

2016 No. 147 (C. 11)

PROCEEDS OF CRIME

**The Policing and Crime Act 2009 (Commencement No. 11 and
Transitional Provisions and Savings) Order 2016**

Made - - - -

7th February 2016

The Secretary of State makes this Order in exercise of the power conferred by section 116(1) and (7) of the Policing and Crime Act 2009(a).

In accordance with section 116(2A) of that Act, the Secretary of State has obtained the consent of the Department of Justice in Northern Ireland.

Citation and interpretation

1. This Order may be cited as the Policing and Crime Act 2009 (Commencement No. 11 and Transitional Provisions and Savings) Order 2016.

2. In this Order—

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

“the 2009 Act” means the Policing and Crime Act 2009; and

“detained cash investigation” has the same meaning as in the 2002 Act(c).

Provisions coming into force on 1st March 2016

3. The following provisions of the 2009 Act come into force on 1st March 2016—

- (a) section 54 (power to retain seized property: Northern Ireland);
- (b) section 57 (search and seizure of property: Northern Ireland) so far as not already commenced;
- (c) section 60 (power to sell seized personal property: Northern Ireland);
- (d) section 63 (power to search vehicles) so far as not already commenced;
- (e) section 65 (forfeiture of detained cash) so far as not already commenced;
- (f) section 66 (transfer of jurisdiction to Crown Court) so far as not already commenced;
- (g) section 112(1) (minor and consequential amendments and repeals and revocations) so far as not already commenced;
- (h) section 112(2) so far as not already commenced;

(a) 2009 c. 26; section 116 is amended by S.I. 2010/976 and 2012/2595.

(b) 2002 c. 29.

(c) See section 341(3A) of the 2002 Act for the definition of “detained cash investigation”.

- (i) Part 6 of Schedule 7 (minor and consequential amendments) so far as not already commenced;
- (j) Part 7 of Schedule 7 so far as not already commenced;
- (k) Part 4 of Schedule 8 (repeals and revocations) so far as not already commenced;
- (l) Part 5 of Schedule 8 so far as not already commenced.

Transitional provisions and savings

4.—(1) Notwithstanding the commencement of section 57(3) of the 2009 Act, section 194 of the 2002 Act (seizure in Northern Ireland) continues to apply in relation to property which, at the time of commencement, is subject to the directions of a court made under subsection (2) of that section.

(2) In relation to property to which paragraph (1) applies, section 190A of the 2002 Act (restraint orders: power to retain seized property in Northern Ireland) has effect as if “relevant seizure power” included section 194 of that Act.

5.—(1) Notwithstanding the commencement of sections 66 and 112(2) of, and Part 5 of Schedule 8 to, the 2009 Act, in Northern Ireland the provisions of the 2002 Act amended by section 66 of the 2009 Act continue to have effect as if not so amended, and the provisions repealed by section 112(2) of and Part 5 of Schedule 8 to the 2009 Act continue to apply, in relation to—

- (a) any application for an order under Part 8 of the 2002 Act relating to a detained cash investigation made before 1st March 2016;
- (b) any order made under Part 8 of the 2002 Act in relation to a detained cash investigation—
 - (i) which is in existence on the coming into force of this Order; or
 - (ii) as the result of an application mentioned in sub-paragraph (a);
- (c) any application made before 1st March 2016 for a search and seizure warrant under section 352 of the 2002 Act in relation to a detained cash investigation;
- (d) any search and seizure warrant issued under section 352 of the 2002 Act in relation to a detained cash investigation—
 - (i) which is in existence on the coming into force of this Order; or
 - (ii) as the result of an application mentioned in sub-paragraph (c);
- (e) any power of seizure under a search and seizure warrant mentioned in sub-paragraph (d); and
- (f) any proceedings arising in relation to—
 - (i) an application mentioned in sub-paragraphs (a) or (c);
 - (ii) an order mentioned in sub-paragraph (b);
 - (iii) a search and seizure warrant mentioned in sub-paragraph (d); or
 - (iv) a power of seizure mentioned in sub-paragraph (e).

(2) The proceedings mentioned in paragraph (1)(f) are not to be regarded as concluded until there is no further possibility of any appeal in relation to those proceedings.

Home Office
7th February 2016

John Hayes
Minister of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order is the eleventh commencement order made by the Secretary of State under section 116(1) of the Policing and Crime Act 2009 (c. 26) (“the 2009 Act”).

Article 3 brings into force on 1st March 2016 provisions of the 2009 Act relating to proceeds of crime.

Section 54 of the 2009 Act amends the Proceeds of Crime Act 2002 (c. 29) (“the 2002 Act”) in relation to power to retain seized property in Northern Ireland.

Section 57 of the 2009 Act amends the 2002 Act in relation to search and seizure powers in Northern Ireland.

Section 60 of the 2009 Act amends the 2002 Act in relation to the power to sell seized personal property in Northern Ireland.

Section 63 of the 2009 Act amends the 2002 Act in relation to the power to search vehicles.

Section 65 of the 2009 Act amends the 2002 Act in relation to the forfeiture of detained cash.

Section 66 of the 2009 Act amends the 2002 Act in relation to detained cash investigations.

Schedule 7, Part 6 of the 2009 Act relates to proceeds of crime (confiscation).

Schedule 7, Part 7 of the 2009 Act relates to proceeds of crime (forfeiture of detained cash).

Schedule 8, Part 4 of the 2009 Act contains revocations relating to proceeds of crime (confiscation).

Schedule 8, Part 5 of the 2009 Act contains revocations relating to proceeds of crime (detained cash investigations).

Article 4 contains savings and transitional provision in relation to the commencement of sections 54 and 57 of the 2009 Act. The provision of the 2002 Act which previously authorised seizure of property subject to a restraint order in Northern Ireland (section 194 in Part 4) is repealed. Article 4 makes savings in relation to property which, at the time of the commencement of the Order, is subject to the directions of a court under section 194. Section 54 of the 2009 Act inserts section 190A into the 2002 Act. Transitional provision is made so that section 194 of the 2002 Act constitutes a ‘relevant seizure power’ for the purposes of section 190A. This will enable applications to be made to vary the restraint orders to permit the detention of property seized under section 194.

Article 5 contains savings in relation to the commencement of section 66 of, and part 5 of Schedule 8 to, the 2009 Act. Section 66 transfers the jurisdiction for applications for orders and warrants under part 8 of the 2002 Act from the High Court to the Crown Court for England and Wales and Northern Ireland. The transfer is being commenced in relation to Northern Ireland, subject to the savings in Article 5 in relation to undetermined applications for orders and warrants, and for orders and warrants which are in existence on the coming into force of this Order.

NOTE AS TO EARLIER COMMENCEMENT ORDERS

(This note is not part of the Order)

The following provisions of the Act have been brought into force to their fullest extent (unless indicated otherwise) by commencement order made by the Secretary of State before the date of this Order.

<i>Provision</i>	<i>Date of Commencement</i>	<i>S.I. No.</i>
Section 1	15.03.2010	2010/125
Section 2 (partially)	01.09.2010	2010/999 as amended by 2010/1986
Sections 3 and 4	19.04.2010	2010/999
Section 5	12.03.2010	2010/507
Sections 6 to 9	25.01.2010	2009/3096
Sections 10 to 13	29.01.2010	2010/125
Sections 14 to 20	01.04.2010	2010/507
Section 21 as to England and Wales	01.04.2010	2010/507
Sections 22 to 25	01.04.2010	2010/507
Section 26	21.01.2010	2009/3096
Section 27 (partially) as to England	02.03.2010	2010/507
Sections 28 to 33	29.01.2010	2010/125
Sections 34 to 50	31.01.2011	2010/2988
Section 51	25.01.2010	2009/3096
Section 52	01.06.2015	2015/983
Section 53	01.06.2015	2015/983
Section 55 (partially)	22.11.2014	2014/3101
Section 55 (partially)	01.06.2015	2015/983
Section 56 (partially)	22.11.2014	2014/3101
Section 56 (partially)	01.06.2015	2015/983
Section 57 (partially)	22.11.2014	2014/3101
Section 58	01.06.2015	2015/983
Section 59	01.06.2015	2015/983
Sections 61 and 62	25.01.2010	2009/3096
Section 63 (partially)	01.06.2015	2015/983
Section 64	25.01.2010	2009/3096
Section 65 (partially)	22.11.2014	2014/3101
Section 65 (partially)	01.06.2015	2015/983
Section 66 (partially)	22.11.2014	2014/3101
Section 66 as to England, Wales and Scotland	01.06.2015	2015/983
Sections 67 to 78	25.01.2010	2009/3096
Section 79 as to England, Wales and Scotland	29.01.2010	2010/125
Section 79 as to Northern Ireland	01.04.2010	2010/507
Section 80 as to England, Wales and Scotland	29.01.2010	2010/125
Section 80 as to Northern Ireland	01.04.2010	2010/507
Section 83	29.01.2010	2010/125
Section 84 (partially)	29.01.2010	2010/125
Section 88	30.11.2009	2009/3096

Section 91	30.11.2009	2009/3096
Section 96	10.09.2012	2012/2235
Section 97	29.01.2010	2010/125
Sections 98 and 99	25.01.2010	2010/52
Section 101	25.01.2010	2010/52
Sections 103 to 107	01.04.2010	2010/507
Section 108 (partially)	02.03.2010	2010/507
Section 108 (partially)	01.04.2010	2010/507
Section 109	06.11.2010	2010/1986
Section 110	29.01.2010	2010/125
Section 112 (partially)	25.01.2010	2009/3096
Section 112 (partially)	25.01.2010	2010/52
Section 112 (partially)	29.01.2010	2010/152
Section 112 (partially)	12.03.2010	2010/507
Section 112 (partially)	01.04.2010	2010/507
Section 112 (partially)	19.04.2010	2010/999
Section 112 (partially) as to Wales	08.05.2010	2010/999
Section 112 (partially)	10.09.2010	2012/2235
Section 112 (partially)	22.11.2014	2014/3101
Section 112 (partially)	01.06.2015	2015/983
Schedule 1	01.04.2010	2010/507
Schedule 2 as to England and Wales	01.04.2010	2010/507
Schedule 3 (partially) as to England	02.03.2010	2010/507
Schedule 4	29.01.2010	2010/125
Schedule 5	31.01.11	2010/2988
Schedule 6 as to England, Wales and Scotland	29.01.2010	2010/125
Schedule 6 as to Northern Ireland	01.04.2010	2010/507
Schedule 7 (partially)	25.01.2010	2009/3096
Schedule 7 (partially)	29.01.2010	2010/125
Schedule 7 (partially)	12.03.2010	2010/507
Schedule 7 (partially)	01.04.2010	2010/507
Schedule 7 (partially)	10.09.2012	2012/2235
Schedule 7 (partially)	22.11.2014	2014/3101
Schedule 7 (partially)	01.06.2015	2015/983
Schedule 8 (partially)	25.01.2010	2009/3096
Schedule 8 (partially)	25.01.2010	2010/52
Schedule 8 (partially)	29.01.2010	2010/125
Schedule 8 (partially)	01.04.2010	2010/507
Schedule 8 (partially)	19.04.2010	2010/999
Schedule 8 (partially)	22.11.2014	2014/3101
Schedule 8 (partially)	01.06.2015	2015/983

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