

SCHEDULES

SCHEDULE 25

PROCEEDS OF CRIME PROVISIONS: NORTHERN IRELAND

PART 1

CIVIL RECOVERY PROVISIONS

Meaning of “relevant civil recovery provision”

- 1 For the purposes of this Part of this Schedule, each of the following is a “relevant civil recovery provision”—
- (a) section 48(2), (3), (5) and (6);
 - (b) section 48(7) so far as it relates to amendments made by section 48(2), (3) and (5) and Part 2 of Schedule 18;
 - (c) each provision in Schedule 18;
 - (d) each amendment or repeal made by the provisions mentioned in paragraphs (a) and (c).

Relevant civil recovery provisions not to extend to Northern Ireland unless order made

- 2 (1) The relevant civil recovery provisions do not extend to Northern Ireland.
- (2) But that is subject to paragraph 3.

Power to provide for relevant civil recovery provisions to extend to Northern Ireland

- 3 The Secretary of State may, by order, provide for one or more of the relevant civil recovery provisions to extend to Northern Ireland.

Relevant civil recovery provision extending to Northern Ireland

- 4 (1) The Secretary of State may, by order, make such provision as the Secretary of State considers appropriate in consequence of, or in connection with, a relevant civil recovery provision extending to Northern Ireland.
- (2) An order under this paragraph may, in particular—
- (a) provide for section 282A of the Proceeds of Crime Act 2002 to have effect in relation to orders made by the High Court in Northern Ireland;
 - (b) provide for an enforcement authority in relation to Northern Ireland to make requests for assistance under section 282B of that Act;
 - (c) provide for a receiver appointed under an order made by the High Court in Northern Ireland to make requests for assistance under section 282C of that Act;

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- (d) provide for the High Court in Northern Ireland or a receiver appointed by an order made by that court to make requests for assistance under section 282D of that Act;
- (e) provide for an enforcement authority or trustee for civil recovery to make a request for assistance under section 282F of that Act where a recovery order has been made by the High Court in Northern Ireland;
- (f) provide for section 316(8B) of that Act to have effect in relation to an enforcement authority in relation to Northern Ireland.

Relevant civil recovery provision not extending to Northern Ireland

- 5 The Secretary of State may, by order, make such provision as the Secretary of State considers appropriate in consequence of, or in connection with, a relevant civil recovery provision not extending to Northern Ireland.

Consent of Northern Ireland Assembly to transferred provision

- 6 (1) The Secretary of State may not make an order under this Part of this Schedule which makes transferred provision unless the Northern Ireland Assembly consents to the making of that provision.
- (2) In this paragraph “transferred provision” means provision which, if it were contained in an Act of the Northern Ireland Assembly—
- (a) would be within the legislative competence of the Assembly, and
 - (b) would deal with a transferred matter without being ancillary to other provision (whether in the Act or previously enacted) which deals with an excepted or reserved matter.
- (3) In sub-paragraph (2)—
- “ancillary” has the meaning given in section 6(3) of the Northern Ireland Act 1998;
 - “excepted matter”, “reserved matter” and “transferred matter” have the meanings given by section 4(1) of the Northern Ireland Act 1998.

Orders under this Part of this Schedule: particular provision

- 7 (1) The provision that may be made by an order under paragraph 3, 4 or 5 (whether by virtue of that paragraph or section 58(12)) includes—
- (a) provision conferring, removing or otherwise modifying a function (whether or not exercisable in, or in relation to, Northern Ireland);
 - (b) provision amending, repealing, revoking or otherwise modifying any enactment (including an enactment contained in, or amended by, this Act).
- (2) Such an order may provide for provision amending, repealing or otherwise modifying Chapter 2 or 4 of Part 5 of the Proceeds of Crime Act 2002 to have retrospective effect.
- (3) The making of an order under any provision of this Part of this Schedule does not prevent—
- (a) a further order from being made under that provision, or
 - (b) an order from being made under any other provision of this Part of this Schedule.

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(4) An order under paragraph 3 or 4 may modify or reverse the effects of an order made under paragraph 5.

(5) Sub-paragraphs (1) to (4) do not limit the powers conferred by paragraphs 3, 4 and 5.

(6) In this paragraph—

“enactment” means any enactment, whenever passed or made, contained in—

- (a) an Act of Parliament;
- (b) an Act of the Scottish Parliament;
- (c) Northern Ireland legislation;
- (d) a Measure or Act of the National Assembly for Wales;
- (e) an instrument made under any such Act, legislation or Measure;
- (f) any other subordinate legislation (within the meaning of the Interpretation Act 1978);

“function” means a function of any description, including a power or duty (whether conferred by an enactment or arising otherwise).