Changes to legislation: *The Proceeds of Crime (Northern Ireland) Order 1996 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

1996 No. 1299 (N.I. 9)

The Proceeds of Crime (Northern Ireland) Order 1996

- - - - - - *15th May 1996*

PART I N.I.

INTRODUCTORY

Title and commencement N.I.

1.—(1) This Order may be cited as the Proceeds of Crime (Northern Ireland) Order 1996.

(2) This Order shall come into operation on 25th August 1996.

Interpretation N.I.

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"authorised government department" means a government department or a Northern Ireland department which is an authorised department for the purposes of the Crown Proceedings Act 1947;

Definitions rep. by 2002 c. 29

"financial investigator" means a person authorised under Article**[**[F1] 49(1)**]** to exercise the powers conferred by Schedule 2;

Definitions rep. by 2002 c. 29

"statutory provision" has the meaning assigned to it by section 1 (f) of the Interpretation Act (Northern Ireland) 1954.

Paras. (3)#(10) rep. by 2002 c. 29

(11) Subject to paragraph 1(1) and (5) of Schedule 4, references in this Order to drug trafficking include references to any trafficking carried out before the coming into operation of this Order.
Para. (12) rep. by 2002 c. 29

F1 2001 NI 1

Art. 3 rep. by 2002 c. 29

PART II N.I.

CONFISCATION ORDERS

Arts. 4#40 rep. by 2002 c. 29

Enforcement of orders made outside Northern Ireland

Art. 41 rep. by 2002 c. 29

[F2]Enforcement of external confiscation orders N.I.

42.—(1) The Secretary of State may by order—

(a) direct in relation to a country or territory outside the United Kingdom designated by an Order in Council under section 39 of the Drug Trafficking Act 1994 or section 96 of the Criminal Justice Act 1988 ("a designated country") that, subject to such modifications as may be specified, this Order shall apply to external confiscation orders and to proceedings which have been or are to be instituted in the designated country and may result in an external confiscation order being made there;

(b) make—

(i) such provision in connection with the taking of action in the designated country with a view to satisfying a confiscation order;

(ii) such provision as to evidence or proof of any matter for the purposes of this Article and Article 43; and

(iii) such incidental, consequential and transitional provision,

as appears to the Secretary of State to be expedient; and

(c) without prejudice to the generality of this paragraph, direct that in such circumstances as may be specified proceeds which arise out of action taken in the designated country with a view to satisfying a confiscation order and which are retained there shall nevertheless be treated as reducing the amount payable under the order to such extent as may be specified.

(2) The power to make an order under this Article includes power to modify this Order in such a way as to confer power on a person to exercise a discretion.

(3) An order under paragraph (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

F2 prosp. rep. by 2002 c. 29

[F3]Registration of external confiscation orders N.I.

43.—(1) On an application made by or on behalf of the government of a designated country, the High Court may register an external confiscation order made there if—

(a) it is satisfied that at the time of registration the order is in force and not subject to appeal;

(b) it is satisfied, where the person against whom the order is made did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and

(c) it is of the opinion that enforcing the order in Northern Ireland would not be contrary to the interests of justice.

(2) In paragraph (1) "appeal" includes—

(a) any proceedings by way of discharging or setting aside a judgment; and

(b) an application for a new trial or a stay of execution.

(3) The High Court shall cancel the registration of an external confiscation order if it appears to the Court that the order has been satisfied by payment of the amount due under it.

(4) In this Article "designated country" has the same meaning as in Article 42.

F3 prosp. rep. by 2002 c. 29

Part III (Arts. 44#48) rep. by 2002 c. 29

PART IV N.I.

MISCELLANEOUS AND SUPPLEMENTAL

Additional investigation powers N.I.

49.—(1) If, on an application made by **[**[F4] a senior officer of an enforcement authority**]**, by complaint on oath, a **[**[F5] Crown Court**]** judge is satisfied—

(a) that **[**[F5] a confiscation investigation**]** is taking place; and

(b) that the investigation could be more effectively carried out with the participation of a person who is not a police officer **[**[F6] or customs officer**]** and who is **[**[F7] an accredited financial investigator**]** named in the application;[F8]. . .

Sub#para. (c) rep. by 2002 c. 29

he may authorise that person ("a financial investigator") to exercise for the purposes of the investigation the powers conferred by Schedule 2.

[[F6](1A) If, on an application made by **[**[F7]**[**[F9]a senior National Crime Agency officer**]** or**]** a senior officer of an enforcement authority by complaint on oath, a **[**[F5] Crown Court**]** judge is satisfied—

(a) that **[**[F5] a confiscation investigation**]** is taking place; and

(b) that the investigation could be more effectively carried out if **[**[F7]**[**[F10] a member of staff of the Agency **]** or **]** a person named in the application who is a police officer or customs officer were authorised to exercise for the purposes of the investigation the powers conferred by **[**[F5] paragraph 3A **]** of Schedule 2; [F8] . . .

Sub#para. (c) rep. by 2002 c. 29

he may authorise **[**[F7]**[**[F10]a member of staff of the Agency**]** or**]** that person to exercise, for the purposes of the investigation the powers conferred by **[**[F5] paragraph 3A**]** of Schedule 2.**]**

[[F11](1B) If, on an application made by **[**[F12]**[**[F13]a National Crime Agency officer**]** or a relevant Director**]**, a judge of the High Court is satisfied—

(a) that a civil recovery investigation is taking place; and

(b) that the investigation could be more effectively carried out if **[**[F14]a member of staff of the Agency or**]** the Director were authorised to exercise for the purposes of the investigation the powers conferred by paragraph 3A of Schedule 2,

the judge may authorise **[**[F14]a member of staff of the Agency or**]** the Director to exercise those powers for that purpose.**]**

(2) An application under **[**[F11] this Article**]** may be made ex parte to a judge in chambers.

(3) Crown Court rules may make provision as to the procedure for applications under paragraph (1) **[**[F6] or (1A)**][**[F11] and rules of court may make provision as to the procedure for applications under paragraph (1B)**]**.

Para. (4) rep. by 2002 c. 29

[[F4](5) In this Article—

[[F7]"accredited financial investigator" has the meaning given by section 3(5) of the Proceeds of Crime Act 2002;

"confiscation investigation" has the same meaning as it has for the purposes of Part 8 of that Act by virtue of section 341(1);**]**

[[F11]"civil recovery investigation" has the same meaning as it has for the purposes of Part 8 of that Act by virtue of section 341(2) and (3);**]**

Definition rep. by 2002 c. 29

"enforcement authority" means—

(a) the Royal Ulster Constabulary; or

(b) the Commissioners of Customs and Excise;

"police officer" has the same meaning as in Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989;

[[F15] " relevant Director " means the Director of the Serious Fraud Office or the Director of Public Prosecutions for Northern Ireland; **]**

Definition rep. by 2002 c. 29

[[F16] " **[**[F17]senior National Crime Agency officer**]** " means—

(a) the Director General of the **[**[F18]National Crime Agency**]**; or

(b) **[**[F19]any National Crime Agency officer**]** authorised by the Director General (whether generally or specifically) for the purpose of this Article;**]**

"senior officer of an enforcement authority" means—

(a) a police officer of at least the rank of superintendent; or

(b) a customs officer of at least such grade as is designated by the Commissioners of Customs and Excise as equivalent to that rank.**]**

F4 2001 NI 1
F5 2002 c. 29
F6 2001 NI 1
F7 2002 c. 29
F8 2002 c. 29
F9 Words in art. 49(1A) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 53(2)**; S.I. 2013/1682, art. 3(v)
F10 Words in art. 49(1A) substituted (1.4.2008) by Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008 (S.I. 2008/574), art. 2, **Sch. para. 5(2)(b)**
F11 2005 NI 15

F12 Words in art. 49(1B) substituted (1.4.2008) by Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008 (S.I. 2008/574), art. 2, **Sch. para. 5(3)(a)**

F13 Words in art. 49(1B) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 53(3)**; S.I. 2013/1682, art. 3(v)

F14 Words in art. 49(1B) inserted (1.4.2008) by Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008 (S.I. 2008/574), art. 2, **Sch. para. 5(3)(b)**

F15 Art. 49(5): definition inserted (1.4.2008) by Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008 (S.I. 2008/574), art. 2, **Sch. para. 5(4)**

F16 Art. 49(5): definition inserted (1.4.2008) by Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008 (S.I. 2008/574), art. 2, **Sch. para. 5(4)**

F17 Words in art. 49(5) substituted (7.10.2013) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 53(4)(a)**; S.I. 2013/1682, art. 3(v)

F18 Words in art. 49(5) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 53(4)(b)**; S.I. 2013/1682, art. 3(v)

F19 Words in art. 49(5) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 53(4)(c)**; S.I. 2013/1682, art. 3(v)

Order to make material available N.I.

50.—(1) A constable or a financial investigator may for the purposes of an investigation into**[F20** drug trafficking**]** apply to a**[F20** Crown Court**]** judge for an order under paragraph (2) in relation to particular material or material of a particular description.

(2) Subject to Article 54(11), if on such an application the judge is satisfied that the conditions in paragraph (4) are fulfilled, he may make an order that the person who appears to him to be in possession of the material to which the application relates shall—

(a) produce it to a constable**[F21** or a financial investigator**]** for him to take away, or

(b) give a constable**[F21** or a financial investigator**]** access to it,

within such period as the order may specify.

(3) The period to be specified in an order under paragraph (2) shall be 7 days unless it appears to the judge that a longer or shorter period would be appropriate in the particular circumstances of the application.

(4) The conditions referred to in paragraph (2) are—

(a) that there are reasonable grounds for suspecting that a specified person**[F20** has carried on drug trafficking**]**

(b) that there are reasonable grounds for suspecting that the material to which the application relates—

(i) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, and

(ii) does not consist of or include items subject to legal privilege or excluded material, and

(c) that there are reasonable grounds for believing that it is in the public interest, having regard—

(i) to the benefit likely to accrue to the investigation if the material is obtained, and

(ii) to the circumstances under which the person in possession of the material holds it,

that the material should be produced or that access to it should be given.

(5) Where the judge makes an order under paragraph (2)(b) in relation to material on any premises he may, on the application of a constable or a financial investigator, order any person who appears to him to be entitled to grant entry to the premises to allow a constable**[**[F21] or a financial investigator**]** to enter the premises to obtain access to the material.

(6) An application under paragraph (1) or (5) may be made ex parte to a judge in chambers.

[[F21](6A) Paragraph (6) does not apply to an application made for an order addressed to a solicitor if for the purposes of the same investigation the solicitor has been required to furnish information under paragraph 3A of Schedule 2.**]**

(7) Provision may be made by Crown Court rules as to—

(a) the discharge and variation of orders under this Article, and

(b) proceedings relating to such orders.

(8) An order of a**[**[F20] Crown Court**]** judge under this Article shall have effect as if it were an order of the Crown Court.

(9) Where the material to which an application under this Article relates consists of information contained in a computer—

(a) an order under paragraph (2)(a) shall have effect as an order to produce the material in a form in which it can be taken away and in which it is visible and legible, and

(b) an order under paragraph (2)(b) shall have effect as an order to give access to the material in a form in which it is visible and legible.

(10) An order under paragraph (2)—

(a) shall not confer any right to production of, or access to, items subject to legal privilege or excluded material,

(b) shall have effect notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise, and

(c) may be made in relation to material in the possession of an authorised government department.

F20 2002 c. 29
F21 2001 NI 1

Authority for search N.I.

51.—(1) A constable or a financial investigator may for the purposes of an investigation into**[**[F22] drug trafficking**]** apply to a**[**[F22] Crown Court**]** judge for a warrant under this Article in relation to specified premises.

(2) On such application the judge may issue a warrant authorising a constable to enter and search the premises if he is satisfied—

(a) that an order made under Article 50 in relation to material on the premises has not been complied with, or

(b) that the conditions in paragraph (3) are fulfilled, or

(c) that the conditions in paragraph (4) are fulfilled.

(3) The conditions referred to in paragraph (2)(b) are—

(a) that there are reasonable grounds for suspecting that a specified person**[**[F22] has carried on drug trafficking**]**

(b) that the conditions in Article 50(4)(b) and (c) are fulfilled in relation to any material on the premises, and

(c) that it would not be appropriate to make an order under that Article in relation to the material because—

(i) it is not practicable to communicate with any person entitled to produce the material,

(ii) it is not practicable to communicate with any person entitled to grant access to the material or entitled to grant entry to the premises on which the material is situated, or

(iii) the investigation for the purpose of which the application is made might be seriously prejudiced unless a constable could secure immediate access to the material.

(4) The conditions referred to in paragraph (2)(c) are—

(a) that there are reasonable grounds for suspecting that a specified person**[**[F22] has carried on drug trafficking**]**

(b) that there are reasonable grounds for suspecting that there is on the premises material relating—

(i) to the specified person, or

(ii) to**[**[F22] drug trafficking**]**

which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, but that the material cannot at the time of the application be particularised, and

(c) that—

(i) it is not practicable to communicate with any person entitled to grant entry to the premises; or

(ii) entry to the premises will not be granted unless a warrant is produced; or

(iii) the investigation for the purpose of which the application is made might be seriously prejudiced unless a constable arriving at the premises could secure immediate entry to them.

(5) Where a constable has entered premises in the execution of a warrant issued under this Article, he may seize and retain any material, other than items subject to legal privilege and excluded material, which is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the warrant was issued.

F22 2002 c. 29

Articles 50 and 51: supplementary provisions N.I.

52.—(1) For the purposes of Articles 23 and 24 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (access to, and copying and retention of, seized material)—

(a) an investigation into**[**[F23] drug trafficking**]** shall be treated (so far as that would not otherwise be the case) as if it were an investigation of, or in connection with, an offence, and

(b) material produced in pursuance of an order under Article 50(2)(a) shall be treated as if it were material seized by a constable.

(2) In Articles 50 and 51—

(a) "excluded material", "items subject to legal privilege" and "premises" have the same meanings as in that Order of 1989;[F24]. . .

Sub#para. (b) rep. by 2002 c. 29
Para. (3) rep. by 2002 c. 29

F23 2002 c. 29
F24 2002 c. 29

Offence of prejudicing investigation N.I.

53.—(1) Where, in relation to an investigation into drug trafficking—

(a) an order under Article 50 has been made or has been applied for and has not been refused, or

(b) a warrant under Article 51 has been issued,

a person shall be guilty of an offence if, knowing or suspecting that the investigation is taking place, he makes any disclosure which is likely to prejudice the investigation.

(2) In proceedings against a person for an offence under this Article, it is a defence to prove—

(a) that he did not know or suspect that the disclosure was likely to prejudice the investigation, or

(b) that he had lawful authority or reasonable excuse for making the disclosure.

(3) Nothing in paragraph (1) makes it an offence for a professional legal adviser to disclose any information or other matter—

(a) to, or to a representative of, a client of his in connection with the giving by the adviser of legal advice to the client, or

(b) to any person—

(i) in contemplation of, or in connection with, legal proceedings; and

(ii) for the purpose of those proceedings.

(4) Paragraph (3) does not apply in relation to any information or other matter which is disclosed with a view to furthering any criminal purpose.

(5) A person guilty of an offence under this Article shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or to both;

(b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both.

Disclosure of information held by government departments N.I.

Paras. (1)#(10) rep. by 2002 c. 29

(11) [F25]. . . in the case of material in the possession of an authorised government department, an order under Article 50(2) may require any officer of the department (whether named in the order or not) who may for the time being be in possession of the material concerned to comply with it, and such an order shall be served as if the proceedings were civil proceedings against the department.

(12) The person on whom such an order is served—

(a) shall take all reasonable steps to bring it to the attention of the officer concerned, and

(b) if the order is not brought to that officer's attention within the period**[**[F26] specified in an order under Article 50(2)**]**, shall report the reasons for the failure to the High Court;

and any other officer of the department in receipt of the order shall take such steps as are mentioned in sub-paragraph (a).
Para. (13) rep. by 2002 c. 29

F25 2002 c. 29
F26 2002 c. 29

[F27Construction of Articles 49 to 54 N.I.

54A.—(1) This Article has effect for the purposes of Articles 49 to 54.

(2) A reference to a constable includes a reference to a customs officer.

(3) A customs officer is a person commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979.

(4) Drug trafficking means doing or being concerned in any of the following (whether in Northern Ireland or elsewhere)—

(a) producing or supplying a controlled drug where the production or supply contravenes section 4(1) of the Misuse of Drugs Act 1971 or a corresponding law;

(b) transporting or storing a controlled drug where possession of the drug contravenes section 5(1) of that Act or a corresponding law;

(c) importing or exporting a controlled drug where the importation or exportation is prohibited by section 3(1) of that Act or a corresponding law;

(d) manufacturing or supplying a scheduled substance within the meaning of section 12 of the Criminal Justice (International Co-operation) Act 1990 where the manufacture or supply is an offence under that section or would be such an offence if it took place in Northern Ireland;

(e) using any ship for illicit traffic in controlled drugs in circumstances which amount to the commission of an offence under section 19 of that Act.

(5) In this Article "corresponding law" has the same meaning as in the Misuse of Drugs Act 1971.**]**

F27 2002 c. 29

Prosecution of offences, etc.

Prosecution by order of the Commissioners of Customs and Excise N.I.

55.—(1) Proceedings for an offence to which this Article applies ("a specified offence") may be instituted by order of the Commissioners.

(2) Any proceedings for a specified offence which are so instituted shall be commenced in the name of an officer.

(3) In the case of the death, removal, discharge or absence of the officer in whose name any proceedings for a specified offence were commenced, those proceedings may be continued by another officer.

(4) Where the Commissioners investigate, or propose to investigate, any matter with a view to determining—

(a) whether there are grounds for believing that a specified offence has been committed, or

(b) whether a person should be prosecuted for a specified offence,

that matter shall be treated as an assigned matter within the meaning of the Customs and Excise Management Act 1979.

(5) Nothing in this Article shall be taken—

(a) to prevent any person (including any officer) who has power to arrest, detain or prosecute any person for a specified offence from doing so; or

(b) to prevent a court from proceeding to deal with a person brought before it following his arrest by an officer for a specified offence, even though the proceedings have not been instituted by an order made under paragraph (1).

(6) In this Article—

"the Commissioners" means the Commissioners of Customs and Excise; —

"officer" means a person commissioned by the Commissioners; and

"specified offence" means—

(a) an offence under[F28]. . . Article 53;

(b) attempting to commit, conspiracy to commit or incitement to commit, any such offence;[F28]. . .

Sub#para. (c) rep. by 2002 c. 29

[[F29](6A) Proceedings for an offence are instituted—

(a) when a summons or warrant is issued under Article 20 of the Magistrates' Courts (Northern Ireland) Order 1981 in respect of the offence;

(b) when a person is charged with the offence after being taken into custody without a warrant;

(c) when an indictment is preferred under section 2(2)(c), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969.

(6B) Where the application of paragraph (6A) would result in there being more than one time for the institution of proceedings they must be taken to have been instituted at the earliest of those times.**]**
Para. (7) rep. by 2002 c. 29

F28 2002 c. 29
F29 2002 c. 29

Modifications etc. (not altering text)
C1 Art. 55 modified (1.10.2008) by Serious Crime Act 2007 (c. 27), ss. 63(1), 94(1), **Sch. 6 para. 31(b)** (with s. 91(1), Sch. 13 para. 5); S.I. 2008/2504, **art. 2(a)**

Extension of certain offences to Crown servants and exemptions for regulators etc. N.I.

56.—(1) The **[**[F30]appropriate authority**]** may by regulations provide that, in such circumstances as may be prescribed,**[**[F31] Article**]** 53 shall apply to such persons in the public service of the Crown, or such categories of person in that service, as may be prescribed.
Paras. (2)#(4) rep. by 2002 c. 29

(5) In this Article—

[[F32]"the appropriate authority" means—

(a) in relation to persons in the public service of the Crown in right of Her Majesty's Government in the United Kingdom, the Secretary of State;

(b) otherwise, the Department of Justice;**]**

"the Crown" includes the Crown in right of Her Majesty's Government in the United Kingdom; and

"prescribed" means prescribed by regulations made by the **[**[F33]appropriate authority**]**.

[[F34](5A) Regulations made by the Department of Justice under this Article shall be subject to negative resolution.**]**

(6) Regulations **[**[F35]made by the Secretary of State**]** under this Article shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

F30 Words in art. 56(1) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 15(2)(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

F31 2002 c. 29

F32 Art. 56(5): definition of "the appropriate authority" inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 15(2)(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

F33 Words in art. 56(5) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 15(2)(c)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

F34 Art. 56(5A) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 15(2)(d)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

F35 Words in art. 56(6) inserted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 15(2)(e)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Supplemental

Amendments, transitional provisions, savings and repeals N.I.

Para. (1)—Amendments

(2) The transitional and saving provisions contained in Schedule 4 shall have effect.

Para. (3)—Repeals

SCHEDULES

SCHEDULE 1 N.I.

Article 2(4).

CONFISCATION ORDERS

Modifications etc. (not altering text)

C2 Sch. 1: transfer of functions from Secretary of State to Department of Justice (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(1)(2), **Sch. 1** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

PART I N.I.

OFFENCES IN RESPECT OF WHICH A COURT OF SUMMARY JURISDICTION MAY MAKE CONFISCATION ORDERS

Enactment	*Description of offence*
VIDEO RECORDINGS ACT 1984 (c. 39)	#
Section 9	Supplying video recording of unclassified work.
Section 10	Possession of video recording of unclassified work for the purposes of supply.
LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) (NORTHERN IRELAND) ORDER 1985 (NI 15)	#
Schedule 2 paragraphs 20 and 21	Offences relating to sex establishments.
COPYRIGHT, DESIGNS AND PATENTS ACT 1988 (c. 48)	#
Section 107(1), (2) and (3)	Criminal liability for making or dealing with infringing articles, &c.
Section 198(1) and (2)	Criminal liability for making, dealing with or using illicit recordings.
[[F36]SOCIAL SECURITY ADMINISTRATION (NORTHERN IRELAND) ACT 1992 (c.8)**]**	#
[[F36]Section 108(1)**]**	**[**[F36]Offences relating to contributions.**]**
TRADE MARKS ACT 1994 (c. 26)	#

Section 92(1), (2) and (3)	Offences relating to the unauthorised use of trade marks, &c., in relation to goods.

F36 SR 1997/32

PART II N.I.

ORDERS VARYING LIST OF OFFENCES

1. The Secretary of State may by order amend Part I by removing any offence from or adding any offence to the offences listed in it.

2. An order under paragraph 1 shall be subject to**[**[F37] negative resolution**]**.

F37 Words in Sch. 1 para. 2 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 15(3)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

SCHEDULE 2 N.I.

Article 49.

FINANCIAL INVESTIGATIONS

Modifications etc. (not altering text)

C3 Sch. 2: transfer of functions from Secretary of State to Department of Justice (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(1)(2), **Sch. 1** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Preliminary

1.—(1) In this Schedule "the investigation", in relation to a financial investigator, means the investigation for the purposes of which the powers conferred by this Schedule are exercisable by him.

(2) References in this Schedule to documents include references to information recorded in any form and, in relation to information recorded otherwise than in legible form, references to its production include references to producing a copy of the information in legible form.

[[F38](3) In paragraphs 3 to 7, "financial investigator" includes a person authorised under Article 49(1A) to exercise the powers conferred by paragraph[F39]. . . 3A.**]**

F38 2001 NI 1
F39 2002 c. 29

Investigation powers

2.—(1) A financial investigator may by notice in writing require any person who he has reason to believe has information which appears to the investigator to relate to any matter relevant to the investigation to attend before the investigator at a specified place either forthwith or at a specified time and answer questions or otherwise furnish information which appears to the investigator to relate to the investigation.

(2) A financial investigator may by notice in writing require any person who he has reason to believe has information which appears to the investigator to relate to any matter relevant to the investigation to furnish specified information which appears to the investigator to relate to the investigation within a specified time or such further time as the investigator may allow**[**[F40] or on a specified date**]** and in a specified manner or in such other manner as the investigator may allow.

(3) A financial investigator may by notice in writing require any person who he has reason to believe has information which appears to the investigator to relate to any matter relevant to the investigation to produce at a specified place and either forthwith or at a specified time any specified documents—

(a) which are in his possession, custody or power; or

(b) to which he has access; or

(c) of which he may obtain a copy,

and which appear to the investigator to relate to the investigation or any documents of a specified class which appear to the investigator to relate to any such matter.

(4) If any documents are produced pursuant to a notice under sub-paragraph (3) the financial investigator may—

(a) take copies of or abstracts from them; or

(b) require the person producing them to provide an explanation of them; or

(c) retain them if he has reasonable grounds for believing that they might otherwise be concealed, lost, damaged, altered or destroyed.

(5) If any documents are not produced pursuant to a notice under sub-paragraph (3) the financial investigator may require the person who was required to produce them to state, to the best of his knowledge and belief, where they are.

F40 2001 NI 1

N.I.

Para. 3 rep. by 2002 c. 29

[[F41]**3A.**—(1) Where it appears to a financial investigator that a specified person may have benefited from**[**[F42] his criminal conduct**]** the investigator may by notice in writing require any solicitor to furnish specified information to the investigator within a specified time and in a specified manner.

[
[F43](1A) For the purposes of sub-paragraph (1) the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 4 of the Proceeds of Crime Act 2002.**]**

(2) The information which may be specified under sub-paragraph (1) is whether at any time during a specified period the specified person was a client of the solicitor in respect of—

(a) any land or business;

(b) a company, firm, partnership or trust;

(c) a bank or other account; or

(d) any assets in the nature of investments, being assets of the specified person.

(3) Where the specified person was a client as mentioned in sub-paragraph (2), the solicitor shall furnish to the investigator—

(a) the full name of the client;

(b) the most recent and all known previous addresses of the client;

(c) the date of birth (if known) of the client;

(d) other evidence of identity of the client obtained in accordance with the Money Laundering Regulations 1993; and

(e) specified details of the nature of any transaction relating to any matter mentioned in that sub-paragraph.

[

[F44](4) In its application by virtue of Article 49(1B), this paragraph shall have effect as if—

(a) for references to a financial investigator there were substituted references to **[**[F45]a **[**[F46]National Crime Agency officer**]** or a relevant Director (within the meaning of Article 49(5))**]**;

(b) in sub-paragraphs (1) and (1A) for "benefited from his criminal conduct" there were substituted "obtained property through unlawful conduct"; and

(c) in paragraph (1A) for "Part 4" there were substituted "Part 5".

(5) Where this paragraph applies by virtue of Article 49 (1B), then—

(a) paragraphs 4(2), 5 and 6 apply for the purposes of this paragraph with the modification mentioned in sub-paragraph (4)(a); and

(b) paragraphs 7 and 8 do not apply for those purposes.**]]**

F41 2001 NI 1
F42 2002 c. 29
F43 2002 c. 29
F44 2005 NI 15
F45 Words in Sch. 2 para. 3A(4) substituted (1.4.2008) by Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008 (S.I. 2008/574), art. 2, **Sch. para. 5(5)**
F46 Words in Sch. 2 para. 3A(4)(a) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 54**; S.I. 2013/1682, art. 3(v)

Restrictions

4.—(1) A person shall not under paragraph 2 or 3 be required to disclose any information or produce any document which he would be entitled to refuse to disclose or produce on grounds of legal professional privilege in proceedings in the High Court except that a lawyer may be required to furnish the name and address of his client.

(2) A person need not comply with any requirement imposed by a financial investigator under paragraph 2**[**[F47],[F48]. . . or 3A**]** unless the investigator has, if required to do so, produced evidence of his authority, and that evidence need not identify him by name if it contains other means of identification.

F47 2001 NI 1
F48 2002 c. 29

Offences

5.—(1) A person shall be guilty of an offence if without reasonable excuse he fails to comply with a requirement imposed on him under paragraph 2**[**[F49],[F50]. . . or 3A**]**.

(2) A person who—

(a) knows or has reasonable cause to suspect that an investigation is being carried out or is likely to be carried out under this Schedule; and

(b) falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of, documents which he knows or has reasonable cause to suspect are or would be relevant to such an investigation,

shall be guilty of an offence unless he proves that he had no intention of concealing the facts disclosed by the document from any person carrying out such an investigation.

(3) A person guilty of an offence under sub-paragraph (1) shall be liable, on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale or to both.

(4) A person guilty of an offence under sub-paragraph (2) shall be liable—

(a) on conviction on indictment, to imprisonment for a term not exceeding 5 years or to a fine or to both;

(b) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both.

[[F51](5) Notwithstanding anything in Article 19(1) of the Magistrates' Courts (Northern Ireland) Order 1981, summary proceedings for an offence under sub-paragraph (1) or (2) may be brought at any time within the period of 3 months from the date on which evidence sufficient in the opinion of the complainant to justify prosecution for the offence came to his notice or within the period of 12 months from the commission of the offence, whichever period last expires.**]**

F49 2001 NI 1
F50 2002 c. 29
F51 2001 NI 1

Admissibility of evidence

6. Any answers given or information furnished by a person in response to a requirement imposed under paragraph 2**[**[F52],[F53]. . . or 3A**]** may not be used in evidence against him except—

(a) on a prosecution for an offence under the Perjury (Northern Ireland) Order 1979; or

[[F54](b) on his prosecution for some other offence where evidence relating to any such answer or information is adduced, or a question relating to it is asked, by or on behalf of that person; or,**]**

(c) on a prosecution for an offence under paragraph 5.

F52 2001 NI 1
F53 2002 c. 29

F54 1999 c. 23

Restriction on disclosure of information

7.—(1) Information obtained by a person in his capacity as a financial investigator may not be disclosed by him except—

(a) to a constable;

(b) to any Northern Ireland department or government department or other authority or body discharging its functions on behalf of the Crown (including the Crown in right of Her Majesty's Government in the United Kingdom);

(c) to any competent authority; or

(d) to any person or body having, under the law of any country or territory outside the United Kingdom, functions corresponding to any of the functions of any person or body mentioned in heads (a) to (c).

(2) The following are competent authorities for the purposes of sub-paragraph (1)(c)—

(a) an inspector appointed under[F55]. . . Part XIV of the Companies Act 1985;

(b) the Official Receiver for Northern Ireland;

(c) an Official Receiver;

(d) the Accountant in Bankruptcy;

(e) a person appointed to carry out an investigation under section 55 of the Building Societies Act 1986;

(f) a body administering a compensation scheme under section 54 of the Financial Services Act 1986;

(g) an inspector appointed under section 94 of that Act;

(h) a person exercising powers by virtue of section 106 of that Act;

(i) an inspector appointed under section 177 of that Act;

(j) a person appointed by the Bank of England under section 41 of the Banking Act 1987 to carry out an investigation and make a report;

(k) a person exercising powers by virtue of section 44(2) of the Insurance Companies Act 1982; and

(l) any body having supervisory, regulatory or disciplinary functions in relation to any profession or any area of commercial activity.

(3) The Secretary of State may, by regulations,—

(a) amend sub-paragraph (2) by adding to, or deleting from, the competent authorities for the purposes of sub-paragraph (1)(c);

(b) impose conditions subject to which, and otherwise restrict the circumstances in which, information may be disclosed under sub-paragraph (1)(d).

F55 Words in Sch. 2 para. 7(2)(a) omitted (1.10.2009) by virtue of Companies Act 2006 (Consequential Amendments, Transitional Provisions and Savings) Order 2009 (S.I. 2009/1941), art. 2(1), **Sch. 1 para. 165** (with art. 10)

Code of practice

8.—(1) The Secretary of State shall make a code of practice in connection with the exercise by financial investigators of the powers conferred by this Schedule**[**[F56] or Article 50**]**.

(2) When the Secretary of State proposes to issue the code of practice under this paragraph he shall prepare and publish a draft of the code, shall consider any representations made to him about the draft and may modify the draft accordingly.

(3) The Secretary of State shall lay before **[**[F57]the Assembly**]** a draft of the code of practice prepared by him under this paragraph; and when he has laid the draft of the **[**[F58]code before the Assembly**]** he may bring the code into operation by an order made by him.

(4) An order bringing the code of practice into operation may contain such transitional provisions or savings as appear to the Secretary of State to be necessary or expedient in connection with the code.

(5) The Secretary of State may from time to time revise the whole or any part of the code of practice issued by him under this paragraph and issue the code as revised; and the foregoing provisions of this paragraph shall apply (with appropriate modifications) to such a revised code as they apply to the first issue of the code.

(6) A failure on the part of a financial investigator to comply with any provision of a code of practice issued under this paragraph shall not of itself render him liable to any criminal or civil proceedings.

(7) In all criminal and civil proceedings such a code shall be admissible in evidence; and if any provision of such a code appears to the court or tribunal conducting the proceedings to be relevant to any question arising in the proceedings it shall be taken into account in determining that question.

(8) In this paragraph "criminal proceedings" includes proceedings before a court-martial constituted under the Army Act 1955, the Air Force Act 1955 or the Naval Discipline Act 1957 or a disciplinary court constituted under section 50 of the said Act of 1957 and proceedings before the Courts-Martial Appeal Court.

(9) Nothing in Article 66(8) of the Police and Criminal Evidence (Northern Ireland) Order 1989 shall require financial investigators to have regard in exercising the powers conferred by this Schedule to any provision of a code under that Order.

F56 2001 NI 1

F57 Words in Sch. 2 para. 8(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 15(4)(a)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

F58 Words in Sch. 2 para. 8(3) substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 15(4)(b)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

Regulations

9. Regulations under paragraphs 3(4) and 7(3) shall be subject to**[**[F59] negative resolution**]**.

F59 Words in Sch. 2 para. 9 substituted (12.4.2010) by Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 4(3), **Sch. 2 para. 15(5)** (with arts. 28-31); S.I. 2010/977, **art. 1(2)**

N.I.

N.I.

Schedule 3—Amendments

SCHEDULE 4 N.I.

Article 57(2).

TRANSITIONAL PROVISIONS AND SAVINGS

1.—(1) Part II and Article 54 shall not apply—

(a) in relation to any proceedings for, or in respect of, an offence—

(i) in the case of a drug trafficking offence, if the person accused (or, as the case may be, convicted) of that offence was charged with the offence (whether by the making of a complaint or otherwise) before the date on which this Order comes into operation, or

(ii) in the case of any other offence, if that offence was committed before that date, or

(b) in relation to any proceedings not within head (a) instituted before that date,

and references in this sub-paragraph to proceedings include a reference to any order made by a court in the proceedings.

(2) Accordingly the relevant statutory provisions shall continue to apply in relation to any proceedings within sub-paragraph (1)(a) or (b) (and, in particular, in relation to any confiscation order, within the meaning of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990, made in any such proceedings) as if this Order had not been made.

(3) In sub-paragraph (2) "the relevant statutory provisions" are—

(a) Articles 2 to 28 and 34 of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990,

(b) any statutory provision amended by this Order.

(4) Sub-paragraph (1) is without prejudice to Article 6(4), 10(6), 31(4) or 34(7).

(5) Nothing in Article 9 or 24(3) or (4) shall apply to any proceedings—

(a) for an offence committed before this Order comes into operation; or

(b) for one or more offences, any one of which was so committed.

2. In any case in which a petition in bankruptcy was presented, or an adjudication in bankruptcy was made, before 1st October 1991 (the date on which the Insolvency (Northern Ireland) Order 1989 came into operation), Article 37 shall have effect with the following modifications—

(a) for references to the bankrupt's estate for the purposes of Part IX of that Order there shall be substituted references to the property of the bankrupt for the purposes of the Bankruptcy Acts (Northern Ireland) 1857 to 1980;

(b) paragraph (2)(b) shall be omitted;

(c) for the reference in paragraph (2)(c) to Article 254(2)(c) of that Order there shall be substituted a reference to Articles 28(4), (5)(c) and (11) and 30(6)(c) of the Bankruptcy Amendment (Northern Ireland) Order 1980;

(d) for the reference in paragraph (3) to that Order there shall be substituted a reference to the Bankruptcy Acts (Northern Ireland) 1857 to 1980;

(e) for the reference in paragraph (5) to an interim receiver appointed under Article 259 of that Order there shall be substituted a reference to a receiver or manager appointed under section 68 of the Bankruptcy (Ireland) Amendment Act 1872; and

(f) for the references in paragraph (6) to Articles 312 and 367 of that Order there shall be respectively substituted references to section 12 of the Bankruptcy Amendment Act (Northern Ireland) 1929 and section 10 of the Conveyancing Act (Ireland) 1634.

3. In any case in which a winding up of a company has commenced, or is treated as having commenced, before 1st October 1991 (the date on which the Insolvency (Northern Ireland) Order 1989 came into operation), Article 38 shall have effect with the substitution for references to that Order of references to the Companies (Northern Ireland) Order 1986.

4. The provisions in this Schedule shall have effect without prejudice to sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954.

N.I.

Schedule 5—Repeals

Changes to legislation:
The Proceeds of Crime (Northern Ireland) Order 1996 is up to date with all changes known to be in force on or before 24 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.
View outstanding changes

Changes and effects yet to be applied to :

- Instrument restr. by 1998 c. 35 s.14(3)(b)
- Instrument restr. by 1998 c. 35 s.14(3)(c)
- defn. of drug trafficking offence applied by 1997 c. 43 s.3(5)
- defn. of drug trafficking offence applied by 1997 c. 43 s.3(5)