
STATUTORY INSTRUMENTS

2003 No. 120

**The Proceeds of Crime Act 2002 (Commencement
No. 4, Transitional Provisions and Savings) Order 2003**

Citation and interpretation

1.—(1) This Order may be cited as the Proceeds of Crime Act 2002 (Commencement No. 4, Transitional Provisions and Savings) Order 2003.

(2) In this Order—

- (a) “the Act” means the Proceeds of Crime Act 2002;
- (b) “the new failure to disclose offences” means sections 330, 331 and 332 of the Act;
- (c) “the old failure to disclose offences” means—
 - (i) section 52 of the Drug Trafficking Act 1994⁽¹⁾;
 - (ii) section 39 of the Criminal Law (Consolidation) (Scotland) Act 1995⁽²⁾; and
 - (iii) article 44 of the Proceeds of Crime (Northern Ireland) Order 1996⁽³⁾.
- (d) “the new principal money laundering offences” means sections 327, 328 and 329 of the Act;
- (e) “the old principal money laundering offences” means—
 - (i) sections 93A, 93B and 93C of the Criminal Justice Act 1988⁽⁴⁾;
 - (ii) section 14 of the Criminal Justice (International Co-operation) Act 1990⁽⁵⁾;
 - (iii) sections 49, 50 and 51 of the Drug Trafficking Act 1994;
 - (iv) sections 37 and 38 of the Criminal Law (Consolidation) (Scotland) Act 1995; and
 - (v) articles 45, 46 and 47 of the Proceeds of Crime (Northern Ireland) Order 1996.

Commencement of provisions

2.—(1) The provisions of the Act listed in column 1 of the Schedule to this Order shall come into force on 24th February 2003, subject to the transitional provisions and savings contained in this Order.

(2) But where a particular purpose is specified in relation to any such provision in column 2 of that Schedule, the provision concerned shall come into force only for that purpose.

Transitional provisions and savings for the principal money laundering offences

3. The new principal money laundering offences shall not have effect where the conduct constituting an offence under those provisions began before 24th February 2003 and ended after

(1) 1994 c. 37.

(2) 1995 c. 39.

(3) S.I.1996/1299 (N.I. 9).

(4) 1988 c. 33; sections 93A, 93B and 93C were inserted by sections 29(1), 30 and 31, respectively, of the Criminal Justice Act 1993 (c. 36).

(5) 1990 c. 5; section 14 is partially repealed by the Criminal Justice Act 1993 (c. 36) and the Drug Trafficking Act 1994 (c. 37).

that date and the old principal money laundering offences shall continue to have effect in such circumstances.

Transitional provisions and savings for the failure to disclose offences

4. The new failure to disclose offences shall not have effect where the information or other matter on which knowledge or suspicion that another person is engaged in money laundering is based, or which gives reasonable grounds for such knowledge or suspicion, came to a person before 24th February 2003 and the old failure to disclose offences shall continue to have effect in such circumstances.

Transitional provisions and savings for the offences of tipping-off and prejudicing an investigation

5.—(1) Section 342 of the Act shall not have effect where the conduct constituting an offence under that section began before 24th February 2003 and ended after that date and the following provisions shall continue to have effect in such circumstances—

- (a) sections 93D(1) of the Criminal Justice Act 1988(6);
- (b) sections 53(1) and 58(7) of the Drug Trafficking Act 1994;
- (c) sections 36 and 40(1) of the Criminal Law (Consolidation) (Scotland) Act 1995(8); and
- (d) articles 48(1) and 53(9) of the Proceeds of Crime (Northern Ireland) Order 1996.

(2) Section 93D(2) and (3) of the Criminal Justice Act 1988 shall continue to have effect where the disclosure mentioned in section 93D(2)(a) or 93D(3)(a), as the case may be, of that Act was made before 24th February 2003.

(3) Section 53(2) and (3) of the Drug Trafficking Act 1994 shall continue to have effect where the disclosure mentioned in section 53(2)(a) or 53(3)(a), as the case may be, of that Act was made before 24th February 2003.

(4) Section 40(2) and (3) of the Criminal Law (Consolidation) (Scotland) Act 1995 shall continue to have effect where the disclosure mentioned in section 40(2)(a) or 40(3)(a), as the case may be, of that Act was made before 24th February 2003.

(5) Article 48(2) and (3) of the Proceeds of Crime (Northern Ireland) Order 1996 shall continue to have effect where the disclosure mentioned in article 48(2)(a) or 48(3)(a), as the case may be, of that Order was made before 24th February 2003.

Savings in relation to prosecution by Customs and Excise, application of offences to Crown servants and investigations

6. The following provisions shall continue to have effect in respect of offences committed before 24th February 2003 and offences committed by virtue of articles 3 to 5 of this Order—

- (a) sections 93F to 93J of the Criminal Justice Act 1988(10);
- (b) sections 55 to 57 and 59 to 61 of the Drug Trafficking Act 1994;

(6) Section 93D was inserted by section 32 of the Criminal Justice Act 1993 (c. 36).

(7) Section 58 will remain in force but its application will be more limited, by virtue of the more limited definition of “drug trafficking” inserted by paragraph 25(4) of Schedule 11 to the Proceeds of Crime Act 2002 (c. 29).

(8) 1995 c. 39.

(9) Article 53 will remain in force but its application will be more limited, by virtue of the more limited definition of “drug trafficking” inserted by paragraph 31(15) of Schedule 11 to the Proceeds of Crime Act 2002 (c. 29).

(10) Section 93F was inserted by section 35 of the Criminal Justice Act 1993, section 93G was inserted by paragraphs 1 and 3 of Schedule 4 to the Criminal Justice Act 1993, section 93H was inserted by section 11 of the Proceeds of Crime Act 1995 (c. 11), section 93I was inserted by section 12 of the Proceeds of Crime Act 1995, section 93J was inserted by section 13 of the Proceeds of Crime Act 1995.

- (c) sections 31 to 35 and 42 of the Criminal Law (Consolidation) (Scotland) Act 1995; and
- (d) articles 49 to 52, and 54 to 56 of and Schedule 2 to the Proceeds of Crime (Northern Ireland) Order 1996(11).

Transitional provision in relation to the Extradition Act 1989

7. Notwithstanding paragraph 18 of Schedule 11 to the Act (which amends the Extradition Act 1989(12)), section 22(4)(h)(13) of, and paragraph 15 of Schedule 1(14) to, the Extradition Act 1989 shall have effect as if they continued to contain references to—

- (a) an offence under section 49, 50 or 51 of the Drug Trafficking Act 1994;
- (b) an offence under section 14 of the Criminal Justice (International Co-operation) Act 1990;
- (c) an offence under section 37 or 38 of the Criminal Law (Consolidation) (Scotland) Act 1995; and
- (d) an offence under article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996(15),

where the conduct constituting such offences occurred before 24th February 2003 or constituted an offence by virtue of articles 3 to 5 of this Order.

Home Office
23rd January 2003

Bob Ainsworth
Parliamentary Under-Secretary of State

(11) Articles 49 to 52 and Schedule 2 were amended by S.I. [2001/1866 \(N.I. 1\)](#).

(12) [1989 c. 33](#).

(13) Section 22(4)(h) was inserted by section 22(3) of the Criminal Justice (International Co-operation) Act [1990 \(c. 5\)](#) and amended by article 38 of and Schedule 2 to the Criminal Justice (Confiscation) (Northern Ireland) Order 1990 (S.I. [1990/2588 \(N.I. 17\)](#)), section 65 of and Schedule 1 to the Drug Trafficking Act [1994 \(c. 37\)](#), and article 57 of and Schedule 3 to the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. [1996/1299 \(N.I. 9\)](#)).

(14) The relevant provisions of paragraph 15 of Schedule 1 were amended by section 22(3) of the Criminal Justice (International Co-operation) Act [1990 \(c. 5\)](#), article 38 of and Schedule 2 to the Criminal Justice (Confiscation) (Northern Ireland) Order 1990 (S.I. [1990/2588 \(N.I. 17\)](#)), section 65 of and Schedule 1 to the Drug Trafficking Act [1994 \(c. 37\)](#), and article 57 of and Schedule 3 to the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. [1996/1299 \(N.I. 9\)](#)).

(15) The offences in the Criminal Justice (International Co-operation) Act 1990 and the Drug Trafficking Act 1994 are referred to in the existing provisions by virtue of being drug trafficking offences within the meaning of the Drug Trafficking Act 1994. The offences in the Proceeds of Crime (Northern Ireland) Order 1996 are referred to in the existing provision by virtue of being drug trafficking offences within the meaning of that Order. The offences in the Criminal Law (Consolidation) (Scotland) Act 1995 are referred to in the existing provisions by virtue of being offences to which section 1 of the Criminal Justice (Scotland) Act [1987 \(c. 41\)](#) relates (this is because section 2(4) of the Criminal Procedure (Consequential Provisions) (Scotland) Act [1995 \(c. 40\)](#) has the effect that the references to section 42A and 43 of the Criminal Justice (Scotland) Act 1987 in section 1 of that Act are to be read as references to sections 37 and 38 of the Criminal Law (Consolidation) (Scotland) Act 1995).