

S T A T U T O R Y I N S T R U M E N T S

2003 No. 531 (C. 29)

PROCEEDS OF CRIME

**The Proceeds of Crime Act 2002 (Commencement No. 5)
(Amendment of Transitional Provisions) Order 2003**

Made - - - -

6th March 2003

The Secretary of State, in exercise of the powers conferred on him by sections 458(1) and 459(2) of the Proceeds of Crime Act 2002(a), hereby makes the following Order:

1. This Order may be cited as the Proceeds of Crime Act 2002 (Commencement No. 5) (Amendment of Transitional Provisions) Order 2003.
2. The Proceeds of Crime Act 2002 (Commencement No. 5, Transitional Provisions, Savings and Amendment) Order 2003(b) is amended as follows.
3. For article 7, there is substituted—

“Transitional provisions relating to criminal lifestyle—England and Wales

7.—(1) This article applies where the court is determining under section 6(4)(a) of the Act whether the defendant has a criminal lifestyle.

(2) Conduct shall not form part of a course of criminal activity under section 75(3)(a) of the Act where any of the three or more offences mentioned in section 75(3)(a) was committed before 24th March 2003.

(3) Where the court is applying the rule in section 75(5) of the Act on the calculation of relevant benefit for the purposes of determining whether or not the test in section 75(2)(b) of the Act is satisfied by virtue of conduct forming part of a course of criminal activity under section 75(3)(a) of the Act, the court must not take into account benefit from conduct constituting an offence mentioned in section 75(5)(c) of the Act which was committed before 24th March 2003.

(4) Conduct shall form part of a course of criminal activity under section 75(3)(b) of the Act, notwithstanding that any of the offences of which the defendant was convicted on at least two separate occasions in the period mentioned in section 75(3)(b) were committed before 24th March 2003.

(5) Where the court is applying the rule in section 75(5) of the Act on the calculation of relevant benefit for the purposes of determining whether or not the test in section 75(2)(b) of the Act is satisfied by virtue of conduct forming part of a course of criminal activity under section 75(3)(b) of the Act, the court may take into account benefit from conduct constituting an offence committed before 24th March 2003.

(6) Where the court is applying the rule in section 75(6) of the Act on the calculation of relevant benefit for the purposes of determining whether or not the test in section 75(2)(c) of the Act is satisfied, the court must not take into account benefit from conduct constituting an offence mentioned in section 75(6)(b) of the Act which was committed before 24th March 2003.”.

(a) 2002 c. 29.

(b) S.I. 2003/333 (C. 20).

4. For article 8, there is substituted—

“Transitional provisions relating to criminal lifestyle—Northern Ireland

8.—(1) This article applies where the court is determining under section 156(4)(a) of the Act whether the defendant has a criminal lifestyle.

(2) Conduct shall not form part of a course of criminal activity under section 223(3)(a) of the Act where any of the three or more offences mentioned in section 223(3)(a) was committed before 24th March 2003.

(3) Where the court is applying the rule in section 223(5) of the Act on the calculation of relevant benefit for the purposes of determining whether or not the test in section 223(2)(b) of the Act is satisfied by virtue of conduct forming part of a course of criminal activity under section 223(3)(a) of the Act, the court must not take into account benefit from conduct constituting an offence mentioned in section 223(5)(c) of the Act which was committed before 24th March 2003.

(4) Conduct shall form part of a course of criminal activity under section 223(3)(b) of the Act, notwithstanding that any of the offences of which the defendant was convicted on at least two separate occasions in the period mentioned in section 223(3)(b) were committed before 24th March 2003.

(5) Where the court is applying the rule in section 223(5) of the Act on the calculation of relevant benefit for the purposes of determining whether or not the test in section 223(2)(b) of the Act is satisfied by virtue of conduct forming part of a course of criminal activity under section 223(3)(b) of the Act, the court may take into account benefit from conduct constituting an offence committed before 24th March 2003.

(6) Where the court is applying the rule in section 223(6) of the Act on the calculation of relevant benefit for the purposes of determining whether or not the test in section 223(2)(c) of the Act is satisfied, the court must not take into account benefit from conduct constituting an offence mentioned in section 223(6)(b) of the Act which was committed before 24th March 2003.”.

Home Office
6th March 2003

Bob Ainsworth
Parliamentary Under-Secretary of State

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends the transitional provisions relating to the criminal lifestyle test in the Proceeds of Crime Act 2002 (Commencement No. 5, Transitional Provisions, Savings and Amendment) Order 2003 (S.I. 2003/333 (C. 20)).

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£1.75

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E0370 3/03 ON (MFK)