



Number 1 of 2005

PROCEEDS OF CRIME (AMENDMENT) ACT 2005

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, collective citation and construction.
2. Interpretation.

PART 2

AMENDMENTS TO PRINCIPAL ACT

3. Amendment of section 1 (interpretation) of Principal Act.
4. Amendment of section 2 (interim order) of Principal Act.
5. Amendment of section 3 (interlocutory order) of Principal Act.
6. Amendment of section 4 (disposal order) of Principal Act.
7. New section 4A in Principal Act.
8. Amendment of section 6 (order in relation to property the subject of interim order or interlocutory order) of Principal Act.
9. Amendment of section 8 (evidence and proceedings under Act) of Principal Act.
10. Non-application to Principal Act of section 11(7) of Statute of Limitations 1957.
11. Amendment of section 9 (affidavit specifying property and income of respondent) of Principal Act.
12. New sections 16A and 16B in Principal Act.

PART 3

AMENDMENTS TO ACT OF 1996

Section

13. Amendment of section 1 (interpretation) of Act of 1996.
14. Amendment of section 4 (objectives of Bureau) of Act of 1996.
15. Amendment of section 5 (functions of Bureau) of Act of 1996.
16. Amendment of section 14 (search warrants) of Act of 1996.
17. Amendment of maximum amount of certain fines in Act of 1996.
18. New sections 14A, 14B and 14C in Act of 1996.

PART 4

AMENDMENTS TO ACT OF 1994

19. Amendment of Title to Part VI of Act of 1994.
20. Amendment of section 38 (seizure and detention) of Act of 1994.
21. Amendment of section 39 (forfeiture of seized cash) of Act of 1994.
22. Amendment of section 43 (interpretation of Part VI) of Act of 1994.

PART 5

AMENDMENTS TO ACT OF 2001

23. New sections 2A, 2B and 2C in Act of 2001.

ACTS REFERRED TO

Criminal Assets Bureau Act 1996	1996, No. 31
Criminal Justice Act 1994	1994, No. 15
Ethics in Public Office Act 1995	1995, No. 22
Local Government Act 2001	2001, No. 37
Official Secrets Act 1963	1963, No. 1
Prevention of Corruption Act 1906	6 Edw. 7. c. 34
Prevention of Corruption Acts 1889 to 2001	
Prevention of Corruption (Amendment) Act 2001	2001, No. 27
Proceeds of Crime Act 1996	1996, No. 30
Statute of Limitations 1957	1957, No. 6
Taxes Consolidation Act 1997	1997, No. 39



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PROCEEDS OF CRIME (AMENDMENT) ACT 2005

AN ACT TO MAKE FURTHER PROVISION IN RELATION TO THE RECOVERY AND DISPOSAL OF PROCEEDS OF CRIME AND FOR THAT PURPOSE TO AMEND THE PROCEEDS OF CRIME ACT 1996, THE CRIMINAL ASSETS BUREAU ACT 1996, THE CRIMINAL JUSTICE ACT 1994 AND THE PREVENTION OF CORRUPTION (AMENDMENT) ACT 2001.

[12th February, 2005]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

1.—(1) This Act may be cited as the Proceeds of Crime (Amendment) Act 2005. Short title, collective citation and construction.

(2) The Principal Act and *Part 2* of this Act may be cited together as the Proceeds of Crime Acts 1996 and 2005.

(3) The Act of 1996 and *Part 3* of this Act may be cited together as the Criminal Assets Bureau Acts 1996 and 2005.

(4) The Prevention of Corruption Acts 1889 to 2001 and *Part 5* of this Act may be cited together as the Prevention of Corruption Acts 1889 to 2005.

2.—In this Act—

Interpretation.

“Act of 1994” means the Criminal Justice Act 1994;

“Act of 1996” means the Criminal Assets Bureau Act 1996;

“Act of 2001” means the Prevention of Corruption (Amendment) Act 2001;

“Principal Act” means the Proceeds of Crime Act 1996.

PART 2

AMENDMENTS TO PRINCIPAL ACT

Amendment of
section 1
(interpretation) of
Principal Act.

3.—Section 1 of the Principal Act is hereby amended—

(a) in subsection (1)—

(i) by the substitution of the following definitions for those of “the applicant”, “proceeds of crime”, “property” and “the respondent”:

“the applicant’ means a person, being a member, an authorised officer or the Criminal Assets Bureau, who has applied to the Court for the making of an interim order or an interlocutory order and, in relation to such an order that is in force, means, as appropriate, any member, any authorised officer or the Criminal Assets Bureau;

‘proceeds of crime’ means any property obtained or received at any time (whether before or after the passing of this Act) by or as a result of or in connection with criminal conduct;

‘property’, in relation to proceeds of crime, includes—

(a) money and all other property, real or personal, heritable or moveable,

(b) choses in action and other intangible or incorporeal property, and

(c) property situated outside the State where—

(i) the respondent is domiciled, resident or present in the State, and

(ii) all or any part of the criminal conduct concerned occurs therein,

and references to property shall be construed as including references to any interest in property;

‘the respondent’ means a person, wherever domiciled, resident or present, in respect of whom an interim order or interlocutory order, or an application for such an order, has been made and includes any person who, but for this Act, would become entitled, on the death of the first-mentioned person, to any property to which such an order relates (being an order that is in force and is in respect of that person);”,

and

(ii) by the insertion of the following definitions:

“‘consent disposal order’ means an order under section 3(1A) or 4A(1);

‘criminal conduct’ means any conduct—

- (a) which constitutes an offence or more than one offence, or
- (b) which occurs outside the State and which would constitute an offence or more than one offence—
 - (i) if it occurred within the State,
 - (ii) if it constituted an offence under the law of the state or territory concerned, and
 - (iii) if, at the time when an application is being made for an interim order or interlocutory order, any property obtained or received at any time (whether before or after the passing of this Act) by or as a result of or in connection with the conduct is situated within the State;”,

and

(b) by the insertion, after subsection (1), of the following:

“(1A) (a) For the avoidance of doubt, a person shall be deemed for the purposes of this Act to be in possession or control of property notwithstanding that it (or any part of it)—

- (i) is lawfully in the possession of any member of the Garda Síochána, any officer of the Revenue Commissioners or any other person, having been lawfully seized or otherwise taken by any such member, officer or person,
- (ii) is subject to an interim order or interlocutory order or any other order of a court which—
 - (I) prohibits any person from disposing of or otherwise dealing with it or diminishing its value, or
 - (II) contains any conditions or restrictions in that regard,or is to the like effect,

or

- (iii) is subject to a letting agreement, the subject of a trust or otherwise occupied by another person or is inaccessible,

and references in this Act to the possession or control of property shall be construed accordingly.

(b) Paragraph (a)(ii) is without prejudice to sections 11(2) and 13(2).”.