STATUTORY INSTRUMENTS

2024 No. 1127

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (External Investigations and External Orders and Requests) (Amendment) Order 2024

Made - - - -	*6th November 2024*
Laid before Parliament	*13th November 2024*
Coming into force - -	*26th April 2025*

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At the Court at Buckingham Palace, the 6th day of November 2024

Present,

The King's Most Excellent Majesty in Council

His Majesty, in pursuance of sections 444, 445 and 459(2) of the Proceeds of Crime Act 2002(**a**), is pleased, by and with the advice of His Privy Council, to order as follows:

PART 1
Introduction

Citation and commencement

1.—(1) This Order may be cited as the Proceeds of Crime Act 2002 (External Investigations and External Orders and Requests) (Amendment) Order 2024.

(2) It comes into force on 26th April 2025.

Extent

2.—(1) Articles 1 to 5, 12 to 15 and 20 extend to England and Wales, Scotland and Northern Ireland.

(2) Articles 6 and 7 extend to England and Wales.

(3) Articles 8, 9, 18 and 19 extend to Scotland.

(4) Articles 10 and 11 extend to Northern Ireland.

(5) Articles 16, 17, 21 and 22 extend to England and Wales and Northern Ireland.

Interpretation

3. In this Order—

(**a**) 2002 c. 29. Sections 444 and 445 were amended by the Serious Organised Crime and Police Act 2005 (c. 15), section 108, the Serious Crime Act 2007 (c. 27), Schedule 8, paragraph 139, S.I. 2010/976, the Crime and Courts Act 2013 (c. 22), Schedule 8, paragraphs 149 and 150, S.I. 2014/834 and the Criminal Finances Act 2017 (c. 22), section 24 and Schedule 5, paragraph 84

"the 2005 Order" means the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005(**a**);

"the 2013 Order" means the Proceeds of Crime Act 2002 (External Investigations) Order 2013(**b**);

"the 2014 Order" means the Proceeds of Crime Act 2002 (External Investigations) Order 2014(**c**).

PART 2

Amendment of the 2005 Order

Chapter 1

Introduction and general provisions

Introduction

4. The 2005 Order is amended in accordance with this Part.

Interpretation: cryptoassets etc

5. After article 2 (interpretation), insert—

"Cryptoassets etc

2A.—(1) "Cryptoasset" means a cryptographically secured digital representation of value or contractual rights that uses a form of distributed ledger technology and can be transferred, stored or traded electronically.

(2) "Crypto wallet" means—

(a) software,

(b) hardware,

(c) a physical item, or

(d) any combination of the things mentioned in paragraphs (a) to (c),

which is used to store the cryptographic private key that allows cryptoassets to be accessed.

(3) The circumstances in which a cryptoasset is taken to be "destroyed" include circumstances where it is—

(a) disposed of,

(b) transferred, or

(c) otherwise dealt with,

in such a way as to ensure, or to make it virtually certain, that it will not be the subject of any further transactions or be dealt with again in any other way.

(**a**) S.I. 2005/3181; amended by S.I. 2006/594, 2008/302, 2009/2054, 2011/1242, 2013/472, 2013/534, 2013/2604, 2014/3141, 2015/1750, 2016/662, 2016/1034, 2018/1078, 2021/638 and paragraph 339 of Schedule 24 to the Sentencing Act 2020 (c. 17).

(**b**) S.I. 2013/2605; amended by S.I. 2014/834, 2015/1751, 2018/1078, 2021/638 and paragraph 4 of Schedule 3 to the European Union (Future Relationship) Act 2020 (c. 29).

(**c**) S.I. 2014/1893; amended by S.I. 2015/1752, 2018/1078 and 2021/638.

Meaning of "UK-connected cryptoasset service provider"

2B.—(1) "UK-connected cryptoasset service provider" means a cryptoasset service provider which—

(a) is acting in the course of business carried on by it in the United Kingdom,

(b) has terms and conditions with the persons to whom it provides services which provide for a legal dispute to be litigated in the courts of a part of the United Kingdom,

(c) holds in the United Kingdom any data relating to the persons to whom it provides services, or

(d) meets the condition in paragraph (2).

(2) The condition in this paragraph is that—

(a) the cryptoasset service provider has its registered office or, if it does not have one, its head office in the United Kingdom, and

(b) the day-to-day management of the provider's business is the responsibility of that office or another establishment maintained by it in the United Kingdom.

(3) "Cryptoasset service provider" in paragraphs (1) and (2) includes a cryptoasset exchange provider and a custodian wallet provider; and for this purpose—

"cryptoasset exchange provider" means a firm or sole practitioner who by way of business provides one or more of the following services, including where the firm or sole practitioner does so as creator or issuer of any of the cryptoassets involved—

(a) exchanging, or arranging or making arrangements with a view to the exchange of, cryptoassets for money or money for cryptoassets;

(b) exchanging, or arranging or making arrangements with a view to the exchange of, one cryptoasset for another;

(c) operating a machine which utilises automated processes to exchange cryptoassets for money or money for cryptoassets;

"custodian wallet provider" means a firm or sole practitioner who by way of business provides services to safeguard, or to safeguard and administer—

(a) cryptoassets on behalf of its customers, or

(b) private cryptographic keys on behalf of its customers in order to hold, store and transfer cryptoassets.

(4) In the definition of "cryptoasset exchange provider" in paragraph (3), "cryptoasset" includes a right to, or interest in, a cryptoasset.".

Chapter 2

England and Wales

Search and seizure powers

6.—(1) In article 17A(2) (conditions for exercise of powers), omit sub-paragraph (b).

(2) In article 17B (power to seize property)—

(a) in paragraph (2), after "not" insert "under paragraph (1)";

(b) after paragraph (4), insert—

"(4A) On being satisfied as mentioned in article 17A(1) an appropriate officer may seize any free property if the officer has reasonable grounds for suspecting that it is a cryptoasset-related item.

(4B) A "cryptoasset-related item" is an item of property that is, or that contains or gives access to information that is, likely to assist in the seizure under paragraph (1) of any cryptoasset.

(4C) The circumstances in which a cryptoasset is "seized" for the purposes of paragraph (1) include circumstances in which it is transferred into a crypto wallet controlled by the appropriate officer.

(4D) If an appropriate officer is lawfully on any premises, the officer may, for the purpose of—

(a) determining whether any property is a cryptoasset-related item, or

(b) enabling or facilitating the seizure under paragraph (1) of any cryptoasset,

require any information which is stored in any electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible, or from which it can readily be produced in a visible and legible form.

(4E) But paragraph (4D) does not authorise an appropriate officer to require a person to produce information which the person would be entitled to refuse to provide on grounds of legal professional privilege in proceedings in the High Court.

(4F) Where an appropriate officer has seized a cryptoasset-related item under paragraph (4A), they may use any information obtained from it for the purpose of—

(a) identifying or gaining access to a crypto wallet, and

(b) by doing so, enabling or facilitating the seizure under paragraph (1) of any cryptoassets.".

(3) In article 17J (further detention pending variation of restraint order), after paragraph (3), insert—

"(4) Exempt property seized under article 17B(4A) may be detained under paragraphs (2) and (3) only with the approval of a senior officer.

(5) In paragraph (4)—

"exempt property" has the meaning given in article 17B(3) (reading references there to the defendant as references to the person by whom the property is held);

"senior officer" has the meaning given in article 17F(3) (and for this purpose, the powers under subsections (2) and (3) to detain property are to be treated as exercised by the appropriate officer who seized the property).".

(4) In article 17K (release of property)—

(a) in paragraph (3)(b), at the end insert "or (4A)";

(b) after paragraph (5), insert—

"(6) If a cryptoasset-related item, as defined by article 17B(4B), which has been released is not claimed within the period of a year beginning with the date on which it was released, the appropriate officer may—

(a) retain the item and deal with it as they see fit,

(b) dispose of the item, or

(c) destroy the item.

(7) The powers in paragraph (6) may be exercised only—

(a) where the appropriate officer has taken reasonable steps to notify—

(i) the person from whom the item was seized, and

(ii) any other persons who the appropriate officer has reasonable grounds to believe have an interest in the item, that the item has been released, and

(b) with the approval of a senior officer.

(8) "Senior officer" in paragraph (7)(b) has the meaning given in article 17F(3).

(9) Any proceeds of a disposal of the item are to be paid into the Consolidated Fund.".

Powers of enforcement receivers

7.—(1) In article 29 (powers of enforcement receivers in respect of external orders for the recovery of specified property)—

(a) in paragraph (2), at the end insert—

"(e) as far as the property consists of cryptoassets, power to destroy the property.";

(b) in paragraph (7)(a), for "or (c)" substitute ", (c) or (e)";

(c) after paragraph (8) insert—

"(8A) The court may confer the power mentioned in paragraph (2)(e) only where—

(a) it is not reasonably practicable to realise the cryptoassets in question, or

(b) there are reasonable grounds to believe that the realisation of the cryptoassets would be contrary to the public interest, having regard in particular to how likely it is that the entry of the cryptoassets into general circulation would facilitate criminal conduct by any person.

(8B) An order conferring that power—

(a) must set out the court's assessment of the market value of the cryptoassets to which it relates;

(b) may confer power to destroy the cryptoassets only to the extent that their market value, as set out in the order, is less than or equal to the amount remaining to be paid under the external order.

(8C) If the receiver destroys any cryptoassets in the exercise of that power, the defendant is to be treated as having paid, towards satisfaction of the external order, an amount equal to the market value, as set out in the order, of the cryptoassets which have been destroyed.".

Chapter 3

Scotland

Search and seizure powers

8.—(1) In article 65A(2) (conditions for exercise of powers), omit sub-paragraph (b).

(2) In article 65B (power to seize property)—

(a) in paragraph (2), after "not" insert "under paragraph (1)";

(b) after paragraph (4), insert—

"(4A) On being satisfied as mentioned in article 65A(1) an appropriate officer may seize any free property if the officer has reasonable grounds for suspecting that it is a cryptoasset-related item.

(4B) A "cryptoasset-related item" is an item of property that is, or that contains or gives access to information that is, likely to assist in the seizure under paragraph (1) of any cryptoasset.

(4C) The circumstances in which a cryptoasset is "seized" for the purposes of paragraph (1) include circumstances in which it is transferred into a crypto wallet controlled by the appropriate officer.

(4D) If an appropriate officer is lawfully on any premises, the officer may, for the purpose of—

(a) determining whether any property is a cryptoasset-related item, or

(b) enabling or facilitating the seizure under paragraph (1) of any cryptoasset,

require any information which is stored in any electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible, or from which it can readily be produced in a visible and legible form.

(4E) But paragraph (4D) does not authorise an appropriate officer to require a person to produce any items subject to legal privilege (as defined in section 412 of the Proceeds of Crime Act 2002).

(4F) Where an appropriate officer has seized a cryptoasset-related item under paragraph (4A), they may use any information obtained from it for the purpose of—

(a) identifying or gaining access to a crypto wallet, and

(b) by doing so, enabling or facilitating the seizure under paragraph (1) of any cryptoassets.".

(3) In article 65J (further detention pending variation of restraint order), after paragraph (3), insert—

"(4) Exempt property seized under article 65B(4A) may be detained under paragraphs (2) and (3) only with the approval of a senior officer.

(5) In paragraph (4)—

"exempt property" has the meaning given in article 65B(3) (reading references there to the accused as references to the person by whom the property is held);

"senior officer" has the meaning given in article 65F(3) (and for this purpose, the powers under paragraphs (2) and (3) to detain property are to be treated as exercised by the appropriate officer who seized the property).".

(4) In article 65K (release of property)—

(a) in paragraph (3)(b), at the end insert "or (4A)";

(b) after paragraph (5), insert—

"(6) If a cryptoasset-related item, as defined by article 65(4B), which has been released is not claimed within the period of a year beginning with the date on which it was released, the appropriate officer may—

(a) retain the item and deal with it as they see fit,

(b) dispose of the item, or

(c) destroy the item.

(7) The powers in paragraph (6) may be exercised only—

(a) where the appropriate officer has taken reasonable steps to notify—

(i) the person from whom the item was seized, and

(ii) any other persons who the appropriate officer has reasonable grounds to believe have an interest in the item,

that the item has been released, and

(b) with the approval of a senior officer.

(8) "Senior officer" in paragraph (7)(b) has the meaning given in article 65F(3).

(9) Any proceeds of a disposal of the item are to be paid into the Scottish Consolidated Fund.".

Powers of enforcement administrators

9. In article 75 (powers of enforcement administrators in respect of external orders for the recovery of specified property)—

(a) in paragraph (2), after sub-paragraph (c), insert—

"(d) so far as the property consists of cryptoassets, power to destroy the property.";

(b) in paragraph (7)(a), for "or (c)" substitute ", (c) or (d)".

(c) after paragraph (8), insert—

"(8A) The court may confer the power mentioned in paragraph (6)(d) only where—

(a) it is not reasonably practicable to realise the cryptoassets in question, or

(b) there are reasonable grounds to believe that the realisation of the cryptoassets would be contrary to the public interest, having regard in particular to how likely it is that the entry of the cryptoassets into general circulation would facilitate criminal conduct by any person.

(8B) An order conferring that power—

(a) must set out the court's assessment of the market value of the cryptoassets to which it relates;

(b) may confer power to destroy the cryptoassets only to the extent that their market value, as set out in the order, is less than or equal to the amount remaining to be paid under the external order.

(8C) If the administrator destroys any cryptoassets in the exercise of that power, the accused is to be treated as having paid, towards satisfaction of the external order, an amount equal to the market value, as set out in the order, of the cryptoassets which have been destroyed.".

Chapter 4

Northern Ireland

Search and seizure powers

10.—(1) In article 103A(2) (conditions for exercise of powers), omit sub-paragraph (b).

(2) In article 103B (power to seize property)—

(a) in paragraph (2), after "not" insert "under paragraph (1)";

(b) after paragraph (4), insert—

"(4A) On being satisfied as mentioned in article 103A(1) an appropriate officer may seize any free property if the officer has reasonable grounds for suspecting that it is a cryptoasset-related item.

(4B) A "cryptoasset-related item" is an item of property that is, or that contains or gives access to information that is, likely to assist in the seizure under paragraph (1) of any cryptoasset.

(4C) The circumstances in which a cryptoasset is "seized" for the purposes of paragraph (1) include circumstances in which it is transferred into a crypto wallet controlled by the appropriate officer.

(4D) If an appropriate officer is lawfully on any premises, the officer may, for the purpose of—

(a) determining whether any property is a cryptoasset-related item, or

(b) enabling or facilitating the seizure under paragraph (1) of any cryptoasset,

require any information which is stored in any electronic form and accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible, or from which it can readily be produced in a visible and legible form.

(4E) But paragraph (4D) does not authorise an appropriate officer to require a person to produce information which the person would be entitled to refuse to provide on grounds of legal professional privilege in proceedings in the High Court.

(4F) Where an appropriate officer has seized a cryptoasset-related item under paragraph (4A), they may use any information obtained from it for the purpose of—

(a) identifying or gaining access to a crypto wallet, and

(b) by doing so, enabling or facilitating the seizure under paragraph (1) of any cryptoassets.".

(3) In article 103J (further detention pending variation of restraint order), after paragraph (3), insert—

"(4) Exempt property seized under article 103B(4A) may be detained under paragraphs (2) and (3) only with the approval of a senior officer.

(5) In paragraph (4)—

"exempt property" has the meaning given in article 103B(3) (reading references there to the defendant as references to the person by whom the property is held);

"senior officer" has the meaning given in article 103F(3) (and for this purpose, the powers under paragraphs (2) and (3) to detain property are to be treated as exercised by the appropriate officer who seized the property).".

(4) In article 103K (release of property)—

(a) in paragraph (3)(b), at the end insert "or (4A)";

(b) after paragraph (5), insert—

"(6) If a cryptoasset-related item, as defined by article 103B(4B), which has been released is not claimed within the period of a year beginning with the date on which it was released, the appropriate officer may—

(a) retain the item and deal with it as they see fit,

(b) dispose of the item, or

(c) destroy the item.

(7) The powers in paragraph (6) may be exercised only—

(a) where the appropriate officer has taken reasonable steps to notify—

(i) the person from whom the item was seized, and

(ii) any other persons who the appropriate officer has reasonable grounds to believe have an interest in the item, that the item has been released, and

(b) with the approval of a senior officer.

(8) "Senior officer" in paragraph (7)(b) has the meaning given in article 1037F(3).

(9) Any proceeds of a disposal of the item are to be paid into the Consolidated Fund.".

Powers of enforcement administrators

11. In article 114 (powers of enforcement receivers in respect of monetary external orders)—

(a) in paragraph (2), after sub-paragraph (d), insert—

"(e) so far as the property consists of cryptoassets, power to destroy the property.";

(b) in paragraph (8)(a), for "or (c)" substitute ", (c) or (e)".

(c) after paragraph (9), insert—

"(9A) The court may confer the power mentioned in paragraph (2)(e) only where—

(a) it is not reasonably practicable to realise the cryptoassets in question, or

(b) there are reasonable grounds to believe that the realisation of the cryptoassets would be contrary to the public interest, having regard in particular to how likely it is that the entry of the cryptoassets into general circulation would facilitate criminal conduct by any person.

(9B) An order conferring that power—

(a) must set out the court's assessment of the market value of the cryptoassets to which it relates;

(b) may confer power to destroy the cryptoassets only to the extent that their market value, as set out in the order, is less than or equal to the amount remaining to be paid under the external order.

(9C) If the administrator destroys any cryptoassets in the exercise of that power, the accused is to be treated as having paid, towards satisfaction of the external order, an amount equal to the market value, as set out in the order, of the cryptoassets which have been destroyed.".

Chapter 5

Civil recovery and cryptoassets

Limit on recovery

12. In article 189 (limit on recovery)—

(a) in paragraph (7)—

(i) for sub-paragraph (a), substitute—

"(a) an order is made under section 298, 303O, 303R. 303Z14, 303Z41 or 303Z60 of the Act (including sections 303Z41 or 303Z60 of the Act as applied by articles 213Z21 and 213Z22), or under articles 213L or 213Z7 ("the forfeiture provisions") for the forfeiture of recoverable property, and";

(ii) in the closing words, for "section 298, or (in England and Wales or Scotland) 303O, 303R or 303Z14" substitute "any of the forfeiture provisions".

(b) in paragraph (7A), in sub-paragraph (a)(i)—

(i) after "303Q" insert "or 303Z45 (included that section as applied by article 213Z21)";

(ii) after "303O" insert "or 303Z41";

(c) in paragraph (7B)(a)—

(i) after "303Q", the first time it occurs, insert "or 303Z45 (including that section as applied by article 213Z21)";

(ii) after "303Q" the second time it occurs, insert "or 303Z45, as the case may be,".

Appointed person: report on exercise of powers

13. In article 213F (report on exercise of powers), after paragraph (7), insert—

"(8) The Department of Justice must lay a copy of any report it receives under this article before the Northern Ireland Assembly and arrange for it to be published.".

Forfeiture of cryptoassets and cryptoasset-related items

14. After article 213Z13 (interpretation), insert—

"PART 5C

Giving effect to external requests and orders by means of the forfeiture of cryptoassets and cryptoasset-related items

Chapter 1

Introduction

General

213Z14.—(1) This Part has effect for the purpose of enabling—

(a) the search for, seizure and detention of cryptoassets and cryptoasset-related items (see article 213Z18);

(b) the freezing of crypto wallets (see article 213Z19);

(c) the forfeiture of cryptoassets following a detention or freezing order (see article 213Z20); and

(d) the conversion of cryptoassets (see article 213Z21),

in relevant civil proceedings for the purpose of giving effect to external requests and external orders.

(2) In paragraph (1), "relevant civil proceedings" means civil proceedings before—

(a) in England and Wales or Northern Ireland, the magistrates' court or the High Court; or

(b) in Scotland, the sheriff court or (if the sheriff court has transferred an application under section 303Z45 of the Act (associated and joint property: default of agreement), as applied by article 213Z20(5)), the Court of Session.

(3) The powers conferred by this Part are exercisable in relation to any cryptoasset-related item, cryptoasset or crypto wallet ("the property") whether or not proceedings have been brought in the country from which the external order or external request was sent for criminal conduct (within the meaning of section 447(8) of the Act (interpretation)) in connection with the property.

Action on receipt of an external request

213Z15. The Secretary of State may refer an external request to prohibit dealing with cryptoassets held in a crypto wallet administered by a UK-connected cryptoasset service provider to—

(a) the Chief Constable of a police force in England and Wales or the Chief Constable of the Police Service of Scotland;

(b) the Commissioners for His Majesty's Revenue and Customs;

(c) the Director of the Serious Fraud Office;

(d) the Director of the National Crime Agency.

Action to give effect to an external order

213Z16. The Secretary of State may forward an external order in relation to cryptoassets held in a crypto wallet administered by a UK-connected cryptoasset service provider to—

(a) the Chief Constable of a police force in England and Wales or the Chief Constable of the Police Service of Scotland;

(b) the Commissioners for His Majesty's Revenue and Customs;

(c) the Director of the Serious Fraud Office;

(d) the Director of the National Crime Agency.

Interpretation

213Z17. In this Part, unless otherwise provided—

(a) any reference to a section is a reference to a section of the Act,

(b) any reference to Chapter 3C, 3D, 3E or 3F of Part 5 of the Act, or to a section in any of those Chapters, is a reference to that Chapter or section as applied and modified by this Part.

Extent

213Z18. This Part extends to England and Wales, Northern Ireland and Scotland.

Chapter 2

Application of Chapters 3C to 3F of Part 5 of the Act with modifications

Recovery of cryptoassets: searches, seizure and detention

213Z19.—(1) Chapter 3C of Part 5 of the Act(**a**) applies for the purposes of this Part—

(a) with the modifications set out in paragraphs (2) to (7), and

(b) as if section 303Z25 were omitted.

(2) Section 303Z20 (definitions) applies as if subsections (1), (2) and (3) were omitted.

(3) Section 303Z21 (searches) applies as if for subsection (2) there were substituted—

"(2) For the purposes of this Chapter, a "cryptoasset related item" is an item of property that is, or that contains or gives access to information that is, likely to assist in the seizure under this Part of cryptoassets that are—

(**a**) Chapters 3C to 3F were inserted into Part 5 of the Proceeds of Crime Act 2002 by paragraph 6 of Schedule 9 to the Economic Crime and Corporate Transparency Act 2023 (c. 56).

(a) the subject of an external request which has been referred or an external order which has been forwarded in accordance with article 213Z15 or 213Z16 of the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005, and

(b) recoverable property.".

(4) Section 303Z28 (further detention of seized cryptoasset related items) applies as if—

(a) subsection (4) were omitted;

(b) in subsection (5), "or (4)" were omitted;

(c) subsections (7) and (8) were omitted.

(5) Section 303Z29 (seizure of cryptoassets) applies as if in subsection (1), "or intended by any person for use in unlawful conduct" were omitted.

(6) Section 303Z30 (prior authorisation for detention of cryptoassets) applies as if in subsection (3) "or intended by any person for use in unlawful conduct" were omitted.

(7) Section 303Z32 (further detention of seized cryptoassets) applies as if—

(a) subsection (4) were omitted,

(b) in subsection (5), "or (4)" were omitted,

(c) in subsection (6), "or intended by any person for use in unlawful conduct", and

(d) subsections (7) and (8) were omitted.

(8) A Code of Practice made under section 303Z25 applies to the powers conferred by this article as it applies to the powers conferred by section 303Z21.

Freezing of crypto wallets

213Z20.—(1) Chapter 3D (recovery of cryptoassets: freezing orders) applies for the purposes of this Part—

(a) with the modifications in this article, and

(b) as if section 303Z35 (definitions) were omitted.

(2) Section 303Z36 (application for crypto wallet freezing order) applies for the purposes of this Chapter as if—

(a) for subsection (1) there were substituted—

"(1) This section applies if—

(a) the Secretary of State has referred an external request or forwarded an external order in accordance with article 213Z15 or 213Z16 of the Proceeds of Crime Act 2002 (External Orders and Requests) Order 2005, and

(b) an enforcement officer has reasonable grounds for suspecting that cryptoassets held in a crypto wallet administered by a UK-connected cryptoasset service provider are recoverable property.";

(b) in subsection (8), the definition of "UK-connected cryptoasset service provider" were omitted;

(c) subsection (9) were omitted.

(3) Section 303Z37 (making of a crypto wallet freezing order) applies as if—

(a) in subsection (2), paragraph (b) and the preceding "or" were omitted;

(b) the references in subsection (3) to "this Chapter or Chapter 3E or 3F" were to those Chapters as applied by this Part;

(c) subsections (5), (6) and (7) were omitted.

(4) Section 303Z39 (exclusions) applies as if—

(a) any references in that section to proceedings under Part 5 of the Act were to proceedings under that Part as applied by this Part of the Order;

(b) in subsection (8)—

(i) the reference to steps under Part 5 of the Act were a reference to steps under this Part of the Order;

(ii) the words "or intended" to the end were omitted.

Forfeiture

213Z21.—(1) Chapter 3E of Part 5 of the Act (forfeiture of cryptoassets following detention or freezing order) applies for the purposes of this Part with the modifications in this article.

(2) Section 303Z41 (forfeiture order) applies as if in subsection (4), paragraph (b) and the preceding "or" were both omitted.

(3) Section 303Z42 (forfeiture order: supplementary) applies as if subsections (7) to (12) were omitted.

(4) Section 303Z43 (associated and joint property) applies as if in subsection (1)(b) the words "or are intended by any person for use in criminal conduct" were omitted.

(5) Section 303Z45 (associated and joint property: default of agreement) applies as if, in subsection (3), the words "or intended by any person for use in unlawful conduct" were omitted.

(6) Section 303Z52 (compensation) applies as if subsections (10) to (12) were omitted.

Conversion, detention, release and forfeiture of converted cryptoassets

213Z22.—(1) Section 303Z57 (detained cryptoassets: detention of proceeds of conversion) applies as if—

(a) subsection (5) were omitted;

(b) in subsection (6), for "subsections (4) and (5)" there were substituted "subsection (4)";

(c) in subsection (7), "or (5)" were omitted;

(d) in subsection (8), paragraph (b) and the preceding "or" were omitted;

(e) subsections (9) and (10) were omitted.

(2) Section 303Z58 (frozen crypto wallets: detention of proceeds of conversion) applies as if—

(a) subsection (5) were omitted;

(b) in subsection (6), "or (5)" were omitted;

(c) in subsection (7), paragraph (b) and the preceding "or" were omitted;

(d) subsections (8) and (9) were omitted.

(3) Section 303Z59 (release of detained converted cryptoassets) applies as if in subsection (3), paragraph (b) and the preceding "or" were omitted.

(4) Section 303Z60 (forfeiture order) applies as if in subsection (4), paragraph (b) and the preceding "or" were omitted.

(5) Section 303Z64 (compensation) applies as if subsections (10) and (11) were omitted.".

PART 3

Amendment of the 2013 Order

Introduction

15. The 2013 Order is amended in accordance with this Part.

Unexplained wealth orders (England, Wales and Northern Ireland)

16.—(1) In article 21A (unexplained wealth orders)—

(a) after paragraph (2), insert—

"(2A) In a case where the respondent is not an individual, the application may also specify a person who is a responsible officer of the respondent (and a person specified may include a person who is outside the United Kingdom).";

(b) in paragraph (4), in the opening words, after "the respondent" insert "or any responsible officer specified in the order (a "specified responsible officer")";

(c) in paragraph (6)—

(i) after "requiring the respondent" insert "or any specified responsible officer";

(ii) for "require the respondent" substitute "require them";

(d) in paragraph (7), after "respondent" insert "or any specified responsible officer";

(e) after paragraph (8), insert—

"(9) For the purposes of this Part, each of the following is a "responsible officer" of the respondent (in a case where the respondent is not an individual)—

(a) any director of the respondent, including any person occupying the position of a director, by whatever name called;

(b) any member of a body of the respondent equivalent to a board of directors;

(c) any other manager, secretary or similar officer of the respondent;

(d) where the respondent is a partnership, a partner or a member of the partnership;

(e) any person in accordance with whose directions or instructions the board of directors or equivalent body of the respondent are accustomed to act.".

(2) In article 21B(3) (requirements for making of unexplained wealth orders)—

(a) after "suspecting that" insert "—";

(b) renumber the words from "the known" to the end as sub-paragraph (a);

(c) at the end of sub-paragraph (a), as so renumbered, insert—

", or

(b) the property has been obtained through unlawful conduct (within the meaning given by section 242 of the Proceeds of Crime Act 2002)".

(3) In article 21C (non-compliance with an unexplained wealth order)—

(a) in paragraph (1), for "the respondent fails" substitute "the respondent and the specified responsible officer (if any), between them, fail";

(b) in paragraph (2), for "the respondent is" substitute "the respondent and the specified responsible officer (if any) are";

(c) in paragraph (3), after "respondent" insert "or the specified responsible officer (if any)".

(4) In article 21D(1)(a) (compliance or purported compliance with an unexpected wealth order), for "the respondent complies, or purports to comply, with the" substitute "the respondent and the specified responsible officer (if any) between them comply, or purport to comply, with all of the".

(5) In article 21F(3) (disclosure of information, copying of documents etc), after "the respondent" insert "or any specified responsible officer".

(6) In article 21GA(1)(b) after "respondent" insert "or any specified responsible officer".

Unexplained wealth orders: costs orders (England, Wales and Northern Ireland)

17. After article 21P (compensation), insert—

"Costs orders

21Q.—(1) This article applies in the following cases—

(a) an enforcement authority has made an application for an unexplained wealth order under article 21A;

(b) an application has been made to discharge or vary an unexplained wealth order;

(c) an enforcement authority has made an application for an interim freezing order under article 21H;

(d) an application has been made to discharge or vary an interim freezing order;

(e) an application has been made in the circumstances referred to in article 21K to—

(i) stay an action, execution or other legal process,

(ii) grant leave to levy distress or use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods)(**a**),

(iii) stay proceedings in respect of property or allow them to continue, or

(iv) grant leave to exercise a right of forfeiture in relation to a tenancy;

(f) an enforcement authority has made an application for an order for the appointment of a receiver under article 21L;

(g) an enforcement authority has made an application for an order under article 21M (powers of receiver);

(h) an application has been made for directions to a receiver under article 21N;

(i) an application has been made to discharge or vary—

(i) the appointment of a receiver under article 21L,

(ii) an order under article 21M, or

(iii) directions under article 21N;

(j) an application has been made for compensation under article 21P;

(k) the High Court has of its own motion exercised a power to do anything an application mentioned in sub-paragraphs (a) to (j) may be made for;

(l) an application has been made for permission to appeal in relation to anything mentioned in sub-.paragraphs (a) to (k).

(2) The court may not make an order that any costs of proceedings relating to a case to which this article applies (including appeal proceedings) are payable by an enforcement

(**a**) 2007 c. 15.

authority to a respondent or a specified responsible officer in respect of the involvement of the respondent or the officer in those proceedings, unless—

(a) the authority acted unreasonably in making or opposing the application to which the proceedings relate, or in supporting or opposing the making of the order to which the proceedings relate, or

(b) the authority acted dishonestly or improperly in the course of the proceedings.".

Unexplained wealth orders (Scotland)

18.—(1) In article 46A (unexplained wealth orders)—

(a) after paragraph (2), insert—

"(2A) In a case where the respondent is not an individual, the application may also specify a person who is a responsible officer of the respondent (and a person specified may include a person outside the United Kingdom).";

(b) in paragraph (3), in the opening words, after "the respondent" insert "or any responsible officer specified in the order (a "specified responsible officer")";

(c) in paragraph (5)—

(i) after "requiring the respondent" insert "or any specified responsible officer";

(ii) for "require the respondent" substitute "require them";

(d) in paragraph (6), after "respondent" insert "or any specified responsible officer";

(e) after paragraph (7), insert—

"(8) For the purposes of this Part, each of the following is a "responsible officer" of the respondent (in a case where the respondent is not an individual)—

(a) any director of the respondent, including any person occupying the position of a director, by whatever name called;

(b) any member of a body of the respondent equivalent to a board of directors;

(c) any other manager, secretary or similar officer of the respondent;

(d) where the respondent is a partnership, a partner or a member of the partnership;

(e) any person in accordance with whose directions or instructions the board of directors or equivalent body of the respondent are accustomed to act.".

(2) In article 46B(3) (requirements for making of unexplained wealth orders)—

(a) after "suspecting that" insert "—";

(b) renumber the words from "that the known" to the end as sub-paragraph (a);

(c) at the end of sub-paragraph (a), as so renumbered, insert—

", or

(b) that the property has been obtained through unlawful conduct (within the meaning given by section 242 of the Proceeds of Crime Act 2002)".

(3) In article 46C (non-compliance with an unexplained wealth order)—

(a) in paragraph (1), for "the respondent fails" substitute "the respondent and the specified responsible officer (if any), between them, fail";

(b) in paragraph (2), for "the respondent is" substitute "the respondent and the specified responsible officer (if any) are";

(c) in paragraph (3), after "respondent" insert "or the specified responsible officer (if any)".

(4) In article 46D(1)(a) (compliance or purported compliance with an unexpected wealth order), for "the respondent complies, or purports to comply, with the" substitute "the respondent and the specified responsible officer (if any) between them comply, or purport to comply, with all of the".

(5) In article 46F(3) (disclosure of information, copying of documents etc), after "the respondent" insert "or any specified responsible officer".

Unexplained wealth orders: expenses of proceedings (Scotland)

19. After article 46R (compensation), insert—

"Expenses orders

46S.—(1) This article applies in the following cases—

(a) the Scottish Ministers have made an application for an unexplained wealth order under article 46A;

(b) an application has been made to discharge or vary an unexplained wealth order;

(c) the Scottish Ministers have made an application for an interim freezing order under article 46I;

(d) an application has been made to vary or recall an interim freezing order;

(e) an application has been made in the circumstances referred to in article 46L to—

(i) sist an action, execution or other legal process, or

(ii) sist proceedings in respect of property or allow them to continue;

(f) the Scottish Ministers have made an application under article 46M (arrestment of property affected by interim freezing order);

(g) the Scottish Ministers have made an application under article 46N (inhibition of property affected by interim freezing order);

(h) the Scottish Ministers have made an application for an order for the appointment of a receiver under article 46O (receivers in connection with interim freezing orders);

(i) the Scottish Ministers have made an application for an order under article 46P (powers of receiver);

(j) an application has been made for directions to a receiver under article 46Q (supervision of article 46O);

(k) an application has been made to vary or recall—

(i) the appointment of a receiver under article 46O,

(ii) an order under article 46P, or

(iii) directions under article 46Q;

(l) an application has been made for compensation under article 46R;

(m) the Court of Session has of its own motion exercised a power to do anything an application mentioned in sub-paragraphs (a) to (l) may be made for;

(n) an application has been made for permission to appeal in relation to anything mentioned in sub-paragraphs (a) to (m).

(2) The court may not make an order that any expenses of proceedings relating to a case to which this article applies (including appeal proceedings) are payable by the Scottish

Ministers or the Lord Advocate to a respondent or a specified responsible officer in respect of the involvement of the respondent or the officer in those proceedings, unless—

(a) the Scottish Ministers or the Lord Advocate acted unreasonably in making or opposing the application to which the proceedings relate, or in supporting or opposing the making of the order to which the proceedings relate, or

(b) the Scottish Ministers or the Lord Advocate acted dishonestly or improperly in the course of the proceedings.".

PART 4

Amendment of the 2014 Order

Introduction

20. The 2014 Order is amended in accordance with this Part.

Unexplained wealth orders (England, Wales and Northern Ireland)

21.—(1) In article 34A (unexplained wealth orders)—

(a) after paragraph (2), insert—

"(2A) In a case where the respondent is not an individual, the application may also specify a person who is a responsible officer of the respondent (and a person specified may include a person outside the United Kingdom).";

(b) in paragraph (4), in the opening words, after "the respondent" insert "or any responsible officer specified in the order (a "specified responsible officer")";

(c) in paragraph (6)—

(i) after "requiring the respondent" insert "or any specified responsible officer";

(ii) for "require the respondent" substitute "require them";

(d) in paragraph (7), after "respondent" insert "or any specified responsible officer";

(e) after paragraph (8), insert—

"(9) For the purposes of this Part, each of the following is a "responsible officer" of the respondent (in a case where the respondent is not an individual)—

(a) any director of the respondent, including any person occupying the position of a director, by whatever name called;

(b) any member of a body of the respondent equivalent to a board of directors;

(c) any other manager, secretary or similar officer of the respondent;

(d) where the respondent is a partnership, a partner or a member of the partnership;

(e) any person in accordance with whose directions or instructions the board of directors or equivalent body of the respondent are accustomed to act.".

(2) In article 34B(3) (requirements for making of unexplained wealth orders)—

(a) after "suspecting that" insert "—";

(b) renumber the words from "the known" to the end as sub-paragraph (a);

(c) at the end of sub-paragraph (a), as so renumbered, insert—

", or

(b) the property has been obtained through unlawful conduct (within the meaning given by section 242 of the Proceeds of Crime Act 2002)".

(3) In article 34C (non-compliance with an unexplained wealth order)—

(a) in paragraph (1), for "the respondent fails" substitute "the respondent and the specified responsible officer (if any), between them, fail";

(b) in paragraph (2), for "the respondent is" substitute "the respondent and the specified responsible officer (if any) are";

(c) in paragraph (3), after "respondent" insert "or the specified responsible officer (if any)".

(4) In article 34D(1)(a) (compliance or purported compliance with an unexpected wealth order), for "the respondent complies, or purports to comply, with the" substitute "the respondent and the specified responsible officer (if any) between them comply, or purport to comply, with all of the".

(5) In article 34F(3) (disclosure of information, copying of documents etc), after "the respondent" insert "or any specified responsible officer".

(6) In article 34GA(1)(b) (supplementary: Northern Ireland) after "respondent" insert "or any specified responsible officer".

Unexplained wealth orders: costs orders (England, Wales and Northern Ireland)

22. After article 34P (compensation), insert—

"Costs orders

34Q.—(1) This article applies in the following cases—

(a) an enforcement authority has made an application for an unexplained wealth order under article 34A (unexplained wealth orders);

(b) an application has been made to discharge or vary an unexplained wealth order;

(c) an enforcement authority has made an application for an interim freezing order under article 34H (unexplained wealth orders: application for interim freezing order);

(d) an application has been made to discharge or vary an interim freezing order;

(e) an application has been made in the circumstances referred to in article 34K (restrictions on proceedings and remedies) to—

(i) stay an action, execution or other legal process,

(ii) grant leave to levy distress or use the procedure in Schedule 12 to the Tribunals, Courts and Enforcement Act 2007 (taking control of goods)(**a**),

(iii) stay proceedings in respect of property or allow them to continue, or

(iv) grant leave to exercise a right of forfeiture in relation to a tenancy;

(f) an enforcement authority has made an application for an order for the appointment of a receiver under article 34L (receivers in connection with interim freezing orders);

(g) an enforcement authority has made an application for an order under article 34M (powers of receiver);

(h) an application has been made for directions to a receiver under article 34N (supervision of article 34L receiver and variations);

(**a**) 2007 c. 15.

(i) an application has been made to discharge or vary—

(i) the appointment of a receiver under article 34L,

(ii) an order under article 34M, or

(iii) directions under article 34N;

(j) an application has been made for compensation under article 34P (compensation);

(k) the High Court has of its own motion exercised a power to do anything an application mentioned in sub-paragraphs (a) to (j) may be made for;

(l) an application has been made for permission to appeal in relation to anything mentioned in sub-paragraphs (a) to (k).

(2) The court may not make an order that any costs of proceedings relating to a case to which this article applies (including appeal proceedings) are payable by an enforcement authority to a respondent or a specified responsible officer in respect of the involvement of the respondent or the officer in those proceedings, unless—

(a) the authority acted unreasonably in making or opposing the application to which the proceedings relate, or in supporting or opposing the making of the order to which the proceedings relate, or

(b) the authority acted dishonestly or improperly in the course of the proceedings.".

Richard Tilbrook
Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order in Council)

This Order amends the Proceeds of Crime Act 2002 (External Requests and Orders) Order 2005 (S.I. 2005/3181) (the "2005 Order"), the Proceeds of Crime Act 2002 (External Investigations) Order 2013 (S.I. 2013/2605) and the Proceeds of Crime Act 2002 (External Investigations) Order 2014 (S.I. 2014/1893) (the "2014 Order") (together, the "relevant Orders").

The relevant Orders were made for the purpose of giving effect to overseas requests, orders and investigations into financial matters resulting from criminal conduct (external requests, external orders and external investigations, as defined in section 447 of the Proceeds of Crime Act 2002 (c. 29) (the "2002 Act")). The relevant Orders correspond to certain provisions of the 2002 Act and are made under sections 444 and 445 of that Act.

The provisions of the 2002 Act to which the relevant Orders correspond were amended by the Economic Crime (Transparency and Enforcement) Act 2022 (c. 10), which reformed the unexplained wealth order regime, and by the Economic Crime and Corporate Transparency Act 2023 (c. 56), which amended the 2002 Act to provide for the recovery of cryptoassets.

Part 1 makes introductory provision.

Part 2 amends the 2005 Order to reflect the amendments made to the 2002 Act in relation to cryptoassets, and to require the Department of Justice in Northern Ireland to lay a copy of a report by an appointed person on the exercise of their powers received under Article 213F of the 2005 Order before the Northern Ireland Assembly.

Part 3 amends the 2013 Order, and Part 4 amends the 2014 Order, to reflect the amendments made to provisions relating to the unexplained wealth orders in the 2002 Act.

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

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