

CRIME AND COURTS ACT 2013

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Courts and Justice

Schedule 19: Proceeds of crime: Investigation

597. **Part 1** of Schedule 19 amends Part 8 of the POCA. The main changes are changes to the definition of a civil recovery investigation to clarify that the focus of an investigation can be a person or property and also to clarify that there can be an investigation into property that has not yet been clearly identified. As a result, an investigation may begin with a person and, as property is identified and more is known about the property, become an investigation into property. Equally, an investigation may begin with property, and as more information about its ownership emerges, become an investigation into a particular person.
598. **Part 2** of Schedule 19 inserts new sections 375A, 375B, 408A and 408B into the POCA. These provisions are modelled on sections 7 to 9 of the Crime (International Co-operation) Act 2003.
599. New section 375A of the POCA makes provision for evidence to be obtained from a court, tribunal, government or authority outside the United Kingdom (“receiving country”) if a person or property is subject to a civil recovery investigation, a detained cash investigation or an exploitation proceeds investigation (as defined in section 341). It enables a judge to make a request for assistance upon an application by an appropriate officer or a person subject to the investigation, providing that the judge thinks there is relevant evidence in a country or territory outside the United Kingdom. However a senior appropriate officer or the relevant Director may make a direct request for assistance if it is thought that there is relevant evidence in a country or territory outside of the United Kingdom. The meanings of “appropriate officer”, “senior appropriate officer” and “relevant Director” are found in sections 352(5A) and 378 of the POCA. In the case of urgency, a request may be sent via the International Criminal Police Organisation (Interpol or Europol) or any person competent to receive it under any provisions adopted under the EU Treaties, for onward forwarding to the receiving country.
600. New section 375A(10) of the POCA provides a power to make rules of court as to the practice and procedure to be followed in connection with proceedings relating to requests for assistance made by a judge.
601. New section 375B of the POCA provides that evidence obtained by a request for assistance under new section 375A must not be used for any other purpose other than for the purpose of the investigation for which it was obtained or for the purposes of certain proceedings. However, the court, tribunal, government or authority that received the request and provided the evidence, can consent to the use of the evidence for other purposes.

*These notes refer to the Crime and Courts Act 2013
(c.22) which received Royal Assent on 25 April 2013*

602. New sections 408A and 408B of the POCA provide the equivalent provisions to sections 375A and 375B of the POCA for Scotland.
603. [Part 3](#) of Schedule 19 makes consequential amendments to the provisions of the POCA, as amended by Parts 1 and 2 of that Schedule, to insert references to immigration officers and officers of the National Crime Agency.