



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 4

#### CONFISCATION: NORTHERN IRELAND

##### *Restraint orders*

#### **189 Conditions for exercise of powers**

- (1) The High Court may exercise the powers conferred by section 190 if any of the following conditions is satisfied.
- (2) The first condition is that—
  - (a) a criminal investigation has been started in Northern Ireland with regard to an offence, and
  - (b) there [<sup>F1</sup>are reasonable grounds to suspect] that the alleged offender has benefited from his criminal conduct.
- (3) The second condition is that—
  - (a) proceedings for an offence have been started in Northern Ireland and not concluded,
  - (b) there is reasonable cause to believe that the defendant has benefited from his criminal conduct.
- (4) The third condition is that—
  - (a) an application by the prosecutor <sup>F2</sup>... has been made under section 169, 170, 177 or 178 and not concluded, or the court believes that such an application is to be made, and
  - (b) there is reasonable cause to believe that the defendant has benefited from his criminal conduct.
- (5) The fourth condition is that—
  - (a) an application by the prosecutor <sup>F3</sup>... has been made under section 171 and not concluded, or the court believes that such an application is to be made, and

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- (b) there is reasonable cause to believe that the court will decide under that section that the amount found under the new calculation of the defendant’s benefit exceeds the relevant amount (as defined in that section).
- (6) The fifth condition is that—
  - (a) an application by the prosecutor <sup>F4</sup>... has been made under section 172 and not concluded, or the court believes that such an application is to be made, and
  - (b) there is reasonable cause to believe that the court will decide under that section that the amount found under the new calculation of the available amount exceeds the relevant amount (as defined in that section).
- (7) The second condition is not satisfied if the court believes that—
  - (a) there has been undue delay in continuing the proceedings, or
  - (b) the prosecutor does not intend to proceed.
- (8) If an application mentioned in the third, fourth or fifth condition has been made the condition is not satisfied if the court believes that—
  - (a) there has been undue delay in continuing the application, or
  - (b) the prosecutor <sup>F5</sup>... does not intend to proceed.
- (9) If the first condition is satisfied—
  - (a) references in this Part to the defendant are to the alleged offender;
  - (b) references in this Part to the prosecutor are to the person the court believes is to have conduct of any proceedings for the offence;
  - (c) section 225(9) has effect as if proceedings for the offence had been started against the defendant when the investigation was started.

#### Textual Amendments

- F1** Words in s. 189(2)(b) substituted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\), ss. 33\(1\), 88\(3\)\(a\)](#); S.R. 2015/190, reg. 3(1)(g)
- F2** Words in s. 189(4)(a) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\), s. 94\(1\), Sch. 8 para. 55\(2\), Sch. 14](#); S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)
- F3** Words in s. 189(5)(a) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\), s. 94\(1\), Sch. 8 para. 55\(3\), Sch. 14](#); S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)
- F4** Words in s. 189(6)(a) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\), s. 94\(1\), Sch. 8 para. 55\(4\), Sch. 14](#); S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)
- F5** Words in s. 189(8)(b) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\), s. 94\(1\), Sch. 8 para. 55\(5\), Sch. 14](#); S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)

#### Modifications etc. (not altering text)

- C1** Pt. 4 functions of receiver extended (24.2.2003) by [Proceeds of Crime Act 2002 \(Enforcement in different parts of the United Kingdom\) Order 2002 \(S.I. 2002/3133\), arts. 1, 4\(1\)\(a\)](#)
- C2** Pt. 4 applied by S.I. 1989/1341 (N.I. 12), arts. 57(5B), 59(8B) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\), Supreme Court s. 458\(1\), Sch. 11 para. 19\(2\)\(3\)](#); S.I. 2003/333, art. 2, Sch.)

#### Commencement Information

- I1** S. 189 in force at 24.3.2003 by [S.I. 2003/333, art. 2, Sch.](#)

**Changes to legislation:**

Proceeds of Crime Act 2002, Section 189 is up to date with all changes known to be in force on or before 20 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(5)(a)(iia) inserted by [2015 c. 30 Sch. 5 para. 15\(3\)\(d\)](#)
- s. 323(1)(hc) inserted by [2023 c. 20 Sch. para. 45\(2\)](#)
- s. 323(4)(ec) inserted by [2023 c. 20 Sch. para. 45\(3\)](#)
- s. 323(5)(ec) inserted by [2023 c. 20 Sch. para. 45\(4\)](#)