; or
 - (d) the Director of the Serious Fraud Office;
- “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

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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.

Textual Amendments

- F4** S. 39(10)(za)-(zc) inserted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 16 para. 370\(a\)](#); S.I. 2011/3019, art. 3, Sch. 1 (with Sch. 2 para. 79)
- F5** Words in s. 39(10) inserted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), [Sch. 1 para. 26](#); S.I. 2016/148, reg. 3(f)
- F6** Words in s. 39(10)(a) omitted (16.1.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 16 para. 370\(b\)](#); S.I. 2011/3019, art. 3, Sch. 1 (with Sch. 2 para. 79)
- F7** Words in s. 39(10) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 178](#); S.I. 2013/1682, art. 3(v)

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 [^{F8}appropriate authority] 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 [^{F9}appropriate authority] 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 [^{F10}recoverable—
 - (a) in England and Wales and Northern Ireland, as if] due to the law enforcement agency concerned by virtue of a civil order or judgment.
 - [^{F11}(b) in Scotland, in like manner as an extract registered decree arbitral bearing a warrant for execution issued by the sheriff court of any sheriffdom in Scotland.]
 - (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).
- [^{F12}(6A) Where any amounts required to be paid by virtue of section 39(4) and (5) are, in the case of a serious crime prevention order made under section 22A, not paid within a required period, the unpaid balance from time to time carries interest at the rate payable under a decree of the Court of Session.]

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(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.

[^{F13}(9) In this section “the appropriate authority” means—

(a) in relation to serious crime prevention orders in England and Wales, the Secretary of State;

[in relation to serious crime prevention orders in Scotland, the Scottish
^{F14}(aa) Ministers;]

(b) in relation to serious crime prevention orders in Northern Ireland, the Department of Justice in Northern Ireland.]

Textual Amendments

F8 Words in s. 40(1) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), **Sch. 10 para. 7(2)** (with arts. 28-31)

F9 Words in s. 40(4) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), **Sch. 10 para. 7(2)** (with arts. 28-31)

F10 S. 40(5)(a) substituted for words (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), **Sch. 1 para. 27(2)**; S.I. 2016/148, reg. 3(f)

F11 S. 40(5)(b) inserted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), **Sch. 1 para. 27(3)**; S.I. 2016/148, reg. 3(f)

F12 S. 40(6A) inserted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), **Sch. 1 para. 27(4)**; S.I. 2016/148, reg. 3(f)

F13 S. 40(9) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), **Sch. 10 para. 7(3)** (with arts. 28-31)

F14 S. 40(9)(aa) inserted (1.3.2016) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), **Sch. 1 para. 27(5)**; S.I. 2016/148, reg. 3(f)

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)**

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.

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)*

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Commencement Information

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

Changes to legislation:

There are currently no known outstanding effects for the Serious Crime Act 2007, Cross
Heading: Supplementary.