

SCHEDULES

SCHEDULE 19

PROCEEDS OF CRIME: INVESTIGATIONS

PART 1

CIVIL RECOVERY INVESTIGATIONS

1 Part 8 of the Proceeds of Crime Act 2002 (investigations) is amended as follows.

Meaning of “civil recovery investigation”

2 In section 341 (investigations), for subsections (2) and (3) substitute—

“(2) For the purposes of this Part a civil recovery investigation is an investigation for the purpose of identifying recoverable property or associated property and includes investigation into—

- (a) whether property is or has been recoverable property or associated property,
- (b) who holds or has held property,
- (c) what property a person holds or has held, or
- (d) the nature, extent or whereabouts of property.

(3) But an investigation is not a civil recovery investigation to the extent that it relates to—

- (a) property in respect of which proceedings for a recovery order have been started,
- (b) property to which an interim receiving order applies,
- (c) property to which an interim administration order applies, or
- (d) property detained under section 295.”

3 After that section insert—

“341A Orders and warrants sought for civil recovery investigations

Where an application under this Part for an order or warrant specifies property that is subject to a civil recovery investigation, references in this Part to the investigation for the purposes of which the order or warrant is sought include investigation into—

- (a) whether a person who appears to hold or to have held the specified property holds or has held other property,
- (b) whether the other property is or has been recoverable property or associated property, and
- (c) the nature, extent or whereabouts of the other property.”

Status: This is the original version (as it was originally enacted).

Production orders: England and Wales

- 4 In section 345 (production orders), in subsection (2)(a), after “confiscation investigation” insert “, a civil recovery investigation”.
- 5 In section 346 (requirements for making of production order), in subsection (2), for paragraph (b) substitute—
- “(b) in the case of a civil recovery investigation—
- (i) the person the application for the order specifies as being subject to the investigation holds recoverable property or associated property,
- (ii) that person has, at any time, held property that was recoverable property or associated property at the time, or
- (iii) the property the application for the order specifies as being subject to the investigation is recoverable property or associated property;”.

Search and seizure warrants: England and Wales

- 6 In section 352 (search and seizure warrants), in subsection (2)(a), after “confiscation investigation” insert “, a civil recovery investigation”.
- 7 (1) Section 353 (requirements where production order not available) is amended as follows.
- (2) In subsection (2), for paragraph (b) substitute—
- “(b) in the case of a civil recovery investigation—
- (i) the person specified in the application for the warrant holds recoverable property or associated property,
- (ii) that person has, at any time, held property that was recoverable property or associated property at the time, or
- (iii) the property specified in the application for the warrant is recoverable property or associated property;”.
- (3) In subsection (7), for paragraph (a) substitute—
- “(a) relates to the person or property specified in the application or to any of the questions listed in subsection (7ZA), and”.
- (4) After that subsection insert—
- “(7ZA) 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 is or has been recoverable property or associated property, 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 is or has been recoverable property or associated property,
- (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,

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- (iv) whether the other property is or has been recoverable property or associated property, or
- (v) the nature, extent or whereabouts of the specified property or the other property.”

Disclosure orders: England and Wales

- 8 In section 357 (disclosure orders), in subsection (3)(b), at the beginning insert “a person specified in the application or”.
- 9 In section 358 (requirements for making of disclosure order), in subsection (2), for paragraph (b) substitute—
- “(b) in the case of a civil recovery investigation—
 - (i) the person specified in the application for the order holds recoverable property or associated property,
 - (ii) that person has, at any time, held property that was recoverable property or associated property at the time, or
 - (iii) the property specified in the application for the order is recoverable property or associated property;”.

Customer information orders: England and Wales

- 10 In section 363 (customer information orders), in subsection (2)—
- (a) after “confiscation investigation” insert “, a civil recovery investigation”, and
 - (b) omit paragraph (b) (and the “or” before it).
- 11 In section 365 (requirements for making of customer information order), for subsection (3) substitute—
- “(3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application—
 - (a) holds recoverable property or associated property, or
 - (b) has, at any time, held property that was recoverable property or associated property at the time.”

Account monitoring orders: England and Wales

- 12 In section 370 (account monitoring orders), in subsection (2)—
- (a) after “confiscation investigation” insert “, a civil recovery investigation”, and
 - (b) omit paragraph (b) (and the “or” before it).
- 13 In section 371 (requirements for making of account monitoring order), for subsection (3) substitute—
- “(3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application holds recoverable property or associated property.”

Production orders: Scotland

- 14 (1) Section 380 (production orders) is amended as follows.

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- (2) In subsection (2), omit “property subject to”.
- (3) In subsection (3)(a), after “confiscation investigation” insert “, a civil recovery investigation”.
- 15 (1) In section 381 (requirements for making of production order), in subsection (2), for paragraph (b) substitute—
 - “(b) in the case of a civil recovery investigation—
 - (i) the person the application for the order specifies as being subject to the investigation holds recoverable property or associated property,
 - (ii) that person has, at any time, held property that was recoverable property or associated property at the time, or
 - (iii) the property the application for the order specifies as being subject to the investigation is recoverable property or associated property;”.

Search warrants: Scotland

- 16 (1) Section 387 (search warrants) is amended as follows.
 - (2) In subsection (2), omit “property subject to”.
 - (3) In subsection (3)(a), after “confiscation investigation” insert “, a civil recovery investigation”.
- 17 (1) Section 388 (requirements where production order not available) is amended as follows.
 - (2) In subsection (2), for paragraph (b) substitute—
 - “(b) in the case of a civil recovery investigation—
 - (i) the person specified in the application for the warrant holds recoverable property or associated property,
 - (ii) that person has, at any time, held property that was recoverable property or associated property at the time, or
 - (iii) the property specified in the application for the warrant is recoverable property or associated property;”.
 - (3) In subsection (7), for paragraph (a) substitute—
 - “(a) relates to the person or property specified in the application or to any of the questions listed in subsection (7ZA), and”.
 - (4) After that subsection insert—
 - “(7ZA) 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 is or has been recoverable property or associated property, 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 is or has been recoverable property or associated property,

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- (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 is or has been recoverable property or associated property, or
- (v) the nature, extent or whereabouts of the specified property or the other property.”

Disclosure orders: Scotland

- 18 In section 391 (disclosure orders), in subsection (3)(b), at the beginning insert “a person specified in the application or”.
- 19 In section 392 (requirements for making of disclosure order), in subsection (2), for paragraph (b) substitute—
- “(b) in the case of a civil recovery investigation—
 - (i) the person specified in the application for the order holds recoverable property or associated property,
 - (ii) that person has, at any time, held property that was recoverable property or associated property at the time, or
 - (iii) the property specified in the application for the order is recoverable property or associated property;”.

Customer information orders: Scotland

- 20 (1) Section 397 (customer information orders) is amended as follows.
- (2) In subsection (2), omit “property subject to”.
 - (3) In subsection (3)—
 - (a) after “confiscation investigation” insert “, a civil recovery investigation”, and
 - (b) omit paragraph (b) (and the “or” before it).
- 21 In section 399 (requirements for making of customer information order), for subsection (3) substitute—
- “(3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application—
 - (a) holds recoverable property or associated property, or
 - (b) has, at any time, held property that was recoverable property or associated property at the time.”

Account monitoring orders: Scotland

- 22 (1) Section 404 (account monitoring orders) is amended as follows.
- (2) In subsection (2), omit “property subject to”.
 - (3) In subsection (3)—
 - (a) after “confiscation investigation” insert “, a civil recovery investigation”, and
 - (b) omit paragraph (b) (and the “or” before it).

Status: This is the original version (as it was originally enacted).

23 In section 405 (requirements for making of account monitoring order), for subsection (3) substitute—

“(3A) In the case of a civil recovery investigation, there must be reasonable grounds for suspecting that the person specified in the application holds recoverable property or associated property.”