

2003 No. 425

PROCEEDS OF CRIME

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

Made - - - - - 27th February 2003

Laid before Parliament 11th March 2003

Coming into force - - - 1st April 2003

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At the Court at Buckingham Palace, the 27th day of February 2003

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in pursuance of sections 443(1)(d) and (e), (3) and (4) and 459(2) of the Proceeds of Crime Act 2002^(a), is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

PART 1

INTRODUCTION

Title and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (Investigations in different parts of the United Kingdom) Order 2003 and shall come into force on 1st April 2003.

(a) 2002 c. 29.

Interpretation

2. In this Order—

“the Act” means the Proceeds of Crime Act 2002;

“an English or Welsh account monitoring order” means an order made in England and Wales under section 370(1) of the Act for the purposes of a confiscation investigation or a money laundering investigation;

“an English or Welsh appropriate officer” means—

- (a) in relation to a confiscation investigation—
 - (i) the Director;
 - (ii) an accredited financial investigator;
 - (iii) a constable of a police force in England and Wales^(a); or
 - (iv) a customs officer;
- (b) in relation to a money laundering investigation—
 - (i) an accredited financial investigator;
 - (ii) a constable of a police force in England and Wales; or
 - (iii) a customs officer;

“an English or Welsh customer information order” means an order made in England and Wales under section 363(1) of the Act for the purposes of a confiscation investigation or a money laundering investigation;

“an English or Welsh disclosure order” means an order made in England and Wales under section 357(1) of the Act for the purposes of a confiscation investigation;

“an English or Welsh production order” means an order made in England and Wales under section 345(1) of the Act for the purposes of a confiscation investigation or a money laundering investigation;

“an English or Welsh search and seizure warrant” means a warrant issued in England and Wales under section 352(1) of the Act for the purposes of a confiscation investigation or a money laundering investigation;

“a Northern Ireland account monitoring order” means an order made in Northern Ireland under section 370(1) of the Act for the purposes of a confiscation investigation or a money laundering investigation;

“a Northern Ireland appropriate officer” means—

- (a) in relation to a confiscation investigation—
 - (i) the Director;
 - (ii) an accredited financial investigator;
 - (iii) a constable of the Police Service of Northern Ireland^(b); or
 - (iv) a customs officer;
- (b) in relation to a money laundering investigation—
 - (i) an accredited financial investigator;
 - (ii) a constable of the Police Service of Northern Ireland; or
 - (iii) a customs officer;

“a Northern Ireland customer information order” means an order made in Northern Ireland under section 363(1) of the Act for the purposes of a confiscation investigation or a money laundering investigation;

“a Northern Ireland disclosure order” means an order made in Northern Ireland under section 357(1) of the Act for the purposes of a confiscation investigation;

“a Northern Ireland production order” means an order made in Northern Ireland under section 345(1) of the Act for the purposes of a confiscation investigation or a money laundering investigation;

(a) Police force has the meaning given to it in section 101 of the Police Act 1996 (c. 16) by virtue of Schedule 1 to the Interpretation Act 1978 (c. 30), as amended by Schedule 7 to the Police Act 1996.

(b) Police Service of Northern Ireland has the meaning given to it in the Police (Northern Ireland) Act 2000 (c. 32), by virtue of Schedule 1 to the Interpretation Act 1978 (c. 30), as amended by Section 78 of and Schedule 6 to the Police (Northern Ireland) Act 2000.

“a Northern Ireland search and seizure warrant” means a warrant issued in Northern Ireland under section 352(1) of the Act for the purposes of a confiscation investigation or a money laundering investigation;

“the Police and Criminal Evidence Order” means the Proceeds of Crime Act 2002 (Application of Police and Criminal Evidence Act 1984 and Police and Criminal Evidence (Northern Ireland) Order 1989) Order 2003(a);

“a Scottish account monitoring order” means an order made under section 404(1) of the Act for the purposes of a confiscation investigation or a money laundering investigation;

“a Scottish customer information order” means an order made under section 397(1) of the Act for the purposes of a confiscation investigation or a money laundering investigation;

“a Scottish disclosure order” means an order made under section 391(1) of the Act for the purposes of a confiscation investigation;

“a Scottish production order” means an order made under section 380(1) of the Act for the purposes of a confiscation investigation or a money laundering investigation;

“a Scottish search warrant” means a warrant issued under section 387(1) of the Act for the purposes of a confiscation investigation or a money laundering investigation;

references to a constable of a police force in Scotland(b) include references to a customs officer.

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.

(a) S.I. 2003/174.

(b) Police force has the meaning given to it in sections 50 and 51(4) of the Police (Scotland) Act 1967 (c. 77), by virtue of Schedule 1 to the Interpretation Act 1978 (c. 30).

(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^(a), 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.

^(a) 1881 c. 24 (44 & 45 Vict.).

(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”.

(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(a) (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(b) (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.

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

(b) 1984 c. 60.

(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 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(a)”.

(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”.

(a) 1911 c. 6.

(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.

PART 3

ENFORCEMENT IN NORTHERN IRELAND OF ENGLISH, WELSH AND SCOTTISH ORDERS AND WARRANTS

English or Welsh production orders

13.—(1) This article applies where—

(a) an English or Welsh production order requires a person in Northern Ireland in possession or control of material in Northern Ireland to produce the material or give access to the material; or

(b) an order to grant entry to premises in Northern Ireland is made in respect of an English or Welsh 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 a Northern Ireland appropriate officer or an English or Welsh 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 Northern Ireland.

(6) Section 348(1) to (4) of the Act (further provisions) has effect as if the production order were a Northern Ireland production order.

(7) Section 350 of the Act (government departments) has effect as if the production order were a Northern Ireland 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 Crown Court judge in Northern Ireland; and

(b) the production order must be served as if the proceedings were civil proceedings started against the department in Northern Ireland.

Scottish production orders

14.—(1) This article applies where—

(a) a Scottish production order requires a person in Northern Ireland in possession or control of material in Northern Ireland to produce the material or give access to the material; or

(b) an order to grant entry to premises in Northern Ireland 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 a Northern Ireland 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) 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 a Northern Ireland appropriate officer, a constable of a police force in Scotland or a Northern Ireland 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 Northern Ireland.

(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 a Northern Ireland 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 a Northern Ireland 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 Crown Court judge in Northern Ireland; and

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

English or Welsh search and seizure warrants

15.—(1) This article applies where an English or Welsh search and seizure warrant authorises entry into and search of premises in Northern Ireland.

(2) Section 352(4) of the Act (definition of 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”.

(3) Section 352(5) of the Act (definition of 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 a Northern Ireland search and seizure warrant.

(6) Article 3 of the Police and Criminal Evidence Order (application of section 16 of the Police and Criminal Evidence Act 1984) does not apply to the execution of the warrant in Northern Ireland.

(7) Article 7 of the Police and Criminal Evidence Order (application of article 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989) has effect in relation to the execution of the warrant in Northern Ireland as it has effect in relation to the execution of a Northern Ireland search and seizure warrant.

(8) Section 20 of the Police and Criminal Evidence Act 1984 (extension of powers to computerised information) does not apply to a power of seizure under the warrant exercised in Northern Ireland.

(9) Article 22 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (extension of powers to computerised information) has effect in relation to a power of seizure under the warrant exercised in Northern Ireland as it has effect in relation to the exercise of a power of seizure conferred by an enactment to which that article applies and as if the reference to a constable included a constable of a police force in England and Wales or customs officer exercising functions by virtue of paragraphs (2) to (4).

(10) 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) have effect as if the warrant had been executed in England and Wales.

(11) 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) do not apply.

Scottish search warrants

16.—(1) This article applies where a Scottish search warrant authorises entry into and search of premises in Northern Ireland.

(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 the Police Service of Northern Ireland, 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 a Northern Ireland search and seizure warrant.

(4) Article 7 of the Police and Criminal Evidence Order (application of article 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989) has effect in relation to the execution of the warrant in Northern Ireland as it has effect in relation to the execution of a Northern Ireland 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 Northern Ireland.

(6) Article 22 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (extension of powers to computerised information) has effect in relation to a power of seizure under the warrant exercised in Northern Ireland as it has effect in relation to the exercise of a power of seizure conferred by an enactment to which that article 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 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) do not apply.

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

English or Welsh disclosure orders

17.—(1) Paragraphs (2) to (4) apply where the Director gives a notice under an English or Welsh disclosure order which requires a person in Northern Ireland to—

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

(2) Proceedings for an offence under section 359 of the Act may be brought in Northern Ireland.

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

(4) Section 361 of the Act (further provisions) applies as if the order were a Northern Ireland disclosure order.

(5) Paragraph (6) applies where the Director gives a notice under an English or Welsh disclosure order which requires a person in Northern Ireland to—

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

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

Scottish disclosure orders

18.—(1) Paragraphs (2) to (5) apply where the Lord Advocate gives a notice under a Scottish disclosure order which requires a person in Northern Ireland to—

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

(2) Section 393 of the Act (offences) does not apply and section 359 of the Act (offences) applies as if the order were a Northern Ireland disclosure order.

(3) Section 394 of the Act (statements) applies in relation to criminal proceedings brought in Northern Ireland, 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 article 10 of the Perjury (Northern Ireland) Order 1979(a)”.

(a) S.I. 1979/1714 (N.I. 19).

(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 a Northern Ireland 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 Northern Ireland 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 a Northern Ireland 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 Northern Ireland for an offence under section 359(1) or (3).

English or Welsh customer information orders

19.—(1) This article applies where an English or Welsh appropriate officer gives a notice under an English or Welsh customer information order which requires a financial institution in Northern Ireland to provide customer information.

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

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

(4) Section 368 of the Act (disclosure of information) applies as if the order were a Northern Ireland customer information order.

Scottish customer information orders

20.—(1) This article applies where the procurator fiscal gives a notice under a Scottish customer information order which requires a financial institution in Northern Ireland to provide customer information.

(2) Section 366 of the Act (offences) applies as if the order were a Northern Ireland 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 Northern Ireland, 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 a Northern Ireland customer information order.

English or Welsh account monitoring orders

21.—(1) This article applies where an English or Welsh account monitoring order is made in respect of a financial institution in Northern Ireland.

(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 a Northern Ireland appropriate officer or an English or Welsh 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) 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 a 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 Northern Ireland.

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

(6) Section 374 of the Act (disclosure of information) has effect as if the order were a Northern Ireland account monitoring order.

Scottish account monitoring orders

22.—(1) This article applies where a Scottish account monitoring order is made in respect of a financial institution in Northern Ireland.

(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 a Northern Ireland 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 requirement 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 a Northern Ireland appropriate officer, a constable of a police force in Scotland or a Northern Ireland 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 Northern Ireland.

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

(6) Section 374 of the Act (disclosure of information) has effect as if the order were a Northern Ireland account monitoring order.

PART 4

ENFORCEMENT IN SCOTLAND OF ENGLISH, WELSH AND NORTHERN IRELAND ORDERS AND WARRANTS

English or Welsh production orders

23.—(1) This article applies where—

(a) an English or Welsh production order requires a person in Scotland in possession or control of material in Scotland to produce the material or give access to the material; or

(b) an order to grant entry to premises in Scotland is made in respect of an English or Welsh production order under section 347 of the Act.

(2) 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 a constable of a police force in Scotland or an English or Welsh 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 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 sheriff has, in relation to the enforcement of the production order, the same powers as if he had made the order himself and proceedings for or with respect to any failure to comply with the order may be taken accordingly.

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

(7) Section 350 of the Act (government departments) does not apply and section 385 of the Act (government departments) has effect as if the production order were a Scottish production order and, in particular, 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 the sheriff.

Northern Ireland production orders

24.—(1) This article applies where—

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

(2) 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 a constable of a police force in Scotland 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 a constable of a police force in Scotland, a Northern Ireland appropriate officer or a constable of a police force in Scotland and a Northern Ireland appropriate officer acting together the order specifies”.

(5) The sheriff has, in relation to the enforcement of the production order, the same powers as if he had made the order himself and proceedings for or with respect to any failure to comply with the order may be taken accordingly.

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

(7) Section 350 of the Act (government departments) does not apply and section 385 of the Act (government departments) has effect as if the production order were a Scottish production order and, in particular, 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 the sheriff.

English or Welsh search and seizure warrants

25.—(1) This article applies where an English or Welsh search and seizure warrant authorises entry into and search of premises in Scotland.

(2) Section 352(4) of the Act (definition of 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”.

(3) Section 352(5) of the Act (definition of 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 constable of a police force in England and Wales; or

(b) a constable of a police force in Scotland.”.

(5) Section 354 of the Act (further provisions) does not apply and section 389 of the Act (further provisions) applies as if the warrant were a Scottish search warrant.

(6) Article 3 of the Police and Criminal Evidence Order (application of section 16 of the Police and Criminal Evidence Act 1984) does not apply to the execution of the warrant in Scotland.

(7) Section 20 of the Police and Criminal Evidence Act 1984 (extension of powers to computerised information) does not apply to a power of seizure under the warrant exercised in Scotland.

(8) Section 390(3) of the Act (which deals with computerised information in relation to Scottish search warrants) has effect in relation to the execution of the warrant in Scotland as it has effect in relation to the execution of a Scottish search warrant.

(9) 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) have effect as if the warrant had been executed in England and Wales.

(10) Section 390(4) of the Act (which states that copies may be taken of material seized under a Scottish search warrant) does not apply.

Northern Ireland search and seizure warrants

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

(2) Section 352(4) of the Act (definition of 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”.

(3) Section 352(5) of the Act (definition of 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 constable of the Police Service of Northern Ireland; or

(b) a constable of a police force in Scotland.”.

(5) Section 354 of the Act (further provisions) does not apply and section 389 of the Act (further provisions) applies as if the warrant were a Scottish search 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 Scotland.

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

(8) Section 390(3) of the Act (which deals with computerised information in relation to Scottish search warrants) has effect in relation to the execution of the warrant in Scotland as it has effect in relation to the execution of a Scottish search warrant.

(9) 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.

(10) Section 390(4) of the Act (which states that copies may be taken of material seized under a Scottish search warrant) does not apply.

English or Welsh disclosure orders

27.—(1) Paragraphs (2) to (5) apply where the Director gives a notice under an English or Welsh disclosure order which requires a person in Scotland to—

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

(2) Section 359 of the Act (offences) does not apply and section 393 of the Act (offences) applies as if the order were a Scottish disclosure order.

(3) Section 360 of the Act (statements) applies in relation to criminal proceedings brought in Scotland, as well as criminal proceedings brought in England and Wales, with the modifications in paragraph (4).

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

- (a) in paragraph (b), after “section 359(1) or (3)”, there is inserted “or an offence under section 393(1) or (3)”;
- (b) in paragraph (c), after “prosecution for”, there is inserted “perjury in the law of Scotland.”.

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

(6) Paragraphs (7) and (8) apply where the Director gives a notice under an English or Welsh disclosure order which requires a person in Scotland to—

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

(7) Section 393 of the Act (offences) applies as if the order were a Scottish disclosure order, as well as section 359 of the Act (offences) and, for the avoidance of doubt, section 395 of the Act does not apply in determining whether the person has committed an offence under section 393(1) or (3) of the Act.

(8) Section 360 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 Scotland for an offence under section 393(1) or (3).

Northern Ireland disclosure orders

28.—(1) Paragraphs (2) to (5) apply where the Director gives a notice under a Northern Ireland disclosure order which requires a person in Scotland to—

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

(2) Section 359 of the Act (offences) does not apply and section 393 of the Act (offences) applies as if the order were a Scottish disclosure order.

(3) Section 360 of the Act (statements) applies in relation to criminal proceedings brought in Scotland, as well as criminal proceedings brought in Northern Ireland, with the modifications in paragraph (4).

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

- (a) in paragraph (b), after “section 359(1) or (3)”, there is inserted “or an offence under section 393(1) or (3)”;
- (b) in paragraph (c), after “prosecution for”, there is inserted “perjury in the law of Scotland.”.

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

(6) Paragraphs (7) and (8) apply where the Director gives a notice under a Northern Ireland disclosure order which requires a person in Scotland to—

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

(7) Section 393 of the Act (offences) applies as if the order were a Scottish disclosure order, as well as section 359 of the Act (offences) and, for the avoidance of doubt, section 395 of the Act does not apply in determining whether the person has committed an offence under section 393(1) or (3) of the Act.

(8) Section 360 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 Scotland for an offence under section 393(1) or (3).

English or Welsh customer information orders

29.—(1) This article applies where an English or Welsh appropriate officer gives a notice under an English or Welsh customer information order which requires a financial institution in Scotland to provide customer information.

(2) Section 400 of the Act (offences) applies as if the order were a Scottish customer information order, as well as section 366 of the Act (offences).

(3) Section 367 of the Act (statements) applies in relation to criminal proceedings brought in Scotland, as well as criminal proceedings brought in England and Wales, with the modification that in paragraph (b) of subsection (2), after “section 366(1) or (3)”, there is inserted “or an offence under section 400(1) or (3)”.

(4) Section 402 of the Act (further provisions) applies as if the order were a Scottish customer information order.

Northern Ireland customer information orders

30.—(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 Scotland to provide customer information.

(2) Section 400 of the Act (offences) applies as if the order were a Scottish customer information order, as well as section 366 of the Act (offences).

(3) Section 367 of the Act (statements) applies in relation to criminal proceedings brought in Scotland, as well as criminal proceedings brought in Northern Ireland, with the modification that in paragraph (b) of subsection (2), after “section 366(1) or (3)”, there is inserted “or an offence under section 400(1) or (3)”.

(4) Section 402 of the Act (further provisions) applies as if the order were a Scottish customer information order.

English or Welsh account monitoring orders

31.—(1) This article applies where an English or Welsh account monitoring order is made in respect of a financial institution in Scotland.

(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 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) 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 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 sheriff has, in relation to the enforcement of the account monitoring order, the same powers as if he had made the order himself and proceedings for or with respect to any failure to comply with the order may be taken accordingly.

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

(6) Section 407 of the Act (further provisions) has effect as if the order were a Scottish account monitoring order.

Northern Ireland account monitoring orders

32.—(1) This article applies where a Northern Ireland account monitoring order is made in respect of a financial institution in Scotland.

(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 a Northern Ireland appropriate officer or a constable of a police force in Scotland 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) 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 a Northern Ireland appropriate officer, a constable of a police force in Scotland or a Northern Ireland appropriate officer and a constable of a police force in Scotland acting together the order specifies”.

(4) The sheriff has, in relation to the enforcement of the account monitoring order, the same powers as if he had made the order himself and proceedings for or with respect to any failure to comply with the order may be taken accordingly.

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

(6) Section 407 of the Act (further provisions) has effect as if the order were a Scottish account monitoring order.

PART 5

SUPPLEMENTARY PROVISIONS RELATING TO CONFISCATION INVESTIGATIONS AND MONEY LAUNDERING INVESTIGATIONS

Applications for discharge and variation and Code of Practice

33.—(1) This article applies where an order made, or warrant issued, under Part 8 of the Act for the purposes of a confiscation investigation or a money laundering investigation in one part of the United Kingdom is enforced in another part of the United Kingdom, in accordance with the preceding provisions of this Order.

(2) Any application for the discharge or variation of the order or warrant must be made in the part of the United Kingdom in which the order was made.

(3) The Code of Practice for the time being in operation by virtue of an order made by the Secretary of State under section 377(4) of the Act applies to any act done in England and Wales or in Northern Ireland in respect of the order or warrant by—

(a) an English or Welsh appropriate officer;

(b) a Northern Ireland appropriate officer; or

(c) a constable of a police force in Scotland,
and the Code of Practice for the time being in operation by virtue of an order made by the Scottish Ministers under section 410(4) of the Act does not apply in such circumstances.

(4) The Code of Practice for the time being in operation by virtue of an order made by the Scottish Ministers under section 410(4) of the Act applies to any act done in Scotland in respect of the order or warrant by—

- (a) an English or Welsh appropriate officer;
- (b) a Northern Ireland appropriate officer; or
- (c) a constable of a police force in Scotland,

and the Code of Practice for the time being in operation by virtue of an order made by the Secretary of State under section 377(4) of the Act does not apply in such circumstances.

PART 6

ORDERS AND WARRANTS MADE OR ISSUED FOR THE PURPOSES OF CIVIL RECOVERY INVESTIGATIONS

Amendment of Civil Jurisdiction and Judgments Act 1982

34. In section 18 of the Civil Jurisdiction and Judgments Act 1982(a) (enforcement of United Kingdom judgments in other parts of the United Kingdom), there is inserted in subsection (2), after paragraph (e)—

- “(f) an order made, or a warrant issued, under Part 8 of the Proceeds of Crime Act 2002 for the purposes of a civil recovery investigation within the meaning given by section 341 of that Act;”.

A. K. Galloway
Clerk of the Privy Council

(a) 1982 c. 27. Section 18 was amended by section 235 of and Schedules 8 and 10 to the Insolvency Act 1985 (c. 65), section 439 of and Schedule 14 to the Insolvency Act 1986 (c. 45), section 39(4) of the Drug Trafficking Offences Act 1986 (c. 32), section 45(3) of the Criminal Justice (Scotland) Act 1987 (c. 41), section 170 of and Schedule 15 to the Criminal Justice Act 1988 (c. 33), section 116 of and Schedule 16 to the Courts and Legal Services Act 1990 (c. 41), section 24(10) of the Criminal Justice Act 1993 (c. 36), section 65 of and Schedule 1 to the Drug Trafficking Act 1994 (c. 37), section 117 of and Schedule 6 to the Criminal Justice (Scotland) Act 1995 (c. 20), sections 4 and 5 of and Schedule 3 to the Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40), section 66 of and Schedule 8 to the Family Law Act 1996 (c. 27) and Schedule 11 to the Proceeds of Crime Act 2002 (c. 29).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision for orders and warrants made or issued under Part 8 of the Proceeds of Crime Act 2002 in one part of the United Kingdom to be enforced in another part of the United Kingdom. Part 8 of the Proceeds of Crime Act provides for various orders and warrants to be issued in relation to confiscation investigations, money laundering investigations and civil recovery investigations.

Articles 3 and 4 make provision for the enforcement in England and Wales of production orders made in Scotland or Northern Ireland for the purposes of a confiscation investigation or money laundering investigation. The effect is that the order may be enforced by the authorities in England and Wales, or the authorities of the jurisdiction which made the order, or by the authorities of both jurisdictions acting together. The rules for England and Wales as to material which does not need to be produced in relation to production orders apply. The order has effect as an order of the Crown Court in England and Wales so that contempt proceedings can be brought for non-compliance.

Articles 5 and 6 make provision for the enforcement in England and Wales of search and seizure warrants issued in Scotland or Northern Ireland for the purposes of a confiscation investigation or money laundering investigation. The warrant may be enforced by the authorities in England and Wales, or the authorities of the jurisdiction which made the order, or by the authorities of both jurisdictions acting together. The rules for England and Wales as to material which cannot be seized apply. The provisions of English law apply to the execution of the warrant but the law of the jurisdiction which made the order applies in relation to retention and copying of material seized under the warrant.

Articles 7 and 8 make provision for the enforcement in England and Wales of disclosure orders made in Scotland or Northern Ireland for the purposes of a confiscation investigation. Two regimes apply. The first regime deals with the situation where an officer travels to England and Wales to execute the disclosure order. In this case, the English law as to exclusions from the disclosure order applies, if the disclosure order is breached then the offender commits an offence under English law. The second regime deals with the situation where an officer requires a person in England and Wales to travel to the jurisdiction in which he is situated in order to execute a disclosure order. In this case, the law of the jurisdiction in which the officer is situated applies but a person who fails to comply commits an offence under English law, as well as the law of that jurisdiction.

Articles 9 and 10 make provision for the enforcement in England and Wales of customer information orders made in Scotland or Northern Ireland for the purposes of a confiscation investigation or money laundering investigation. The English law as to exclusions applies and if the customer information order is breached then the offender commits an offence under English law, as well as the law of the jurisdiction in which the order was made.

Articles 11 and 12 make provision for the enforcement in England and Wales of account monitoring orders made in Scotland or Northern Ireland for the purposes of a confiscation investigation or money laundering investigation. The order may be enforced by the authorities in England and Wales, or the authorities of the jurisdiction which made the order, or by the authorities of both jurisdictions acting together. The English law as to exclusions applies. The order has effect as an order of the Crown Court in England and Wales so that contempt proceedings can be brought for non-compliance.

Part 3 makes corresponding provision for orders and warrants made or issued in England and Wales or Scotland to be enforced in Northern Ireland. Part 4 makes corresponding provision for orders and warrants made or issued in England and Wales or Northern Ireland to be enforced in Scotland.

Article 33 makes it clear that an order or warrant to which Parts 2 to 4 apply can only be discharged or varied in the jurisdiction in which it was made or issued. It also deals with the application of the two Codes of Practice which Part 8 of the Act provides for (one for England, Wales and Northern Ireland and one for Scotland) where Parts 2 to 4 apply.

Article 34 amends the Civil Jurisdiction and Judgments Act 1982 so that orders and warrants made or issued under Part 8 of the Act for the purposes of a civil recovery investigation fall within the provisions of that Act as to enforcement in different parts of the United Kingdom.

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PROCEEDS OF CRIME

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

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