STATUTORY INSTRUMENTS

2015 No. 1751

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (External Investigations) (Amendment) Order 2015

Made - - - -	*8th October 2015*
Laid before Parliament	*15th October 2015*
Coming into force - -	*30th November 2015*

At the Court at Buckingham Palace, the 8th day of October 2015

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by sections 445 and 459(2) of the Proceeds of Crime Act 2002(**1**), is pleased, by and with the advice of Her Privy Council, to order as follows.

PART 1

General provisions

Citation, commencement and extent

1.—(1) This Order may be cited as the Proceeds of Crime Act 2002 (External Investigations) (Amendment) Order 2015.

(2) This Order comes into force on 30th November 2015.

(3) This Order does not extend to Northern Ireland.

Interpretation

2. In this Order, "the 2013 Order" means the Proceeds of Crime Act 2002 (External Investigations) Order 2013(**2**).

(**1**) 2002 c. 29. Section 445 was amended by S.I. 2010/976, art. 12, Schedule 14, paragraphs 47 and 71; by the Serious Crime Act 2007 (c. 27), s. 74(2)(f) and Schedule 8, Part 6, paragraphs 121 and 139; by the Crime and Courts Act 2013 (c. 22), s. 15(3) and Schedule 8, Part 2, paragraphs 108 and 150; and by S.I. 2014/834, art. 3(3)(b) and Schedule 2, paragraphs 19 and 33.

(**2**) S.I. 2013/2605.

PART 2

Amendment of Part 1 of the 2013 Order

Amendment of article 3 (scope of Part 1)

3.—(1) Article 3 of the 2013 Order (scope of Part 1) is amended as follows.

(2) In paragraph (2), for "property" substitute "a person or property subject to an external investigation".

(3) In paragraph (3)—

(a) in sub-paragraph (a), before "property" insert "person or";

(b) in sub-paragraph (b), before "property" insert "person or";

(c) in sub-paragraph (c), before "property" twice occurring insert "person or".

Amendment of article 6 (production orders)

4. In article 6 of the 2013 Order (production orders), for paragraph (2) substitute—

"(2) The application for a production order must state that—

(a) a person specified in the application is subject to an external investigation and the condition in article 3(2) is met in respect of the person; or

(b) property specified in the application is subject to an external investigation and the condition in article 3(2) is met in respect of the property.".

Amendment of article 7 (requirements for making of production order)

5. In article 7 of the 2013 Order (requirements for making of production order), for paragraph (2) substitute—

"(2) There must be reasonable grounds for suspecting that—

(a) the person the application for the order specifies as being subject to the external investigation holds property obtained as a result of or in connection with criminal conduct;

(b) that person has, at any time, held property that was obtained as a result of or in connection with criminal conduct; or

(c) the property the application for the order specifies as being subject to the external investigation is property obtained as a result of or in connection with criminal conduct.".

Amendment of article 13 (search and seizure warrants)

6.—(1) Article 13 of the 2013 Order (search and seizure warrants) is amended as follows.

(2) In paragraph (1)(a), before "property" insert "a person specified in the application or".

(3) In paragraph (1)(b), before "property" insert "person or".

(4) In paragraph (2), omit "also".

Amendment of article 14 (requirements where production order not available)

7.—(1) Article 14 of the 2013 Order (requirements where production order not available) is amended as follows.

(2) For paragraph (2) substitute—

"(2) This paragraph applies if there are reasonable grounds for suspecting that—

(a) the person specified in the application for the warrant holds property obtained as a result of or in connection with criminal conduct;

(b) that person has, at any time, held property that was obtained as a result of or in connection with criminal conduct; or

(c) the property specified in the application for the warrant is property obtained as a result of or in connection with criminal conduct.".

(3) For paragraph (6)(a) substitute—

"(a) relates to the person or property specified in the application or to any of the questions listed in paragraph (6A); and".

(4) After paragraph (6) insert—

"(6A) Those questions are—

(a) where a person is specified in the application, any question as to—

(i) what property the person holds or has held;

(ii) whether the property was obtained as a result of or in connection with criminal conduct; or

(iii) the nature, extent or whereabouts of the property; and

(b) where property is specified in the application, any question as to—

(i) whether the property was obtained as a result of or in connection with criminal conduct;

(ii) who holds it or has held it;

(iii) whether a person who appears to hold or to have held it holds or has held other property;

(iv) whether the other property was obtained as a result of or in connection with criminal conduct; or

(v) the nature, extent or whereabouts of the specified property or the other property.".

Amendment of article 16 (disclosure orders)

8. Article 16 of the 2013 Order (disclosure orders) is amended as follows—

(a) in paragraph (2)(a), before "property" insert "a person specified in the application or";

(b) in paragraph (2)(c), before "property" insert "person or".

Amendment of article 17 (requirements for making of disclosure order)

9. In article 17 of the 2013 Order (requirements for making of disclosure order), for paragraph (2) substitute—

"(2) There must be reasonable grounds for suspecting that—

(a) the person specified in the application for the order holds property obtained as a result of or in connection with criminal conduct;

(b) that person has, at any time, held property that was obtained as a result of or in connection with criminal conduct; or

(c) the property specified in the application for the order is property obtained as a result of or in connection with criminal conduct.".

Amendment of article 22 (customer information orders)

10. In article 22 of the 2013 Order (customer information orders), for paragraph (2) substitute—

"(2) The application for a customer information order must state that—

(a) a person specified in the application is subject to an external investigation; and

(b) the condition in article 3(2) is met in respect of the person.".

Amendment of article 24 (requirements for making of customer information order)

11. In article 24 of the 2013 Order (requirements for making of customer information order), for paragraph (2) substitute—

"(2) There must be reasonable grounds for suspecting that—

(a) the person specified in the application for the order holds property obtained as a result of or in connection with criminal conduct; or

(b) that person has, at any time, held property that was obtained as a result of or in connection with criminal conduct.".

Amendment of article 29 (account monitoring orders)

12. In article 29 of the 2013 Order (account monitoring orders), for paragraph (2) substitute—

"(2) The application for an account monitoring order must state that—

(a) a person specified in the application is subject to an external investigation; and

(b) the condition in article 3(2) is met in respect of the person.".

Amendment of article 30 (requirements for making of account monitoring order)

13. In article 30 of the 2013 Order (requirements for making of account monitoring order), for paragraph (2) substitute—

"(2) There must be reasonable grounds for suspecting that the person specified in the application for the order holds property obtained as a result of or in connection with criminal conduct.".

Amendment of article 35 (codes of practice)

14. For article 35 (codes of practice) substitute—

"**Codes of Practice**

35. A code of practice in operation under section 377 or 377A of the Proceeds of Crime Act 2002(**3**) applies to functions exercisable under this Part as it applies to functions exercisable under Chapter 2 of Part 8 of that Act in relation to civil recovery investigations.".

(**3**) 2002 c. 29. Section 377 was amended by the Serious Crime Act 2007 (c. 27), s. 74(2)(d) and Schedule 8, Part 4, paragraphs 103 and 114; by the Crime and Courts Act 2013 (c. 22), s. 15(3), 55(14), Schedule 8, Part 2, paragraphs 108 and 143 and Schedule 21, Part 1, paragraphs 14 and 37; by S.I. 2010/976, art. 12 and Schedule 14, paragraphs 47 and 67; and by the Finance Act 2013 (c. 29), s. 224 and Schedule 48, paragraphs 1 and 17. Section 377A was inserted by the Serious Crime Act 2007 (c. 27), s. 74(2)(d) and Schedule 8, Part 4, paragraphs 103 and 115, and was amended by S.I. 2014/834, art. 3(3)(b) and Schedule 2, paragraphs 19 and 28.