
STATUTORY INSTRUMENTS

2015 No. 759

PROCEEDS OF CRIME, ENGLAND AND WALES

**The Proceeds of Crime Act 2002 (Application of
Police and Criminal Evidence Act 1984) Order 2015**

<i>Made</i>	- - - -	<i>16th March 2015</i>
<i>Laid before Parliament</i>		<i>19th March 2015</i>
<i>Coming into force</i>	- -	<i>1st June 2015</i>

The Secretary of State makes the following Order in exercise of the power conferred by sections 355(2) and 459(2) of the Proceeds of Crime Act 2002(1):

Citation, commencement, extent and interpretation

1.—(1) This Order may be cited as the Proceeds of Crime Act 2002 (Application of Police and Criminal Evidence Act 1984) Order 2015 and comes into force on 1st June 2015.

(2) This Order extends to England and Wales only.

(3) In this Order, “PACE” means the Police and Criminal Evidence Act 1984(2).

Application of section 15 of PACE

2.—(1) Section 15 of PACE (search warrants—safeguards)(3) applies to search and seizure warrants sought for the purposes of a confiscation investigation, a money laundering investigation or a detained cash investigation, with the modifications made by this article.

(2) For subsection (1), substitute—

“(1) This section and section 16 below have effect in relation to the issue to an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002 (investigations)) of a search and seizure warrant under section 352 of the Proceeds of Crime Act 2002(4) for the purposes of a confiscation investigation, a money laundering investigation or a detained cash investigation; and an entry on or search of premises under

(1) 2002 c. 29; section 355 is amended by section 66(6) of the Policing and Crime Act 2009 (c. 26) and S.I. 2010/976.

(2) 1984 c. 60.

(3) Section 15 is amended by sections 113 and 114 of the Serious Organised Crime and Police Act 2005 (c. 15) and S.I. 2005/3496.

(4) Section 352 is amended by sections 76 and 80 of, and paragraph 105 of Schedule 8 and paragraph 7 of Schedule 10 to, the Serious Crime Act 2007 (c. 27), paragraph 10 of Schedule 19 to the Coroners and Justice Act 2009 (c. 25), paragraph 137 of Schedule 8 to, and paragraph 31 of Schedule 21 to, the Crime and Courts Act 2013 (c. 22), paragraph 12 of Schedule 48 to the Finance Act 2013 (c. 29) and S.I. 2014/834.

such a warrant is unlawful unless the warrant complies with this section and is executed in accordance with section 16.”.

- (3) In subsection (2)—
 - (a) for “a constable” substitute “an appropriate officer”;
 - (b) at the end of paragraph (a)(i) insert “and”;
 - (c) in paragraph (a)(ii), for “enactment” substitute “statutory power”;
 - (d) at the end of paragraph (a)(ii) omit “and”; and
 - (e) omit the rest of the subsection.
- (4) Omit subsection (2A).
- (5) In subsection (3) omit the words “and supported by an information in writing”.
- (6) In subsection (4)—
 - (a) for “constable” substitute “appropriate officer”; and
 - (b) omit the words “justice of the peace or”.
- (7) In subsection (5) omit the words after “one occasion only”.
- (8) Omit subsection (5A).
- (9) In subsection (6)—
 - (a) in paragraph (a)(iii), for “enactment” substitute “statutory power”;
 - (b) for paragraph (a)(iv) substitute—
 - “(iv) the premises to be searched; and”;
 - (c) in paragraph (b)—
 - (i) at the beginning insert “in the case of a warrant which is issued because the judge is satisfied that the requirement in section 352(6)(a) of the Proceeds of Crime Act 2002 is satisfied (production order made and not complied with), ”;
 - (ii) for “articles or persons” substitute “material”.
- (10) In subsection (7) omit the words after “of a warrant”.

Application of section 16 of PACE

3.—(1) Section 16 of PACE (execution of warrants)⁽⁵⁾ applies to search and seizure warrants sought for the purposes of a confiscation investigation, a money laundering investigation or a detained cash investigation, with the modifications made by this article.

- (2) Omit subsection (1).
- (3) For subsection (2), substitute—
 - “(2) A search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 may authorise persons to accompany any appropriate person (within the meaning of Part 8 of that Act) who is executing it.”.
- (4) Omit subsections (3A) and (3B).
- (5) For subsections (9) to (10A), substitute—
 - “(9) In the case of a warrant which is issued because the judge is satisfied that the requirement in section 352(6)(a) of the Proceeds of Crime Act 2002 is satisfied (production

(5) Section 16 is amended by paragraph 281 of Schedule 8 to the Courts Act 2003 (c. 39), section 2 of the Criminal Justice Act 2003 (c. 44), sections 113 and 114 of the Serious Organised Crime and Police Act 2005 and S.I. 2005/3496.

order made and not complied with), an appropriate person executing a warrant shall make an endorsement on it stating—

- (a) whether the material sought was found; and
 - (b) whether any material was seized, other than material which was sought.
- (10) A warrant which—
- (a) has been executed; or
 - (b) has not been executed, upon the expiry of the period of three months referred to in subsection (3) above or sooner,

must be returned to the appropriate officer of the court from which it was issued.”.

(6) In subsection (11), for the words after “its return” to the end, substitute “by the appropriate officer of the court”.

(7) For “the constable” wherever those words appear, substitute “the appropriate person”.

(8) For “a constable” wherever those words appear, substitute “an appropriate person”.

Application of section 21 of PACE

4.—(1) Section 21 of PACE (access and copying)⁽⁶⁾ applies to powers of seizure under search and seizure warrants issued for the purposes of a confiscation investigation, a money laundering investigation or a detained cash investigation, with the modifications made by this article.

(2) In subsection (1), for the words from the beginning to “after this Act” substitute “An appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002) who seizes anything under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation, money laundering investigation or detained cash investigation”.

(3) In subsection (2), for “officer” substitute “appropriate person”.

(4) In subsection (3)—

- (a) in paragraph (a), for “a constable” substitute “an appropriate person”;
- (b) in paragraph (b), for “police for the purpose of investigating an offence” substitute “appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (c) insert “appropriate” before “officer” the first time that word appears; and
- (d) for “a constable” where it appears at the end of the subsection, substitute “an appropriate officer”.

(5) In subsection (4)—

- (a) insert “appropriate” before “officer” the first time that word appears; and
- (b) in paragraph (a) for “a constable” substitute “an appropriate officer”.

(6) In subsection (5) for “a constable” substitute “an appropriate person”.

(7) In subsection (8)—

- (a) before “officer” insert “appropriate”;
- (b) for paragraph (b) substitute—
 - “(b) the investigating of an offence; or”;
- (c) in paragraph (c) after “proceedings” insert “(including proceedings related to the making of a confiscation order)”.

(6) Section 21 is amended by paragraph 3 of Schedule 1 to the Criminal Justice Act 2003.

- (8) In subsection (9) for “a constable” substitute “an appropriate person” both times it appears.

Application of section 22 of PACE

5.—(1) Section 22 of PACE (retention)(7) applies to powers of seizure under search and seizure warrants issued for the purposes of a confiscation investigation, a money laundering investigation or a detained cash investigation, with the modifications by this article.

- (2) For subsection (1) substitute—

“(1) Subject to subsection (4) below, anything which has been seized by an appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002) or taken away by an appropriate person under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation, money laundering investigation or detained cash investigation may be retained by the appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002) so long as is necessary in all the circumstances.”.

- (3) In subsection (2)(a)—

- (a) for “criminal investigation” substitute “confiscation investigation, money laundering investigation or detained cash investigation”;
- (b) at the end of sub-paragraph (i), omit “or”;
- (c) at the end of sub-paragraph (ii), omit “and”; and
- (d) after sub-paragraph (ii) insert—

“(iii) for use as evidence in proceedings relating to the making of a confiscation order under the Drug Trafficking Offences Act 1986(8), Part 6 of the Criminal Justice Act 1988 (confiscation of the proceeds of an offence)(9), Part 1 of the Drug Trafficking Act 1994 (confiscation orders)(10) or Part 2 of the Proceeds of Crime Act 2002 (confiscation: England and Wales);

(iv) for use as evidence in proceedings under Chapter 3 of Part 5 of the Proceeds of Crime Act (recovery of cash in summary proceedings); or

(v) for forensic examination in connection with a confiscation investigation, money laundering investigation or detained cash investigation, or for use for the purposes of any such investigation; and”.

- (4) Omit subsections (3), (5) and (6).

- (5) In subsection (4), for “either” substitute “any”.

- (6) In subsection (7), for “a constable” substitute “an appropriate person” both times it appears.

Revocation and saving

6.—(1) Subject to paragraph (2), 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(11) (“the 2003 Order”) is revoked.

- (2) The 2003 Order continues to apply in relation to—

(7) Section 22 is amended by paragraph 80 of Schedule 14 to the Immigration and Asylum Act 1999 (c. 33) and paragraph 4 of Schedule 1 to the Criminal Justice Act 2003.

(8) 1986 c. 32; repealed by Schedule 3 to the Drug Trafficking Act 1994 (c. 37).

(9) 1988 c. 33; repealed by paragraph 17 of Schedule 11 and Schedule 12 to the Proceeds of Crime Act 2002 and Part 3 of Schedule 1 to the Statute Law (Repeals) Act 2008 (c. 12).

(10) 1994 c. 37; repealed by paragraph 25 of Schedule 11 and Schedule 12 to the Proceeds of Crime Act 2002.

(11) S.I. 2003/174.

- (a) any application for a search and seizure warrant under section 352 of the Proceeds of Crime Act 2002 made before 1st June 2015;
 - (b) any search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002—
 - (i) which is in existence on the coming into force of this Order; or
 - (ii) as the result of an application mentioned in paragraph (a);
 - (c) any power of seizure under a search and seizure warrant mentioned in paragraph (b); and
 - (d) any proceedings arising in relation to—
 - (i) an application mentioned in paragraph (a);
 - (ii) a search and seizure warrant mentioned in paragraph (b); or
 - (iii) a power of seizure mentioned in paragraph (c).
- (3) The proceedings mentioned in paragraph (2)(d) are not to be regarded as concluded until there is no further possibility of any appeal in relation to those proceedings.

16th March 2015

Karen Bradley
Parliamentary Under Secretary of State
Home Office

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order applies, with modifications, certain provisions of the Police and Criminal Evidence Act 1984 (c. 60) to search and seizure warrants obtained in England and Wales under section 352 of the Proceeds of Crime Act 2002 (c. 29) for the purposes of a confiscation investigation, a money laundering investigation or a detained cash investigation, and to the powers of seizure under those warrants.

The Order also revokes, for England and Wales only, 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 (S.I. 2003/174) (“the 2003 Order”). Article 6 contains a saving, preserving the 2003 Order in relation to undetermined applications for warrants made before 1st June 2015, and warrants which are in existence on the coming into force of this Order; to powers of seizure under such warrants; and to any proceedings arising in relation to such applications, warrants or powers of seizure (including appeals).

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