Draft Regulations laid before Parliament under sections 55(4) of the Criminal Finances Act 2017 and 217(5)(i) of the Economic Crime and Corporate Transparency Act 2023, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2024 No.

PROCEEDS OF CRIME

The Criminal Finances Act 2017 and Economic Crime and Corporate Transparency Act 2023 (Consequential Amendments) Regulations 2024

Made - - - -	***
Coming into force - -	*29th November 2024*

The Secretary of State makes these Regulations in exercise of the powers conferred by section 54(1) and (5) of the Criminal Finances Act 2017 ("the 2017 Act")(**a**) and section 216(1) and (2) of the Economic Crime and Corporate Transparency Act 2023 ("the 2023 Act")(**b**).

The Secretary of State has consulted the Department of Justice in Northern Ireland in accordance with section 55(1) of the 2017 Act.

In accordance with section 55(4) of the 2017 Act and section 217(5)(i) of the 2023 Act, a draft of these Regulations has been laid before Parliament and approved by resolution of each House of Parliament.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Criminal Finances Act 2017 and Economic Crime and Corporate Transparency Act 2023 (Consequential Amendments) Regulations 2024 and come into force on 29th November 2024.

(2) This regulation and regulation 2(1) and (2) extend to England and Wales, Scotland and Northern Ireland.

(3) Regulation 2(3) and (4) extends to England and Wales and Northern Ireland.

(4) Regulation 2(5) and (6) extends to Scotland.

Amendments to the Proceeds of Crime Act 2002

2.—(1) The Proceeds of Crime Act 2002(**c**) is amended as follows.

(**a**) 2017 c. 22.
(**b**) 2023 c. 56.
(**c**) 2002 c. 29.

(2) In subsection (3) of section 341 (investigations)(**a**), after paragraph (d) omit "or" and after paragraph (e) insert ", or

(f) property detained under Chapter 3C or 3F of Part 5 or property held in an account in relation to which a crypto wallet freezing order made under section 303Z37 has effect.".

(3) In section 352 (search and seizure warrants)(**b**)—

(a) in subsection (3)(c), after "(7B)" insert ", (7C), (7D), (7E), (7F), (7G), (7H)";

(b) in subsection (5), after paragraph (cb) insert—

"(cc) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a cryptoasset investigation;";

(c) in subsection (7), for "and (cb)" substitute ", (cb) and (cc)".

(4) In section 353 (requirements where production order not available)(**c**)—

(a) in subsection (5)(a), after "(7F)," insert "(7G), (7H),";

(b) after subsection (7F) insert—

"(7G) In the case of a cryptoasset investigation into the derivation of cryptoassets or converted cryptoassets, 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.

(7H) In the case of a cryptoasset investigation into the intended use of cryptoassets or converted cryptoassets, material falls within this subsection if it cannot be identified at the time of the application but it—

(a) relates to 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.";

(c) in subsection (10), after paragraph (cb) insert—

"(cc) a constable, an SFO officer, an accredited financial investigator or an officer of Revenue and Customs, if the warrant is sought for the purposes of a cryptoasset investigation;";

(d) in subsection (11), for "and (cb)" substitute ", (cb) and (cc)".

(**a**) Subsection (3) was substituted by paragraph 2 of Schedule 19 to the Crime and Courts Act 2013 (c. 22) and amended by paragraph 39 of Schedule 5 to the Criminal Finances Act 2017 (c. 22).

(**b**) Subsection (3) was amended by paragraph 7 of Schedule 10 to the Serious Crime Act 2007 (c. 27). Subsection (5) was amended by paragraph 7 of Schedule 10 to the Serious Crime Act 2007, paragraph 10 of Schedule 19 to the Coroners and Justice Act 2009 (c. 25) and paragraph 47 of Schedule 5 to the Criminal Finances Act 2017. Subsection (7) was amended by paragraph 47 of Schedule 5 to the Criminal Finances Act 2017. There are other amendments to section 352 which are not relevant.

(**c**) Subsection (5)(a) was amended by paragraph 11 of Schedule 19 to the Coroners and Justice Act 2009 (which also inserted subsection (8A) into section 353) and paragraph 48 of Schedule 5 to the Criminal Finances Act 2017 (which also inserted subsection (7F) into section 353). Subsection (10) was amended by paragraph 8 of Schedule 10 to the Serious Crime Act 2007, paragraph 11 of Schedule 19 to the Coroners and Justice Act 2009 and paragraph 48 of Schedule 5 to the Criminal Finances Act 2017. There are other amendments to section 353 which are not relevant.

(5) In subsection (2) of section 387 (search warrants)(**a**), for "or a frozen funds investigation," substitute ", a frozen funds investigation or a cryptoasset investigation,".

(6) In section 388 (requirements where production order not available)(**b**)—

(a) in subsection (5)(a), after "(7F)" insert ", (7G), (7H)";

(b) after subsection (7F) insert—

"(7G) In the case of a cryptoasset investigation into the derivation of cryptoassets or converted cryptoassets, 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.

(7H) In the case of a cryptoasset investigation into the intended use of cryptoassets or converted cryptoassets, material falls within this subsection if it cannot be identified at the time of the application but it—

(a) relates to 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.".

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Home Office

(**a**) Subsection (2) was amended by paragraph 64 of Schedule 5 to the Criminal Finances Act 2017. There are other amendments to section 387 which are not relevant.

(**b**) Subsection (5)(a) was amended by, and subsection (7F) inserted by, paragraph 65 of Schedule 5 to the Criminal Finances Act 2017. There are other amendments to section 388 which are not relevant.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make amendments to the Proceeds of Crime Act 2002 (c. 29) ("the 2002 Act") consequential on the Criminal Finances Act 2017 (c. 22) ("the 2017 Act") and the Economic Crime and Corporate Transparency Act 2023 (c. 56) ("the 2023 Act").

Regulation 2(2) amends section 341(3) of the 2002 Act to ensure that cryptoasset investigations (a type of investigation introduced by the 2023 Act) do not fall within the definition of a 'civil recovery investigation' in section 341(2) of the 2002 Act.

Regulation 2(3)(a) amends section 352(3) of the 2002 Act, which details what the application for a search and seizure warrant must specify. Consequential on the 2017 Act, it adds references to subsections (7C) to (7F) of section 353 which deal with detained property investigations and frozen funds investigations. Consequential on the 2023 Act, it adds references to subsections (7G) and (7H) which deal with cryptoasset investigations. Regulation 2(3)(b) also amends section 352(5) and (7) of the 2002 Act to define an 'appropriate person' for the purposes of cryptoasset investigations in England and Wales and Northern Ireland. Regulation 2(4)(c) and 2(4)(d) make equivalent amendments to section 353(10) of the 2002 Act.

Regulation 2(4) further amends section 353 by inserting new subsections (7G) and (7H) to specify additional conditions required to issue search and seizure warrants in relation to cryptoassets in England and Wales and Northern Ireland. Regulation 2(6) inserts the equivalent new subsections into section 388 of the 2002 Act to specify the conditions required for the exercise of search and seizure warrants in Scotland.

Regulation 2(5) amends section 387(2) of the 2002 Act. It adds reference to cryptoasset investigations into that provision which specifies that sheriffs in Scotland act in the exercise of their civil jurisdiction when issuing certain search warrants.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sector is foreseen.

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