



Serious Crime Act 2007

2007 CHAPTER 27

PART 3

OTHER MEASURES TO PREVENT OR DISRUPT SERIOUS AND OTHER CRIME

CHAPTER 2

PROCEEDS OF CRIME

Assets Recovery Agency

74 Abolition of Assets Recovery Agency and redistribution of functions etc.

- (1) The Assets Recovery Agency and the corporation sole that is its Director shall cease to exist on such day as the Secretary of State may by order appoint.
- (2) The following Parts of Schedule 8 (abolition of Assets Recovery Agency and its Director) have effect—
 - (a) Part 1 (abolition of confiscation functions);
 - (b) Part 2 (transfer to SOCA and prosecution authorities of civil recovery functions);
 - (c) Part 3 (transfer to SOCA of Revenue functions and power to abolish those functions);
 - (d) Part 4 (transfer of investigation functions);
 - (e) Part 5 (transfer of accreditation and training functions to National Policing Improvement Agency);
 - (f) Part 6 (other amendments to the Proceeds of Crime Act 2002 (c. 29)); and
 - (g) Part 7 (amendments to other enactments).
- (3) Schedule 9 (which makes provision about the transfer of the Director and staff of the Agency, and property, rights and liabilities of the Director and the Agency, to SOCA and the National Policing Improvement Agency) has effect.

- (4) In this section and Schedules 8 and 9 “SOCA” means the Serious Organised Crime Agency.

Detained cash investigations: use of production orders and warrants

75 Use of production orders for detained cash investigations

- (1) After section 341(3) of the Proceeds of Crime Act 2002 (types of investigation to which Part 8 applies) insert—

“(3A) For the purposes of this Part a detained cash investigation is—

- (a) an investigation for the purposes of Chapter 3 of Part 5 into the derivation of cash detained under section 295 or a part of such cash, or
- (b) an investigation for the purposes of Chapter 3 of Part 5 into whether cash detained under section 295, or a part of such cash, is intended by any person to be used in unlawful conduct.”

- (2) In section 345(2) of that Act (investigations in respect of which production orders may be made), in paragraph (b), after “a civil recovery investigation” insert “or a detained cash investigation”.

- (3) In section 346(2) of that Act (reasonable suspicion requirement for making a production order), after paragraph (b), insert—

- “(ba) in the case of a detained cash investigation into the derivation of cash, the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
- (bb) in the case of a detained cash investigation into the intended use of cash, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;”.

- (4) In section 380(3) of that Act (investigations in respect of which production orders may be made in Scotland), in paragraph (b), after “a civil recovery investigation” insert “or a detained cash investigation”.

- (5) In section 381(2) of that Act (reasonable suspicion requirement for making a production order in Scotland), after paragraph (b), insert—

- “(ba) in the case of a detained cash investigation into the derivation of cash, the property the application for the order specifies as being subject to the investigation, or a part of it, is recoverable property;
- (bb) in the case of a detained cash investigation into the intended use of cash, the property the application for the order specifies as being subject to the investigation, or a part of it, is intended by any person to be used in unlawful conduct;”.

76 Use of search warrants etc. for detained cash investigations

- (1) In section 352(2) of the Proceeds of Crime Act 2002 (c. 29) (investigations in respect of which a search and seizure warrant may be issued), in paragraph (b), after “a civil recovery investigation” insert “or a detained cash investigation”.

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- (2) In section 353(2) of that Act (reasonable suspicion grounds for warrant where no production order), after paragraph (b), insert—
- “(ba) in the case of a detained cash investigation into the derivation of cash, the property specified in the application for the warrant, or a part of it, is recoverable property;
 - (bb) in the case of a detained cash investigation into the intended use of cash, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;”.
- (3) After section 353(7) of that Act (types of material in respect of which warrant may be issued where no production order) insert—
- “(7A) In the case of a detained cash investigation into the derivation of cash, material falls within this subsection if it cannot be identified at the time of the application but it—
 - (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and
 - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.
 - (7B) In the case of a detained cash investigation into the intended use of cash, material falls within this subsection if it cannot be identified at the time of the application but it—
 - (a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and
 - (b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.”
- (4) In section 387(3) of that Act (investigations in respect of which a search warrant may be issued in Scotland), in paragraph (b), after “a civil recovery investigation” insert “or a detained cash investigation”.
- (5) In section 388(2) of that Act (reasonable suspicion grounds for issue of warrant in Scotland where no production order), after paragraph (b), insert—
- “(ba) in the case of a detained cash investigation into the derivation of cash, the property specified in the application for the warrant, or a part of it, is recoverable property;
 - (bb) in the case of a detained cash investigation into the intended use of cash, the property specified in the application for the warrant, or a part of it, is intended by any person to be used in unlawful conduct;”.
- (6) After section 388(7) of that Act (types of material in respect of which warrant may be issued in Scotland where no production order) insert—
- “(7A) In the case of a detained cash investigation into the derivation of cash, material falls within this subsection if it cannot be identified at the time of the application but it—
 - (a) relates to the property specified in the application, the question whether the property, or a part of it, is recoverable property or any other question as to its derivation, and

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(b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.

(7B) In the case of a detained cash investigation into the intended use of cash, material falls within this subsection if it cannot be identified at the time of the application but it—

(a) relates to the property specified in the application or the question whether the property, or a part of it, is intended by any person to be used in unlawful conduct, and

(b) is likely to be of substantial value (whether or not by itself) to the investigation for the purposes of which the warrant is sought.”

77 Further provision about detained cash investigations

Schedule 10 (which makes further provision about detained cash investigations) has effect.

Extension of powers of accredited financial investigators

78 Powers to seize property to which restraint orders apply

(1) In section 45(1) of the Proceeds of Crime Act 2002 (c. 29) (seizure of property to which restraint order applies: England and Wales) after “constable” insert “, an accredited financial investigator”.

(2) After section 45(2) of that Act insert—

“(3) The reference in subsection (1) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that subsection by the Secretary of State under section 453.”

(3) In section 194(1) of that Act (seizure of property to which restraint order applies: Northern Ireland) after “constable” insert “, an accredited financial investigator”.

(4) After section 194(2) of that Act insert—

“(3) The reference in subsection (1) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that subsection by the Secretary of State under section 453.”

79 Powers to recover cash

Schedule 11 (which gives accredited financial investigators powers to recover cash under Chapter 3 of Part 5 of the Proceeds of Crime Act 2002 (c. 29) and makes related amendments) has effect.

80 Powers in relation to certain investigations

(1) In section 352(5) of the Proceeds of Crime Act 2002 (search and seizure warrants in connection with confiscation, money laundering and detained cash investigations etc.)—

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- (a) in paragraph (a), after “constable” insert “, an accredited financial investigator”; and
 - (b) in paragraph (c) (as inserted by Schedule 10 to this Act), after “constable” insert “, an accredited financial investigator”.
- (2) After section 352(6) of that Act insert—
- “(7) The reference in paragraph (a) or (c) of subsection (5) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that paragraph by the Secretary of State under section 453.”
- (3) In section 353(10) of that Act (requirements in relation to search and seizure warrants)
- (a) in paragraph (a), after “constable” insert “, an accredited financial investigator”; and
 - (b) in paragraph (c) (as inserted by Schedule 10 to this Act), after “constable” insert “, an accredited financial investigator”.
- (4) After section 353(10) of that Act insert—
- “(11) The reference in paragraph (a) or (c) of subsection (10) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that paragraph by the Secretary of State under section 453.”
- (5) In section 356(11)(b) of that Act (as inserted by Schedule 10 to this Act) (further provisions in relation to search and seizure warrants: detained cash investigations) after “constable” insert “, an accredited financial investigator”.
- (6) After section 356(11) of that Act (as inserted by Schedule 10 to this Act) insert—
- “(12) The reference in paragraph (b) of subsection (11) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that paragraph by the Secretary of State under section 453.”
- (7) In section 378(3A) of that Act (as inserted by Schedule 10 to this Act) (meaning of “officers” for purposes of Part 8 in relation to detained cash investigations) after paragraph (a) insert—
- “(ab) an accredited financial investigator;”.
- (8) After section 378(3A) of that Act (as inserted by Schedule 10 to this Act) insert—
- “(3B) The reference in paragraph (ab) of subsection (3A) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that paragraph by the Secretary of State under section 453.”

81 Supplementary provision in relation to new powers

- (1) In section 453(2) of the Proceeds of Crime Act 2002 (c. 29) (power to modify references to accredited financial investigators)—
- (a) after “may” insert “, in particular;” and

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- (b) after “person” insert “or by reference to particular types of training undertaken”.

(2) After section 453 of that Act insert—

“453A Certain offences in relation to financial investigators

- (1) A person commits an offence if he assaults an accredited financial investigator who is acting in the exercise of a relevant power.
- (2) A person commits an offence if he resists or wilfully obstructs an accredited financial investigator who is acting in the exercise of a relevant power.
- (3) A person guilty of an offence under subsection (1) is liable on summary conviction—
- (a) to imprisonment for a term not exceeding 51 weeks; or
 - (b) to a fine not exceeding level 5 on the standard scale;
- or to both.
- (4) A person guilty of an offence under subsection (2) is liable on summary conviction—
- (a) to imprisonment for a term not exceeding 51 weeks; or
 - (b) to a fine not exceeding level 3 on the standard scale;
- or to both.
- (5) In this section “relevant power” means a power exercisable under—
- (a) section 45 or 194 (powers to seize property to which restraint orders apply);
 - (b) section 289 (powers to search for cash);
 - (c) section 294 (powers to seize cash);
 - (d) section 295(1) (power to detain seized cash); or
 - (e) a search and seizure warrant issued under section 352.
- (6) In the application of this section to England and Wales in relation to an offence committed before the commencement of section 281(5) of the Criminal Justice Act 2003 (c. 44) (alteration of penalties for summary offences), and in the application of this section to Northern Ireland—
- (a) the reference to 51 weeks in subsection (3)(a) is to be read as a reference to 6 months; and
 - (b) the reference to 51 weeks in subsection (4)(a) is to be read as a reference to 1 month.”

Miscellaneous

82 Powers of management receivers and enforcement receivers

- (1) After section 49(8) of the Proceeds of Crime Act 2002 (c. 29) (opportunity for persons to make representations before powers conferred on management receivers to manage or otherwise deal with property: England and Wales) insert—

“(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—

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- (a) is perishable; or
 - (b) ought to be disposed of before its value diminishes.”
- (2) After section 51(8) of that Act (opportunity for persons to make representations before powers conferred on enforcement receivers to manage or otherwise deal with property: England and Wales) insert—
 - “(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—
 - (a) is perishable; or
 - (b) ought to be disposed of before its value diminishes.”
- (3) After section 197(8) of that Act (opportunity for persons to make representations before powers conferred on management receivers to manage or otherwise deal with property: Northern Ireland) insert—
 - “(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—
 - (a) is perishable; or
 - (b) ought to be disposed of before its value diminishes.”
- (4) After section 199(8) of that Act (opportunity for persons to make representations before powers conferred on enforcement receivers to manage or otherwise deal with property: Northern Ireland) insert—
 - “(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—
 - (a) is perishable; or
 - (b) ought to be disposed of before its value diminishes.”

83 Civil recovery management receivers

- (1) After section 245D of the Proceeds of Crime Act 2002 (property freezing orders) insert—

“245E Receivers in connection with property freezing orders

- (1) Subsection (2) applies if—
 - (a) the High Court makes a property freezing order on an application by an enforcement authority, and
 - (b) the authority applies to the court to proceed under subsection (2) (whether as part of the application for the property freezing order or at any time afterwards).
- (2) The High Court may by order appoint a receiver in respect of any property to which the property freezing order applies.
- (3) An application for an order under this section may be made without notice if the circumstances are such that notice of the application would prejudice any right of the enforcement authority to obtain a recovery order in respect of any property.
- (4) In its application for an order under this section, the enforcement authority must nominate a suitably qualified person for appointment as a receiver.

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- (5) Such a person may be a member of staff of the enforcement authority.
- (6) The enforcement authority may apply a sum received by it under section 280(2) in making payment of the remuneration and expenses of a receiver appointed under this section.
- (7) Subsection (6) does not apply in relation to the remuneration of the receiver if he is a member of the staff of the enforcement authority (but it does apply in relation to such remuneration if the receiver is a person providing services under arrangements made by the enforcement authority).

245F Powers of receivers appointed under section 245E

- (1) If the High Court appoints a receiver under section 245E on an application by an enforcement authority, the court may act under this section on the application of the authority.
- (2) The court may by order authorise or require the receiver—
 - (a) to exercise any of the powers mentioned in paragraph 5 of Schedule 6 (management powers) in relation to any property in respect of which the receiver is appointed,
 - (b) to take any other steps the court thinks appropriate in connection with the management of any such property (including securing the detention, custody or preservation of the property in order to manage it).
- (3) The court may by order require any person in respect of whose property the receiver is appointed—
 - (a) to bring the property to a place (in England and Wales or, as the case may be, Northern Ireland) specified by the receiver or to place it in the custody of the receiver (if, in either case, he is able to do so),
 - (b) to do anything he is reasonably required to do by the receiver for the preservation of the property.
- (4) The court may by order require any person in respect of whose property the receiver is appointed to bring any documents relating to the property which are in his possession or control to a place (in England and Wales or, as the case may be, Northern Ireland) specified by the receiver or to place them in the custody of the receiver.
- (5) In subsection (4) “document” means anything in which information of any description is recorded.
- (6) Any prohibition on dealing with property imposed by a property freezing order does not prevent a person from complying with any requirements imposed by virtue of this section.
- (7) If—
 - (a) the receiver deals with any property which is not property in respect of which he is appointed under section 245E, and
 - (b) at the time he deals with the property he believes on reasonable grounds that he is entitled to do so by virtue of his appointment,

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the receiver is not liable to any person in respect of any loss or damage resulting from his dealing with the property except so far as the loss or damage is caused by his negligence.

245G Supervision of section 245E receiver and variations

- (1) Any of the following persons may at any time apply to the High Court for directions as to the exercise of the functions of a receiver appointed under section 245E—
 - (a) the receiver,
 - (b) any party to the proceedings for the appointment of the receiver or the property freezing order concerned,
 - (c) any person affected by any action taken by the receiver,
 - (d) any person who may be affected by any action proposed to be taken by the receiver.
- (2) Before giving any directions under subsection (1), the court must give an opportunity to be heard to—
 - (a) the receiver,
 - (b) the parties to the proceedings for the appointment of the receiver and for the property freezing order concerned,
 - (c) any person who may be interested in the application under subsection (1).
- (3) The court may at any time vary or set aside the appointment of a receiver under section 245E, any order under section 245F or any directions under this section.
- (4) Before exercising any power under subsection (3), the court must give an opportunity to be heard to—
 - (a) the receiver,
 - (b) the parties to the proceedings for the appointment of the receiver, for the order under section 245F or, as the case may be, for the directions under this section;
 - (c) the parties to the proceedings for the property freezing order concerned,
 - (d) any person who may be affected by the court’s decision.”
- (2) In sections 273(4)(b) and 277(7)(b) of that Act (recovery orders and consent orders: recovery of costs of pension scheme trustees or managers) after “enforcement authority,” insert “receiver appointed under section 245E;”.
- (3) In paragraph 1 of Schedule 10 to that Act (disapplication of special income tax and capital gains tax rules for receivers), after paragraph (c), insert—
 - “(ca) a receiver appointed under section 245E;”.

84 Powers for prosecutors to appear in cash recovery proceedings

- (1) After section 302 of the Proceeds of Crime Act 2002 (c. 29) (recovery of cash in summary proceedings: compensation) insert—

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“302A Powers for prosecutors to appear in proceedings

- (1) The Director of Public Prosecutions or the Director of Public Prosecutions for Northern Ireland may appear for a constable in proceedings under this Chapter if the Director—
 - (a) is asked by, or on behalf of, a constable to do so, and
 - (b) considers it appropriate to do so.
 - (2) The Director of Revenue and Customs Prosecutions may appear for the Commissioners for Her Majesty’s Revenue and Customs or an officer of Revenue and Customs in proceedings under this Chapter if the Director—
 - (a) is asked by, or on behalf of, the Commissioners for Her Majesty’s Revenue and Customs or (as the case may be) an officer of Revenue and Customs to do so, and
 - (b) considers it appropriate to do so.
 - (3) The Directors may charge fees for the provision of services under this section.”
- (2) After section 2C(3) of that Act (prosecuting authorities) (as inserted by Schedule 8 to this Act) insert—
- “(3A) Subsection (3) does not apply to the functions of the Director of Public Prosecutions for Northern Ireland and the Director of Revenue and Customs Prosecutions under section 302A.”
- (3) After section 38(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (conduct of prosecutions on behalf of the Office) insert—
- “(1A) An individual who is not a member of the Office may be appointed by the Director to appear in—
- (a) specified proceedings, or
 - (b) a specified class or description of proceedings,
- in which the Director or a Prosecutor would otherwise appear by virtue of section 302A of the Proceeds of Crime Act 2002 (cash recovery proceedings).”
- (4) After section 39(1) of that Act (designation of non-legal staff) insert—
- “(1A) The Director may designate a member of the Office to appear in—
- (a) specified proceedings, or
 - (b) a specified class or description of proceedings,
- in which the Director or a Prosecutor would otherwise appear by virtue of section 302A of the Proceeds of Crime Act 2002 (cash recovery proceedings).”

85 Disclosure of information by Revenue and Customs

- (1) This section applies to information held as mentioned in section 18(1) of the Commissioners for Revenue and Customs Act 2005 (c. 11) (confidentiality).
- (2) Information to which this section applies may be disclosed by or with the authority of the Commissioners of Revenue and Customs—

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- (a) to the Criminal Assets Bureau in Ireland (“the CAB”) for the purpose of enabling or assisting the CAB to exercise any of its functions in connection with any matter within subsection (3); or
 - (b) to any specified public authority (in the United Kingdom or elsewhere)—
 - (i) for the purpose of enabling or assisting the public authority to exercise any of its functions in connection with any matter within subsection (3); or
 - (ii) (if the specifying order so provides) for the purpose of enabling or assisting the public authority to exercise any of its functions in connection with any matter within that subsection that is specified, or of a description specified, in the order.
- (3) The matters within this subsection are—
- (a) the identification of proceeds of crime;
 - (b) the bringing of civil proceedings for enforcement purposes in relation to proceeds of crime; and
 - (c) the taking of other action in relation to proceeds of crime.
- (4) Information disclosed in accordance with subsection (2) must not be further disclosed except—
- (a) in connection with the exercise of any of the functions of the CAB or a specified public authority in connection with any matter within subsection (3) (or, in a subsection (2)(b)(ii) case, any such matter as is mentioned there); and
 - (b) with the consent of the Commissioners of Revenue and Customs or an authorised officer of the Commissioners of Revenue and Customs.
- (5) For the purposes of this section any consent or authorisation may be general or specific.
- (6) If a person in the United Kingdom discloses, in contravention of subsection (4), any revenue and customs information relating to a person whose identity—
- (a) is specified in the disclosure; or
 - (b) can be deduced from it;
- section 19 of the 2005 Act (wrongful disclosure) applies in relation to that disclosure as it applies in relation to a disclosure of such information in contravention of section 20(9) of that Act.
- (7) Any reference in this section to a disclosure to the CAB or a specified public authority is a reference to a disclosure to such person, or to persons of such description, as may be specified in relation to the CAB or the public authority (as the case may be).
- (8) Nothing in this section authorises any disclosure of information which—
- (a) contravenes the Data Protection Act 1998 (c. 29); or
 - (b) is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000 (c. 23).
- (9) In this section—
- “the 2005 Act” means the Commissioners for Revenue and Customs Act 2005 (c. 11);
 - “assets” means property of any description, wherever situated;
 - “civil proceedings” means civil proceedings of whatever nature and whether brought in the United Kingdom or elsewhere;

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“Commissioners of Revenue and Customs” means the Commissioners for Her Majesty’s Revenue and Customs;

“enforcement purposes”, in relation to the proceeds of crime, means with a view to—

(a) recovering, forfeiting or freezing assets constituting proceeds of crime;
or

(b) otherwise depriving persons (to any extent) of, or of access to, such assets or the benefit of such assets;

“functions” includes powers, duties and objectives, and references to the exercise of functions include the pursuit of objectives;

“proceeds of crime” means assets derived, or suspected to be derived, directly or indirectly from criminal conduct (wherever occurring);

“public authority” means any body or person discharging functions of a public nature;

“revenue and customs information relating to a person” has the meaning given by section 19(2) of the 2005 Act;

“specified” means specified in an order made by the Treasury; and

“the specifying order”, in relation to a specified public authority, means the order specifying the authority for the purposes of this section.

86 Use of force in executing search warrants: Scotland

In section 387 of the Proceeds of Crime Act 2002 (c. 29) (issue of search warrants in Scotland in connection with certain investigations), after subsection (4), insert—

“(4A) A proper person may, if necessary, use reasonable force in executing a search warrant.”