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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**

**Disclosure of information held by government departments**

**54.**—(1) Subject to paragraph (4), the High Court may on an application by the prosecution order any material mentioned in paragraph (3) which is in the possession of an authorised government department to be produced to the Court within such period as the Court may specify.

(2) The power to make an order under paragraph (1) is exercisable if —

- (a) the powers conferred on the Court by Articles 31(1) and 32(1) are exercisable by virtue of paragraph (1) of Article 30, or
- (b) those powers are exercisable by virtue of paragraph (3) of that Article and the Court has made a restraint or charging order which has not been discharged;

but where the power to make an order under paragraph (1) is exercisable by virtue only of subparagraph (b), Article 30(4) shall apply for the purposes of this Article as it applies for the purposes of Articles 31 and 32.

(3) The material referred to in paragraph (1) is any material which—

- (a) has been submitted to an officer of an authorised government department by the defendant or by a person who has at any time held property which was realisable property,
- (b) has been made by an officer of an authorised government department in relation to the defendant or such a person, or
- (c) is correspondence which passed between an officer of an authorised government department and the defendant or such a person,

and an order under that paragraph may require the production of all such material or of a particular description of such material, being material in the possession of the department concerned.

(4) An order under paragraph (1) shall not require the production of any material unless it appears to the High Court that the material is likely to contain information that would facilitate the exercise of the powers conferred either—

- (a) on the Court by Articles 31 to 34; or
- (b) on a receiver appointed under Article 31 or 34 or in pursuance of a charging order.

(5) The High Court may by order authorise the disclosure to such a receiver of any material produced under paragraph (1) or any part of such material; but the Court shall not make an order under this paragraph unless a reasonable opportunity has been given for an officer of the department to make representations to the Court.

(6) Material disclosed in pursuance of an order under paragraph (5) may, subject to any conditions contained in the order, be further disclosed for the purposes of the functions under this Order of the receiver, of the Crown Court or of any court of summary jurisdiction.

(7) The High Court may by order authorise the disclosure to a person mentioned in paragraph (8) of any material produced under paragraph (1) or any part of such material; but the Court shall not make an order under this paragraph unless—

- (a) a reasonable opportunity has been given for an officer of the department to make representations to the Court, and
- (b) it appears to the Court that the material is likely to be of substantial value in exercising functions relating to the investigation of crime.

(8) The persons referred to in paragraph (7) are—

- (a) any member of the Royal Ulster Constabulary,
- (b) the Director of Public Prosecutions for Northern Ireland or any person acting on his behalf, and
- (c) any officer within the meaning of the Customs and Excise Management Act 1979.

(9) Material disclosed in pursuance of an order under paragraph (7) may, subject to any conditions contained in the order, be further disclosed for the purposes of functions relating to the investigation of—

- (a) crime;
- (b) whether any person has benefited from any conduct to which Article 49 applies; or
- (c) the extent or whereabouts of the proceeds of any such conduct.

(10) Material may be produced or disclosed in pursuance of this Article notwithstanding any obligation as to secrecy or other restriction upon the disclosure of information imposed by statute or otherwise.

(11) An order under paragraph (1) and, in the case of material in the possession of an authorised government department, an order under Article 50(2) may require any officer of the department (whether named in the order or not) who may for the time being be in possession of the material concerned to comply with it, and such an order shall be served as if the proceedings were civil proceedings against the department.

(12) The person on whom such an order is served—

- (a) shall take all reasonable steps to bring it to the attention of the officer concerned, and
- (b) if the order is not brought to that officer's attention within the period referred to in paragraph (1), shall report the reasons for the failure to the High Court;

and any other officer of the department in receipt of the order shall take such steps as are mentioned in sub-paragraph (a).

(13) Article 52(2)(b) shall apply for the purposes of this Article as it applies for the purposes of Articles 50 and 51.