
STATUTORY INSTRUMENTS

2003 No. 425

The Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003

PART 2

ENFORCEMENT IN ENGLAND AND WALES OF SCOTTISH AND NORTHERN IRELAND ORDERS AND WARRANTS

Northern Ireland production orders

3.—(1) This article applies where—

- (a) a Northern Ireland production order requires a person in England and Wales in possession or control of material in England and Wales to produce the material or give access to the material; or
- (b) an order to grant entry to premises in England and Wales is made in respect of a Northern Ireland production order under section 347 of the Act.

(2) Subject to paragraph (7), the production order or the order to grant entry, as the case may be, may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh appropriate officer or a Northern Ireland appropriate officer serving the order personally,

and any rules of court as to the service of documents (other than rules of court made by virtue of section 446 of the Act) or other requirements in law as to the service of documents do not apply.

(3) Sections 345(4), 347(3), 348(5) and (7) and 349 of the Act have effect with the modifications in paragraph (4).

(4) The modifications are that for “an appropriate officer” in each place where it occurs, there is substituted, “whichever of an English or Welsh appropriate officer, a Northern Ireland appropriate officer or an English or Welsh appropriate officer and a Northern Ireland appropriate officer acting together the order specifies”.

(5) The production order or the order to grant entry, as the case may be, has effect as if it were an order of the Crown Court in England and Wales.

(6) Section 348(1) to (4) of the Act (further provisions) has effect as if the production order were an English or Welsh production order.

(7) Section 350 of the Act (government departments) has effect as if the production order were an English or Welsh production order and, in particular—

- (a) if the order is not brought to the attention of the officer concerned within the period stated in the order (in pursuance of section 345(4) of the Act) the person on whom it is served must report the reasons for the failure to a judge entitled to exercise the jurisdiction of the Crown Court in England and Wales; and

- (b) the production order must be served as if the proceedings were civil proceedings started against the department in England and Wales.

Scottish production orders

4.—(1) This article applies where—

- (a) a Scottish production order requires a person in England and Wales in possession or control of material in England and Wales to produce the material or give access to the material; or
- (b) an order to grant entry to premises in England and Wales is made in respect of a Scottish production order under section 382 of the Act.

(2) Subject to paragraph (7), the production order or the order to grant entry, as the case may be, may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh appropriate officer or a constable of a police force in Scotland serving the order personally,

and the Summary Jurisdiction (Process) Act 1881⁽¹⁾, any rules of court as to the service of documents (other than rules of court made by virtue of section 446 of the Act) and any other requirement in law as to the service of documents do not apply.

(3) Sections 380(5), 382(3), 383(3) and (5) and 384 of the Act have effect with the modifications in paragraph (4).

(4) The modifications are that for “a proper person” in each place where it occurs, there is substituted “whichever of an English or Welsh appropriate officer, a constable of a police force in Scotland or an English or Welsh appropriate officer and a constable of a police force in Scotland acting together the order specifies”.

(5) The production order or the order to grant entry, as the case may be, has effect as if it were an order of the Crown Court in England and Wales.

(6) Section 383(1) and (2) of the Act (further provisions) does not apply and section 348(1) to (4) of the Act (further provisions) has effect as if the production order were an English or Welsh production order.

(7) Section 385 of the Act (government departments) does not apply and section 350 of the Act (government departments) has effect as if the production order were an English or Welsh production order and, in particular—

- (a) if the order is not brought to the attention of the officer concerned within the period stated in the order (in pursuance of section 380(5) of the Act) the person on whom it is served must report the reasons for the failure to a judge entitled to exercise the jurisdiction of the Crown Court in England and Wales; and
- (b) the production order must be served as if the proceedings were civil proceedings started against the department in England and Wales.

Northern Ireland search and seizure warrants

5.—(1) This article applies where a Northern Ireland search and seizure warrant authorises entry into and search of premises in England and Wales.

(2) Section 352(4) of the Act (definition of a search and seizure warrant) has effect with the modification that for “an appropriate person”, there is substituted “one or more appropriate persons, as the warrant specifies”.

(1) 1881 c. 24 (44 & 45 Vict.).

(3) Section 352(5) of the Act (definition of an appropriate person) has effect with the modifications in paragraph (4).

(4) The modifications are that for paragraphs (a) and (b), there are substituted—

- “(a) a customs officer; or
- (b) a constable of a police force in England and Wales; or
- (c) a constable of the Police Service of Northern Ireland.”.

(5) Section 354 of the Act (further provisions) applies as if the warrant were an English or Welsh search and seizure warrant.

(6) Article 7 of the Police and Criminal Evidence Order (application of article 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989) does not apply to the execution of the warrant in England and Wales.

(7) Article 3 of the Police and Criminal Evidence Order (application of section 16 of the Police and Criminal Evidence Act 1984) has effect in relation to the execution of the warrant in England and Wales as it has effect in relation to the execution of an English or Welsh search and seizure warrant.

(8) Article 22 of the Police and Criminal Evidence (Northern Ireland) Order 1989⁽²⁾ (extension of powers to computerised information) does not apply to a power of seizure under the warrant exercised in England and Wales.

(9) Section 20 of the Police and Criminal Evidence Act 1984⁽³⁾ (extension of powers to computerised information) has effect in relation to a power of seizure under the warrant exercised in England and Wales as it has effect in relation to the exercise of a power of seizure conferred by an enactment to which that section applies and as if the reference to a constable included a constable of the Police Service of Northern Ireland or a customs officer exercising functions by virtue of paragraphs (2) to (4).

(10) Articles 8 and 9 of the Police and Criminal Evidence Order (application of articles 23 and 24 of the Police and Criminal Evidence (Northern Ireland) Order 1989) have effect as if the warrant had been executed in Northern Ireland.

(11) Articles 4 and 5 of the Police and Criminal Evidence Order (application of sections 21 and 22 of the Police and Criminal Evidence Act 1984) do not apply.

Scottish search warrants

6.—(1) This article applies where a Scottish search warrant authorises entry into and search of premises in England and Wales.

(2) Section 387(4) of the Act (definition of search warrant) has effect with the modification that for “a proper person”, there is substituted “a constable of a police force in England and Wales, a constable of a police force in Scotland or both acting together, as the warrant specifies”.

(3) Section 389 of the Act (further provisions) does not apply and section 354 of the Act (further provisions) applies as if the warrant were an English or Welsh search and seizure warrant.

(4) Article 3 of the Police and Criminal Evidence Order (application of section 16 of the Police and Criminal Evidence Act 1984) has effect in relation to the execution of the warrant in England and Wales as it has effect in relation to the execution of an English or Welsh search and seizure warrant.

(5) Section 390(3) of the Act (which deals with computerised information in relation to Scottish search warrants) does not apply to the execution of the warrant in England and Wales.

(6) Section 20 of the Police and Criminal Evidence Act 1984 (extension of powers to computerised information) has effect in relation to a power of seizure under the warrant exercised

(2) S.I.1989/1341 (N.I. 12).

(3) 1984 c. 60.

in England and Wales as it has effect in relation to the exercise of a power of seizure conferred by an enactment to which that section applies and as if the reference to a constable included a constable of a police force in Scotland exercising functions by virtue of paragraph (2).

(7) Section 390(4) of the Act (which states that copies may be taken of material seized under a Scottish search warrant) has effect as if the warrant had been executed in Scotland.

(8) Articles 4 and 5 of the Police and Criminal Evidence Order (application of sections 21 and 22 of the Police and Criminal Evidence Act 1984) do not apply.

(9) The Summary Jurisdiction (Process) Act 1881 does not apply.

Northern Ireland disclosure orders

7.—(1) Paragraphs (2) to (4) apply where the Director gives a notice under a Northern Ireland disclosure order which requires a person in England and Wales to—

- (a) answer questions in England and Wales; or
- (b) provide information or produce documents in England and Wales.

(2) Proceedings for an offence under section 359 of the Act may be brought in England and Wales.

(3) Section 360 of the Act (statements) applies in relation to criminal proceedings brought in England and Wales, as well as criminal proceedings brought in Northern Ireland.

(4) Section 361 of the Act (further provisions) applies as if the order were an English or Welsh disclosure order.

(5) Paragraph (6) applies where the Director gives a notice under a Northern Ireland disclosure order which requires a person in England and Wales to—

- (a) answer questions in Northern Ireland; or
- (b) provide information or produce documents in Northern Ireland.

(6) Proceedings for an offence under section 359 may be brought in England and Wales, as well as in Northern Ireland.

Scottish disclosure orders

8.—(1) Paragraphs (2) to (5) apply where the Lord Advocate gives a notice under a Scottish disclosure order which requires a person in England and Wales to—

- (a) answer questions in England and Wales; or
- (b) provide information or produce documents in England and Wales.

(2) Section 393 of the Act (offences) does not apply and section 359 of the Act (offences) applies as if the order were an English or Welsh disclosure order.

(3) Section 394 of the Act (statements) applies in relation to criminal proceedings brought in England and Wales, as well as criminal proceedings brought in Scotland, with the modifications in paragraph (4).

(4) The modifications are that in subsection (2)—

- (a) in paragraph (b), after “section 393(1) or (3)”, there is inserted “or an offence under section 359(1) or (3)”;
- (b) in paragraph (c), after “perjury”, there is inserted “or an offence under section 5 of the Perjury Act 1911(4)”.

(5) Section 395 of the Act (further provisions) does not apply and section 361 of the Act (further provisions) applies as if the order were an English or Welsh disclosure order, with the modification that for “the Director”, in each place where it occurs, there is substituted “the Lord Advocate”.

(6) Paragraphs (7) and (8) apply where the Lord Advocate gives a notice under a Scottish disclosure order which requires a person in England and Wales to—

- (a) answer questions in Scotland; or
- (b) provide information or produce documents in Scotland.

(7) Section 359 of the Act (offences) applies as if the order were an English or Welsh disclosure order, as well as section 393 of the Act (offences) and, for the avoidance of doubt, section 361 of the Act does not apply in determining whether the person has committed an offence under section 359(1) or (3) of the Act.

(8) Section 394 of the Act (statements) does not prevent a statement made by the person in response to a requirement imposed by the notice from being used in evidence on a prosecution in England and Wales for an offence under section 359(1) or (3).

Northern Ireland customer information orders

9.—(1) This article applies where a Northern Ireland appropriate officer gives a notice under a Northern Ireland customer information order which requires a financial institution in England and Wales to provide customer information.

(2) Proceedings for an offence under section 366 of the Act may be brought in England and Wales, as well as in Northern Ireland.

(3) Section 367 of the Act (statements) applies in relation to criminal proceedings brought in England and Wales, as well as criminal proceedings brought in Northern Ireland.

(4) Section 368 of the Act (disclosure of information) applies as if the order were an English or Welsh customer information order.

Scottish customer information orders

10.—(1) This article applies where the procurator fiscal gives a notice under a Scottish customer information order which requires a financial institution in England and Wales to provide customer information.

(2) Section 366 of the Act (offences) applies as if the order were an English or Welsh customer information order, as well as section 400 of the Act (offences).

(3) Section 401 of the Act (statements) applies in relation to criminal proceedings brought in England and Wales, as well as criminal proceedings brought in Scotland, with the modification that in paragraph (b) of subsection (2), after “section 400(1) or (3)”, there is inserted “or an offence under section 366(1) or (3)”.

(4) Section 368 of the Act (disclosure of information) applies as if the order were an English or Welsh customer information order.

Northern Ireland account monitoring orders

11.—(1) This article applies where a Northern Ireland account monitoring order is made in respect of a financial institution in England and Wales.

(2) The account monitoring order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or

- (b) by an English or Welsh appropriate officer or a Northern Ireland appropriate officer serving the order personally,

and any rules of court (other than rules of court made by virtue of section 446 of the Act) as to the service of documents or other requirements in law as to the service of documents do not apply.

(3) Section 370(6) of the Act (definition of account monitoring order) has effect with the modification that for “an appropriate officer”, there is substituted, “whichever of an English or Welsh appropriate officer, a Northern Ireland appropriate officer or an English or Welsh appropriate officer and Northern Ireland appropriate officer acting together the order specifies”.

(4) The account monitoring order has effect as if it were an order of the Crown Court in England and Wales.

(5) Section 372 of the Act (statements) applies to criminal proceedings brought in England and Wales, as well as criminal proceedings brought in Northern Ireland.

(6) Section 374 of the Act (disclosure of information) has effect as if the order were an English or Welsh account monitoring order.

Scottish account monitoring orders

12.—(1) This article applies where a Scottish account monitoring order is made in respect of a financial institution in England and Wales.

- (2) The account monitoring order may be served—

- (a) by sending it by post, facsimile transmission or electronic mail to the person in possession of the material; or
- (b) by an English or Welsh appropriate officer or a constable of a police force in Scotland serving the order personally,

and the Summary Jurisdiction (Process) Act 1881, any rules of court as to the service of documents (other than rules of court made by virtue of section 446 of the Act) and any other requirements in law as to the service of documents do not apply.

(3) Section 404(7) of the Act (definition of account monitoring order) has effect with the modification that for “the proper person”, there is substituted “whichever of an English or Welsh appropriate officer, a constable of a police force in Scotland or an English or Welsh appropriate officer and a constable of a police force in Scotland acting together the order specifies”.

(4) The account monitoring order has effect as if it were an order of the Crown Court in England and Wales.

(5) Section 406 of the Act (statements) applies to criminal proceedings brought in England and Wales, as well as criminal proceedings brought in Scotland.

(6) Section 374 of the Act (disclosure of information) has effect as if the order were an English or Welsh account monitoring order.