STATUTORY INSTRUMENTS

2001 No. 1866

The Financial Investigations (Northern Ireland) Order 2001

Title and commencement

1.—(1) This Order may be cited as the Financial Investigations (Northern Ireland) Order 2001.

(2) This Order shall come into operation on such day or days as the Secretary of State may by order appoint[F1].

F1 fully exercised by SR 2003/140

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954[F2] shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Northern Ireland Assembly.

(2) In this Order "the 1996 Order" means the Proceeds of Crime (Northern Ireland) Order 1996.[F3]

F2 1954 c.33 (NI)
F3 1996 NI 9

Additional investigation powers

3.—(1) Article 49 of the 1996 Order (additional investigation powers) shall be amended as follows.

(2) In paragraph (1)—

(a) for the words "an officer of the Royal Ulster Constabulary not below the rank of superintendent" there shall be substituted the words "a senior officer of an enforcement authority";

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

(c) in sub-paragraph (b), after the words "a police officer" there shall be inserted the words "or customs officer".

(3) After paragraph (1) there shall be inserted the following paragraph—

"(1A) If, on an application made by a senior officer of an enforcement authority by complaint on oath, a county court judge is satisfied—

(a) that an investigation by the authority into—

(i) whether any person has benefited from any conduct to which this Article applies; or

(ii) the extent or whereabouts of any relevant property;

is taking place; and

(b) that the investigation could be more effectively carried out if 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 paragraphs 3 and 3A of Schedule 2; and

(c) that, having regard to the particular investigation, that person is a fit and proper person to be appointed,

he may authorise that person to exercise, for the purposes of the investigation the powers conferred by paragraphs 3 and 3A of Schedule 2." .

(4) In paragraphs (2) and (3), after the words "paragraph (1)" there shall be inserted the words "or (1A)".

(5) For paragraph (5) there shall be substituted the following paragraph—

"(5) In this Article—

"customs officer" means an officer commissioned by the Commissioners of Customs and Excise;

"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[F4];

"relevant property" means—

(a) the proceeds of any conduct to which this Article applies; or

(b) property held by a person who has benefited from such conduct or transferred by or to him at any time since the beginning of the period of 6 years ending with the date on which the application is made under paragraph (1) or (1A);

"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." .

(6) In the definition of "financial investigator" in Article 2(2) of that Order, for "49" there shall be substituted "49(1)".

F4 1989 NI 12

Order to make material available and authority for search

4.—(1) In Article 50 of the 1996 Order (order to make material available)—

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

(b) in paragraph (2), after the word "constable" in both places where it occurs there shall be inserted the words "or a financial investigator";

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

(d) in paragraph (5), after the word "constable" in the second place where it occurs there shall be inserted the words "or a financial investigator";

(e) after paragraph (6) there shall be inserted the following paragraph—

"(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." .

Paras. (2)(3) rep. by 2002 c. 29

Power to require specified information

5. In paragraph 3 of Schedule 2 to the 1996 Order (power to require person to furnish specified information)—

(a) in sub-paragraph (1), for the words "the business of banking ("the bank")" there shall be substituted the words "relevant financial business ("the respondent")";

(b) in sub-paragraph (2), for the words from "the bank held" to the words "(d) in the name of" there shall be substituted the words "a business relationship existed between the respondent and the specified person or";

(c) for sub-paragraph (3) there shall be substituted the following sub-paragraph—

"(3) Where the respondent identifies a business relationship as mentioned in sub-paragraph (2), the respondent shall furnish to the investigator—

(a) the full name of the specified person;

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

(c) the date of birth (if known) of the specified person;

(d) any other evidence of identity of the specified person obtained in accordance with the Money Laundering Regulations 1993[F5];

(e) the name of any company, firm or partnership in which it appears to the respondent that the specified person had an interest;

(f) any date on which a business relationship between the respondent and the specified person commenced or ceased; and

(g) all reference numbers or other means of identification allocated by the respondent to the specified person for the purposes of the business relationship." ;

(d) for sub-paragraph (5) there shall be substituted the following sub-paragraph—

"(5) In this paragraph—

"any person carrying on relevant financial business" includes any person who has carried on such business at any time during the period of 6 years ending on the date of the notice under sub-paragraph (1);

"business relationship" and "relevant financial business" have the same meanings as in the Money Laundering Regulations 1993." .

F5 SI 1993/1933

Investigation powers in relation to solicitors

6. After paragraph 3 of Schedule 2 to the 1996 Order, there shall be inserted the following paragraph—

"**3A.**—(1) Where it appears to a financial investigator that a specified person may have benefited from any conduct to which Article 49 applies 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.

(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.”.

Time limit for summary proceedings

7. At the end of paragraph 5 of Schedule 2 to the 1996 Order (offences) there shall be added the following sub-paragraph—

“(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.” .

Minor and consequential amendments

8. Schedule 2 to the 1996 Order shall be amended as follows—

(a) in paragraph 1, after sub-paragraph (2) there shall be added the following sub-paragraph—

“(3) In paragraphs 3 to 7, “financial investigator” includes a person authorised under Article 49(1A) to exercise the powers conferred by paragraph 3 or 3A.” ;

(b) in paragraph 2(2), after the words “may allow” in the first place where they occur there shall be inserted the words “or on a specified date”;

(c) in paragraph 4(2), for “or 3” there shall be substituted “, 3 or 3A”;

(d) in paragraph 5(1), for “or 3” there shall be substituted “, 3 or 3A”;

(e) in paragraph 6(1), for “or 3” there shall be substituted “, 3 or 3A”;

(f) in paragraph 8(1), after the words “this Schedule” there shall be added the words “or Article 50”.

Changes to legislation:
There are currently no known outstanding effects for the The Financial Investigations (Northern Ireland) Order 2001.