Draft Order in Council laid before Parliament under section 85(3) of the Northern Ireland Act 1998 for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2001 No. (N.I.)

NORTHERN IRELAND

Financial Investigations (Northern Ireland) Order 2001

Made - - - - 2001
Coming into operation on days to be appointed under Article 1(2)

At the Court at , the day of 2001

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by section 85 of the Northern Ireland Act 1998(**1**)and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Financial Investigations (Northern Ireland) Order 2001.

(2) This Order shall come into operation on such day or days as the Secretary of State may by order appoint.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(**2**) shall apply to Article 1 and the following provisions of this Order as it applies to an Act of the Northern Ireland Assembly.

(2) In this Order "the 1996 Order" means the Proceeds of Crime (Northern Ireland) Order 1996.(**3**)

(**1**) 1998 c. 47.
(**2**) 1954 c. 33 (N.I.).
(**3**) 1996 NI 9.

Additional investigation powers

3.—(1) Article 49 of the 1996 Order (additional investigation powers) shall be amended as follows.

(2) In paragraph (1)—

(a) for the words "an officer of the Royal Ulster Constabulary not below the rank of superintendent" there shall be substituted the words "a senior officer of an enforcement authority";

(b) in sub-paragraph (a)—

(i) for the words "Royal Ulster Constabulary" there shall be substituted the words "authority; and"

(ii) in head (ii), for the words "the proceeds of any such conduct" there shall be substituted the words "any relevant property"; and

(c) in sub-paragraph (b), after the words "a police officer" there shall be inserted the words "or customs officer".

(3) After paragraph (1) there shall be inserted the following paragraph—

"(1A) If, on an application made by a senior officer of an enforcement authority by complaint on oath, a county court judge is satisfied—

(a) that an investigation by the authority into—

(i) whether any person has benefited from any conduct to which this Article applies; or

(ii) the extent or whereabouts of any relevant property;

is taking place; and

(b) that the investigation could be more effectively carried out if a person named in the application who is a police officer or customs officer were authorised to exercise for the purposes of the investigation the powers conferred by paragraphs 3 and 3A of Schedule 2; and

(c) that, having regard to the particular investigation, that person is a fit and proper person to be appointed,

he may authorise that person to exercise, for the purposes of the investigation the powers conferred by paragraphs 3 and 3A of Schedule 2.".

(4) In paragraphs (2) and (3), after the words "paragraph (1)" there shall be inserted the words "or (1A)".

(5) For paragraph (5) there shall be substituted the following paragraph—

"(5) In this Article—

"customs officer" means an officer commissioned by the Commissioners of Customs and Excise;

"enforcement authority" means—

(a) the Royal Ulster Constabulary; or

(b) the Commissioners of Customs and Excise;

"police officer" has the same meaning as in Article 2(2) of the Police and Criminal Evidence (Northern Ireland) Order 1989(**4**);

"relevant property" means—

(**4**) 1989 NI 12.

(a) the proceeds of any conduct to which this Article applies; or

(b) property held by a person who has benefited from such conduct or transferred by or to him at any time since the beginning of the period of 6 years ending with the date on which the application is made under paragraph (1) or (1A);

"senior officer of an enforcement authority" means—

(a) a police officer of at least the rank of superintendent; or

(b) a customs officer of at least such grade as is designated by the Commissioners of Customs and Excise as equivalent to that rank.".

(6) In the definition of "financial investigator" in Article 2(2) of that Order, for "49" there shall be substituted "49(1)".

Order to make material available and authority for search

4.—(1) In Article 50 of the 1996 Order (order to make material available)—

(a) in paragraph (1), for the words "the proceeds of any such conduct" there shall be substituted the words "any relevant property";

(b) in paragraph (2), after the word "constable" in both places where it occurs there shall be inserted the words "or a financial investigator";

(c) in paragraph (4)(a), at the end of head (ii) there shall be inserted—

"or

(iii) (in any case) has at any time held relevant property,";

(d) in paragraph (5), after the word "constable" in the second place where it occurs there shall be inserted the words "or a financial investigator";

(e) after paragraph (6) there shall be inserted the following paragraph—

"(6A) Paragraph (6) does not apply to an application made for an order addressed to a solicitor if for the purposes of the same investigation the solicitor has been required to furnish information under paragraph 3A of Schedule 2.".

(2) In Article 51 of that Order (authority for search)—

(a) in paragraph (1)(b), for the words "the proceeds of any such conduct" there shall be substituted the words "any relevant property";

(b) in paragraph (3)(a), at the end of head (ii) there shall be inserted—

"or

(iii) (in any case) has at any time held relevant property,";

(c) in paragraph (4)—

(i) in sub-paragraph (a), at the end of head (ii) there shall be inserted—

"or

(iii) (in any case) has at any time held relevant property,";

(ii) in sub-paragraph (b)(ii), for the words "the proceeds of any such conduct" there shall be substituted the words "any relevant property".

(3) In Article 52 of that Order (supplementary provisions)—

(a) in paragraph (1)(a)(ii), for the words "the proceeds of any such conduct" there shall be substituted the words "any relevant property";