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## STATUTORY INSTRUMENTS

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# 1996 No. 1299

## The Proceeds of Crime (Northern Ireland) Order 1996

### PART IV

#### MISCELLANEOUS AND SUPPLEMENTAL

##### *Prosecution of offences, etc.*

#### **Prosecution by order of the Commissioners of Customs and Excise**

**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<sup>F1</sup> . . . Article 53;

(b) attempting to commit, conspiracy to commit or incitement to commit, any such offence;<sup>F1</sup> . . .

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

[<sup>F2</sup>(6A) Proceedings for an offence are instituted—

**Changes to legislation:** *The Proceeds of Crime (Northern Ireland) Order 1996, Cross Heading: Prosecution of offences, etc. is up to date with all changes known to be in force on or before 10 January 2023. 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*

- (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*

**F1** 2002 c. 29

**F2** 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.**

**56.**—(1) The [<sup>F3</sup>appropriate authority] may by regulations provide that, in such circumstances as may be prescribed, [<sup>F4</sup> 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—

[<sup>F5</sup>“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 [<sup>F6</sup>appropriate authority].

[<sup>F7</sup>(5A) Regulations made by the Department of Justice under this Article shall be subject to negative resolution.]

(6) Regulations [<sup>F8</sup>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.

**F3** 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)**

**F4** 2002 c. 29

**F5** 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)**

**F6** 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)**

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- F7** 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)**
- F8** 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)**

**Changes to legislation:**

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**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\(5\)](#)