
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are the first and only commencement regulations to be made by the Department of Justice under the Criminal Finances Act 2017 (c.22) (“the 2017 Act”).

Regulation 2 brings into operation on 28th June 2021 sections 27, 31(3), 32(5) and (6) and 34(4) of the 2017 Act. Those sections amend Part 4 of the Proceeds of Crime Act 2002 (c.29) (“the 2002 Act”) regarding confiscation proceedings in Northern Ireland. In particular—

- (a) Section 27 of the 2017 Act makes technical amendments to the confiscation procedure of the 2002 Act. It extends the scope of an existing power of the court to order that seized money be paid in settlement of an outstanding confiscation order to include money that has been seized by any law enforcement agency under a warrant or a statutory seizure power however it is held. Section 27 also provides a definition of “bank” following the repeal of the Banking Act 1987 (c.22) that previously provided the definition.
- (b) Section 31(3) of the 2017 Act amends section 195G of the 2002 Act to include that appropriate approval for the use of relevant search and seizure powers by an accredited financial investigator who is a member of staff of the Police Service of Northern Ireland, means the approval of senior police officer, in the case where the approval of a lay magistrate is not practicable. A senior police officer means a police officer of at least the rank of inspector.
- (c) Section 32(5) and (6) make technical amendments to the confiscation procedure of the 2002 Act to allow for the reconsideration of discharged confiscation orders.
- (d) Section 34(4) amends section 230 of the 2002 Act to provide that free property includes cash which is detained pending the hearing of a forfeiture application.