
STATUTORY INSTRUMENTS

2015 No. 983 (C. 64)

PROCEEDS OF CRIME

The Policing and Crime Act 2009 (Commencement No. 10, Transitional Provision and Savings) Order 2015

Made - - - - 26th March 2015

The Secretary of State, in exercise of the powers conferred by section 116(1) and (7) of the Policing and Crime Act 2009⁽¹⁾, makes the following Order:

Citation, interpretation and extent

1.—(1) This Order may be cited as the Policing and Crime Act 2009 (Commencement No. 10, Transitional Provision and Savings) Order 2015.

(2) In this Order—

“the 2002 Act” means the Proceeds of Crime Act 2002⁽²⁾;

“the 2009 Act” means the Policing and Crime Act 2009; and

“detained cash investigation” has the meaning given by section 341(3A) of the 2002 Act (investigations)⁽³⁾.

(3) The following do not extend to Northern Ireland—

(a) article 2(2)(a), in so far as it relates to section 66 of the 2009 Act;

(b) article 2(2)(b) and (g);

(c) article 3(1)(ff), in so far as it relates to paragraph 108 of Schedule 7 to the 2009 Act;

(d) article 3(1)(gg); and

(e) article 3(1)(hh), in so far as it relates to paragraph 110 of Schedule 7 to the 2009 Act.

Provisions coming into force on 1st June 2015

2.—(1) The provisions of the 2009 Act set out in paragraph (2), so far as not already in force, come into force on 1st June 2015 to the extent specified in that paragraph.

(2) The provisions are—

(1) 2009 c. 26, section 116 is amended by 2010/976 and 2012/2595.

(2) 2002 c. 29.

(3) Subsection (3A) is inserted by section 75 of the Serious Crime Act 2007 (c. 27), and amended by paragraph 110 of Schedule 7 to the Policing and Crime Act 2009 and paragraph 25 of Schedule 19 to the Crime and Courts Act 2013 (c. 22).

- (a) sections 52, 53, 55, 56, 58, 59 and 66;
- (b) section 63 except in section 289(5)(c) of the 2002 Act (searches)(4), as substituted by subsection (4), the words “or Northern Ireland” on the three occasions they appear;
- (c) section 65 except—
 - (i) in section 297A(1) of the 2002 Act (forfeiture notice)(5), as inserted by subsection (1), the words “or Northern Ireland”;
 - (ii) in section 297E(2) of the 2002 Act (application to set aside forfeiture), as inserted by subsection (1), the words “or Northern Ireland”;
- (d) section 112 in so far as it relates to the provisions in paragraphs (e) to (g) of this article;
- (e) the paragraphs in Parts 6 to 8 of Schedule 7 mentioned in article 3, to the extent specified in that article;
- (f) Part 4 of Schedule 8 except in so far as it relates to—
 - (i) sections 194(6) and 235 of the 2002 Act;
 - (ii) the Access to Justice (Northern Ireland) Order 2003(7); and
 - (iii) section 78(3) and (4) of the Serious Crime Act 2007; and
- (g) Part 5 of Schedule 8.

Schedule 7 to the 2009 Act

- 3. The paragraphs in Parts 6 to 8 of Schedule 7 are—
 - (a) paragraph 46;
 - (b) paragraph 47 except in section 7(1) of the Bankruptcy (Scotland) Act 1985 (meaning of apparent insolvency)(8), in the definition of “relevant detention power” as inserted by sub-paragraph (b), the text “, 193A, 195J, 195K, 195M or 195P”;
 - (c) paragraph 48 except in section 31A(1) of the Bankruptcy (Scotland) Act 1985 (property subject to restraint order)(9)—
 - (i) in the words substituted by sub-paragraph (2)(a), the text “or 215A”;
 - (ii) in the words inserted by sub-paragraph (2)(b), the text “, 193A or 195J”;
 - (d) paragraphs 49 to 51;
 - (e) paragraph 52 except in section 31C(2) of the Bankruptcy (Scotland) Act 1985 (property subject to certain orders where confiscation order discharged or quashed)(10), as substituted by sub-paragraph (3), the text “or 190A”;
 - (f) paragraph 53;
 - (g) paragraph 54 except in section 306A(1) of the Insolvency Act 1986 (property subject to restraint order)(11)—
 - (i) in the words substituted by sub-paragraph (2)(a), the text “or 215A”;

(4) Section 289(5)(c) is amended by paragraph 2 of Schedule 11 to the Serious Crime Act 2007 (c. 27).

(5) Section 297A is amended by paragraph 28 of Schedule 21 to the Crime and Courts Act 2013.

(6) Section 194 is amended by section 78 of the Serious Crime Act 2007.

(7) S.I. 2003/435 (N.I. 10); there are amendments but none relevant to this Order.

(8) 1985 c. 66; a relevant amendment is made to section 7(1) by section 45 of the Criminal Justice (Scotland) Act 1987 (c. 41). There are other amendments but none relevant to this Order.

(9) Section 31A is inserted by paragraph 15 of Schedule 11 to the Proceeds of Crime Act 2002, and subsection (1) is amended by paragraph 150 of Schedule 8, and Schedule 14, to the Serious Crime Act 2007.

(10) Section 31C is inserted by paragraph 15 of Schedule 11 to the Proceeds of Crime Act 2002; there are amendments but none relevant to this Order.

(11) 1986 c. 45; section 306A is inserted by paragraph 16 of Schedule 11 to the Proceeds of Crime Act 2002, and subsection (1) is amended by paragraph 151 of Schedule 8, and Schedule 14, to the Serious Crime Act 2007.

- (ii) in the words inserted by sub-paragraph (2)(b), the text “, 193A or 195J”;
- (h) paragraphs 55 to 57;
- (i) paragraph 58 except in section 306C(2) of the Insolvency Act 1986 (property subject to certain orders where confiscation order discharged or quashed)(**12**), as substituted by sub-paragraph (3), the text “or 190A”;
- (j) paragraph 59;
- (k) paragraph 60 except in article 279A(1) of the Insolvency (Northern Ireland) Order 1989 (property subject to restraint order)(**13**)—
 - (i) in the words substituted by sub-paragraph (2)(a), the text “or 215A”;
 - (ii) in the words inserted by sub-paragraph (2)(b), the text “, 193A or 195J”;
- (l) paragraphs 61 to 63;
- (m) paragraph 64 except in article 279C(2) of the Insolvency (Northern Ireland) Order 1989 (property subject to certain orders where confiscation order discharged or quashed)(**14**), as substituted by sub-paragraph (3), the text “or 190A”;
- (n) paragraphs 66 to 73 and 75 to 77;
- (o) paragraph 78 except in section 308(8A) of the 2002 Act (recoverable property: exceptions)(**15**), as inserted, the text “, 193A, 195J, 195K, 195M or 195P”;
- (p) paragraph 79 except in section 417(2) of the 2002 Act (property excluded from estate of person adjudged bankrupt in England and Wales)(**16**), as substituted—
 - (i) in paragraph (b), the text “, 193A, 195J, 195K, 195M or 195P”;
 - (ii) in paragraph (d), the text “or 215A”;
- (q) paragraph 80 except—
 - (i) the word “and” at the end of sub-paragraph (2)(b);
 - (ii) sub-paragraph (2)(c);
 - (iii) in section 418(3)(f) of the 2002 Act (restriction of powers where person adjudged bankrupt in England and Wales)(**17**), as inserted by sub-paragraph (3), the text “or 215D(2)(c)”;
- (r) paragraph 81 except in section 419(2) of the 2002 Act (tainted gifts by person adjudged bankrupt in England and Wales)(**18**)—
 - (i) in paragraph (aa), as inserted by sub-paragraph (2)(a), the text “, 193A, 195J, 195K, 195M or 195P”;
 - (ii) in the words inserted by sub-paragraph (2)(b), the text “or 215A”;
- (s) paragraph 82 except in section 420(2) of the 2002 Act (property excluded from the debtor’s estate where sequestration in Scotland)(**19**), as substituted—
 - (i) in paragraph (b), the text “, 193A, 195J, 195K, 195M or 195P”;
 - (ii) in paragraph (d), the text “or 215A”;

(12) Section 306C is inserted by paragraph 16 of Schedule 11 to the Proceeds of Crime Act 2002.

(13) S.I. 1989/2405 (N.I. 19). Article 279A is inserted by paragraph 20 of Schedule 11 to the Proceeds of Crime Act 2002, and paragraph (1) is amended by paragraph 154 of Schedule 8, and Schedule 14, to the Serious Crime Act 2007.

(14) Article 279C is inserted by paragraph 20 of Schedule 11 to the Proceeds of Crime Act 2002.

(15) There are amendments to section 308 but none relevant to this Order.

(16) There are amendments to section 417(2) but none relevant to this Order.

(17) There is an amendment to section 418(3) but it is not relevant to this Order.

(18) There are amendments to section 419(2) but none relevant to this Order.

(19) There are amendments to section 420(2) but none relevant to this Order.

- (t) paragraph 83 except—
 - (i) the word “and” at the end of sub-paragraph (2)(b);
 - (ii) sub-paragraph (2)(c);
 - (iii) in section 421(3)(f) of the 2002 Act (restriction of powers where award of sequestration)(**20**), as inserted by sub-paragraph (3), the text “or 215D(2)(c)”;
- (u) paragraph 84 except in section 422(2) of the 2002 Act (tainted gifts by person whose estate is sequestrated in Scotland)(**21**)—
 - (i) in paragraph (aa), as inserted by sub-paragraph (2)(a), the text “, 193A, 195J, 195K, 195M or 195P”;
 - (ii) in the words inserted by sub-paragraph (2)(b), the text “or 215A”;
- (v) paragraph 85 except in section 423(2) of the 2002 Act (property excluded from estate of person adjudged bankrupt in Northern Ireland)(**22**), as substituted—
 - (i) in paragraph (b), the text “, 193A, 195J, 195K, 195M or 195P”;
 - (ii) in paragraph (d), the text “or 215A”;
- (w) paragraph 86 except—
 - (i) the word “and” at the end of sub-paragraph (2)(b);
 - (ii) sub-paragraph (2)(c);
 - (iii) in section 424(3)(f) of the 2002 Act (restriction of powers where person adjudged bankrupt in Northern Ireland)(**23**), as inserted by sub-paragraph (3), the text “or 215D(2)(c)”;
- (x) paragraph 87 except in section 425(2) of the 2002 Act (tainted gifts by person who is adjudged bankrupt in Northern Ireland)(**24**)—
 - (i) in paragraph (aa), as inserted by sub-paragraph (2)(a), the text “, 193A, 195J, 195K, 195M or 195P”;
 - (ii) in the words inserted by sub-paragraph (2)(b), the text “or 215A”;
- (y) paragraph 88 except—
 - (i) in section 426(2) of the 2002 Act (winding up under the Insolvency Act 1986)(**25**), as substituted by sub-paragraph (2)—
 - (aa) in paragraph (b), the text “, 193A, 195J, 195K, 195M or 195P”;
 - (bb) in paragraph (d), the text “or 215A”;
 - (ii) the word “and” at the end of sub-paragraph (3)(b);
 - (iii) sub-paragraph (3)(c);
- (z) paragraph 89 except in section 427(3) of the 2002 Act (tainted gifts by company: winding up in England and Wales or Scotland)(**26**)—
 - (i) in paragraph (aa), as inserted by sub-paragraph (2)(a), the text “, 193A, 195J, 195K, 195M or 195P”;
 - (ii) in the words inserted by sub-paragraph (2)(b), the text “or 215A”;
- (aa) paragraph 90 except—

(20) Section 421(3) is amended by paragraph 73 of Schedule 8 to the Serious Crime Act 2007.

(21) Section 422(2) is amended by paragraph 73 of Schedule 8, and Schedule 14, to the Serious Crime Act 2007.

(22) There are amendments to section 423(2), but none relevant to this Order.

(23) Section 424(3) is amended by paragraph 76 of Schedule 8 to the Serious Crime Act 2007.

(24) Section 425(2) is amended by paragraph 77 of Schedule 8, and Schedule 14, to the Serious Crime Act 2007.

(25) There are amendments to section 426(2) but none relevant to this Order.

(26) Section 427(3) is amended by paragraph 79 of Schedule 8, and Schedule 14, to the Serious Crime Act 2007.

- (i) in section 428(2) of the 2002 Act (winding up under the Insolvency (Northern Ireland) Order 1989)(27), as substituted by sub-paragraph (2)—
 - (aa) in paragraph (b), the text “, 193A, 195J, 195K, 195M or 195P”;
 - (bb) in paragraph (d), the text “or 215A”;
- (ii) the word “and” at the end of sub-paragraph (3)(b);
- (iii) sub-paragraph (3)(c);
- (bb) paragraph 91 except in section 429(3) of the 2002 Act (tainted gifts by company: winding up in Northern Ireland)(28)—
 - (i) in paragraph (aa), as inserted by sub-paragraph (2)(a), the text “, 193A, 195J, 195K, 195M or 195P”;
 - (ii) in the words inserted by sub-paragraph (2)(b), the text “or 215A”;
- (cc) paragraph 92 except—
 - (i) in section 430(2) of the 2002 Act (restriction of powers where company holds property subject to floating charge)(29), as substituted by sub-paragraph (2)—
 - (aa) in paragraph (b), the text “, 193A, 195J, 195K, 195M or 195P”;
 - (bb) in paragraph (d), the text “or 215A”;
 - (ii) the word “and” at the end of sub-paragraph (3)(b);
 - (iii) sub-paragraph (3)(c);
- (dd) paragraph 93 except in section 432 of the 2002 Act (insolvency practitioners)—
 - (i) in subsection (6A)(a), as inserted by sub-paragraph (2), the text “, 193A, 195J, 195K, 195M or 195P”;
 - (ii) in so far as sub-paragraph (3) substitutes subsection (7)(c);
- (ee) paragraph 94 except in section 453A(5)(a) of the 2002 Act (offences in relation to financial investigators)(30), as substituted, the text “or 195C to 195F”;
- (ff) paragraphs 99 to 108;
- (gg) paragraph 109 except in section 302(1) of the 2002 Act (compensation), as substituted by sub-paragraph (2), the words “or Northern Ireland”; and
- (hh) paragraphs 110 to 111 and 113 to 115.

Transitional provision and savings

4.—(1) Notwithstanding the commencement of section 55(3) of the 2009 Act, section 45 of the 2002 Act (seizure in England and Wales) continues to apply in relation to property which, at the time of commencement, is subject to the directions of a court made under subsection (2) of that section.

(2) In relation to property to which paragraph (1) applies, section 41A of the 2002 Act (restraint orders: power to retain seized property etc in England and Wales) has effect as if “relevant seizure power” included section 45 of that Act.

(3) Notwithstanding the commencement of section 56(3) of the 2009 Act, section 126 of the 2002 Act (seizure in Scotland) continues to apply in relation to property which, at the time of commencement, is subject to the directions of a court made under subsection (2) of that section.

(27) There are amendments to section 428(2) but none relevant to this Order.

(28) Section 429(3) is amended by paragraph 81 of Schedule 8, and Schedule 14, to the Serious Crime Act 2007.

(29) There are amendments to section 430(2) but none relevant to this Order.

(30) Section 453A is inserted by paragraph 81 of the Serious Crime Act 2007.