

2013 No. 2326

NATIONAL CRIME AGENCY, NORTHERN IRELAND

**The National Crime Agency (Limitation of extension to
Northern Ireland) Order 2013**

<i>Made</i> - - - -	<i>11th September 2013</i>
<i>Laid before Parliament</i>	<i>16th September 2013</i>
<i>Coming into force</i> - -	<i>7th October 2013</i>

The Secretary of State makes the following Order in exercise of the powers conferred by paragraphs 2 and 3 of Schedule 24 to the Crime and Courts Act 2013(a).

Citation and commencement

1. This Order may be cited as the National Crime Agency (Limitation of extension to Northern Ireland) Order 2013 and comes into force on 7th October 2013.

Interpretation

2.—(1) In this Order—

“CCA 2013” means the Crime and Courts Act 2013;

“NCA civil recovery functions” means NCA functions under Part 8 of POCA 2002 relating to civil recovery investigations;

“Part 8 order or warrant” means an order made, or warrant issued, by a court or judge under any provision of Part 8 of POCA 2002;

“POCA 2002” means the Proceeds of Crime Act 2002(b);

“relevant property”, in relation to NCA civil recovery functions, means—

- (a) recoverable property, and
- (b) any other property in relation to which NCA civil recovery functions are exercisable.

(2) Expressions used in this Order and in Part 8 of POCA 2002 have the same meanings in this Order as in that Part of that Act.

(3) For the purposes of this Order unlawful conduct constitutes a “transferred offence” if—

- (a) the conduct occurs in Northern Ireland,
- (b) the conduct is unlawful under the criminal law of Northern Ireland, and
- (c) the criminal law of Northern Ireland under which the conduct is unlawful is a transferred matter.

(4) For the purposes of this Order unlawful conduct constitutes a “non-transferred offence” if—

(a) 2013 c. 22.
(b) 2002 c. 29.

- (a) the conduct occurs in Northern Ireland,
- (b) the conduct is unlawful under the criminal law of Northern Ireland, and
- (c) the criminal law of Northern Ireland under which the conduct is unlawful is a reserved matter or excepted matter.

(5) In determining for the purposes of paragraph (4)(c) whether or not the criminal law of Northern Ireland under which conduct is unlawful is a reserved matter or excepted matter, particular regard is to be had to all the circumstances relevant to the conduct.

Relevant NCA provisions that are to extend to Northern Ireland

3.—(1) The relevant NCA provisions that are contained in Schedule 8 to CCA 2013 are to extend to Northern Ireland.

(2) Accordingly, the last entry in the table in paragraph 9 of Schedule 24 to CCA 2013 (relating to Schedule 8 to CCA 2013) is repealed.

Limitation on exercise of NCA civil recovery functions in Northern Ireland

4.—(1) NCA civil recovery functions may not be exercised in Northern Ireland in relation to relevant property obtained through, or otherwise relating to, unlawful conduct which constitutes a transferred offence.

(2) This article is subject to article 5.

(3) The exercise of NCA civil recovery functions otherwise than in accordance with this order does not affect the validity of the exercise of the functions.

Exceptions

5.—(1) Article 4 does not affect the exercise of NCA civil recovery functions if the unlawful conduct constitutes a non-transferred offence (as well as a transferred offence).

(2) Article 4 does not affect the exercise of NCA civil recovery functions if the unlawful conduct is, in the view of an NCA officer, closely connected with other conduct that constitutes—

- (a) a non-transferred offence, or
- (b) an offence under the law of any country or territory outside Northern Ireland.

(3) Article 4 does not affect the exercise of NCA civil recovery functions if, and for as long as, a person exercising the functions could not reasonably be expected to assess whether or not that article applies to the exercise of the functions.

(4) Article 4 does not affect the exercise of NCA civil recovery functions in relation to a Part 8 order or warrant if it was applied for before 7th October 2013.

Home Office
11th September 2013

Jeremy Browne
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order allows the National Crime Agency to carry out civil recovery functions under Part 8 of the Proceeds of Crime Act 2002 in Northern Ireland but only in relation to excepted and reserved offences. This means that the National Crime Agency may exercise civil recovery powers in relation to immigration and customs offences in Northern Ireland from 7th October 2013. Under Schedule 24 to the Crime and Courts Act 2013 (“CCA 2013”) these provisions were limited in their extent to Northern Ireland but that position is reversed by this Order. Article 3 of the Order

extends provisions in Schedule 8 (Abolition of SOCA and NPIA) of CCA 2013 to Northern Ireland but Article 4 limits the exercise of the relevant functions to non-transferred offences. Article 5 provides certain exceptions, including where there is a transferred offence that is closely connected to a non-transferred offence.

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