
STATUTORY INSTRUMENTS

1996 No. 1299 (N.I. 9)

The Proceeds of Crime (Northern Ireland) Order 1996

- - - - - 15th May 1996

PART I
INTRODUCTORY

Title and commencement

- 1.—(1) This Order may be cited as the Proceeds of Crime (Northern Ireland) Order 1996.
(2) This Order shall come into operation on 25th August 1996.

Interpretation

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

(2) In this Order—

“authorised government department” means a government department or a Northern Ireland department which is an authorised department for the purposes of the Crown Proceedings Act 1947;

Definitions rep. by 2002 c. 29

“financial investigator” means a person authorised under Article^[F1 49(1)] to exercise the powers conferred by Schedule 2;

Definitions rep. by 2002 c. 29

“statutory provision” has the meaning assigned to it by section 1 (f) of the Interpretation Act (Northern Ireland) 1954.

Paras. (3)#(10) rep. by 2002 c. 29

(11) Subject to paragraph 1(1) and (5) of Schedule 4, references in this Order to drug trafficking include references to any trafficking carried out before the coming into operation of this Order.

Para. (12) rep. by 2002 c. 29

F1 2001 NI 1

Art. 3 rep. by 2002 c. 29

PART II

CONFISCATION ORDERS

Arts. 4#40 rep. by 2002 c. 29

Enforcement of orders made outside Northern Ireland

Art. 41 rep. by 2002 c. 29

^{F2}Enforcement of external confiscation orders

42.—(1) The Secretary of State may by order—

- (a) direct in relation to a country or territory outside the United Kingdom designated by an Order in Council under section 39 of the Drug Trafficking Act 1994 or section 96 of the Criminal Justice Act 1988 (“a designated country”) that, subject to such modifications as may be specified, this Order shall apply to external confiscation orders and to proceedings which have been or are to be instituted in the designated country and may result in an external confiscation order being made there;
- (b) make—
 - (i) such provision in connection with the taking of action in the designated country with a view to satisfying a confiscation order;
 - (ii) such provision as to evidence or proof of any matter for the purposes of this Article and Article 43; and
 - (iii) such incidental, consequential and transitional provision, as appears to the Secretary of State to be expedient; and
- (c) without prejudice to the generality of this paragraph, direct that in such circumstances as may be specified proceeds which arise out of action taken in the designated country with a view to satisfying a confiscation order and which are retained there shall nevertheless be treated as reducing the amount payable under the order to such extent as may be specified.

(2) The power to make an order under this Article includes power to modify this Order in such a way as to confer power on a person to exercise a discretion.

(3) An order under paragraph (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

F2 prosp. rep. by [2002 c. 29](#)

^{F3}Registration of external confiscation orders

43.—(1) On an application made by or on behalf of the government of a designated country, the High Court may register an external confiscation order made there if—

- (a) it is satisfied that at the time of registration the order is in force and not subject to appeal;
- (b) it is satisfied, where the person against whom the order is made did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and
- (c) it is of the opinion that enforcing the order in Northern Ireland would not be contrary to the interests of justice.

Changes to legislation: The Proceeds of Crime (Northern Ireland) Order 1996 is up to date with all changes known to be in force on or before 15 March 2022. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

- (2) In paragraph (1) “appeal” includes—
- (a) any proceedings by way of discharging or setting aside a judgment; and
 - (b) an application for a new trial or a stay of execution.
- (3) The High Court shall cancel the registration of an external confiscation order if it appears to the Court that the order has been satisfied by payment of the amount due under it.
- (4) In this Article “designated country” has the same meaning as in Article 42.

F3 prosp. rep. by 2002 c. 29

Part III (Arts. 44#48) rep. by 2002 c. 29

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Additional investigation powers

49.—(1) If, on an application made by [^{F4} a senior officer of an enforcement authority], by complaint on oath, a [^{F5} Crown Court] judge is satisfied—

- (a) that [^{F5} a confiscation investigation] is taking place; and
- (b) that the investigation could be more effectively carried out with the participation of a person who is not a police officer [^{F6} or customs officer] and who is [^{F7} an accredited financial investigator] named in the application;^{F8} . . .

Sub#para. (c) rep. by 2002 c. 29

he may authorise that person (“a financial investigator”) to exercise for the purposes of the investigation the powers conferred by Schedule 2.

[^{F6}(1A) If, on an application made by [^{F7}[^{F9}a senior National Crime Agency officer] or] a senior officer of an enforcement authority by complaint on oath, a [^{F5} Crown Court] judge is satisfied—

- (a) that [^{F5} a confiscation investigation] is taking place; and
- (b) that the investigation could be more effectively carried out if [^{F7}[^{F10} a member of staff of the Agency] or] 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 [^{F5} paragraph 3A] of Schedule 2; ^{F8} . . .

Sub#para. (c) rep. by 2002 c. 29

he may authorise [^{F7}[^{F10}a member of staff of the Agency] or] that person to exercise, for the purposes of the investigation the powers conferred by [^{F5} paragraph 3A] of Schedule 2.]

[^{F11}(1B) If, on an application made by [^{F12}[^{F13}a National Crime Agency officer] or a relevant Director], a judge of the High Court is satisfied—

- (a) that a civil recovery investigation is taking place; and
- (b) that the investigation could be more effectively carried out if [^{F14}a member of staff of the Agency or] the Director were authorised to exercise for the purposes of the investigation the powers conferred by paragraph 3A of Schedule 2,

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the judge may authorise [^{F14}a member of staff of the Agency or] the Director to exercise those powers for that purpose.]

(2) An application under [^{F11} this Article] may be made ex parte to a judge in chambers.

(3) Crown Court rules may make provision as to the procedure for applications under paragraph (1) [^{F6} or (1A)] [^{F11} and rules of court may make provision as to the procedure for applications under paragraph (1B)].

Para. (4) rep. by 2002 c. 29

[^{F4}(5) In this Article—

[^{F7}“accredited financial investigator” has the meaning given by section 3(5) of the Proceeds of Crime Act 2002;

“confiscation investigation” has the same meaning as it has for the purposes of Part 8 of that Act by virtue of section 341(1);]

[^{F11}“civil recovery investigation” has the same meaning as it has for the purposes of Part 8 of that Act by virtue of section 341(2) and (3);]

Definition rep. by 2002 c. 29

“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;

[^{F15} “ relevant Director ” means the Director of the Serious Fraud Office or the Director of Public Prosecutions for Northern Ireland;]

Definition rep. by 2002 c. 29

[^{F16} “ [^{F17}senior National Crime Agency officer] ” means—

- (a) the Director General of the [^{F18}National Crime Agency]; or
- (b) [^{F19}any National Crime Agency officer] authorised by the Director General (whether generally or specifically) for the purpose of this Article;]

“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.]

F4 2001 NI 1

F5 2002 c. 29

F6 2001 NI 1

F7 2002 c. 29

F8 2002 c. 29

F9 Words in art. 49(1A) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 8 para. 53\(2\)](#); S.I. 2013/1682, art. 3(v)

F10 Words in art. 49(1A) substituted (1.4.2008) by [Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 \(Consequential and Supplementary Amendments to Secondary Legislation\) Order 2008 \(S.I. 2008/574\)](#), art. 2, [Sch. para. 5\(2\)\(b\)](#)

F11 2005 NI 15

- F12** Words in art. 49(1B) substituted (1.4.2008) by Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008 (S.I. 2008/574), art. 2, **Sch. para. 5(3)(a)**
- F13** Words in art. 49(1B) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 53(3)**; S.I. 2013/1682, art. 3(v)
- F14** Words in art. 49(1B) inserted (1.4.2008) by Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008 (S.I. 2008/574), art. 2, **Sch. para. 5(3)(b)**
- F15** Art. 49(5): definition inserted (1.4.2008) by Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008 (S.I. 2008/574), art. 2, **Sch. para. 5(4)**
- F16** Art. 49(5): definition inserted (1.4.2008) by Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008 (S.I. 2008/574), art. 2, **Sch. para. 5(4)**
- F17** Words in art. 49(5) substituted (7.10.2013) by virtue of Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 53(4)(a)**; S.I. 2013/1682, art. 3(v)
- F18** Words in art. 49(5) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 53(4)(b)**; S.I. 2013/1682, art. 3(v)
- F19** Words in art. 49(5) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 53(4)(c)**; S.I. 2013/1682, art. 3(v)

Order to make material available

50.—(1) A constable or a financial investigator may for the purposes of an investigation into^{F20} drug trafficking] apply to a^{F20} Crown Court] judge for an order under paragraph (2) in relation to particular material or material of a particular description.

(2) Subject to Article 54(11), if on such an application the judge is satisfied that the conditions in paragraph (4) are fulfilled, he may make an order that the person who appears to him to be in possession of the material to which the application relates shall—

- (a) produce it to a constable^{F21} or a financial investigator] for him to take away, or
- (b) give a constable^{F21} or a financial investigator] access to it,

within such period as the order may specify.

(3) The period to be specified in an order under paragraph (2) shall be 7 days unless it appears to the judge that a longer or shorter period would be appropriate in the particular circumstances of the application.

(4) The conditions referred to in paragraph (2) are—

- (a) that there are reasonable grounds for suspecting that a specified person^{F20} has carried on drug trafficking]
- (b) that there are reasonable grounds for suspecting that the material to which the application relates—
 - (i) is likely to be of substantial value (whether by itself or together with other material) to the investigation for the purpose of which the application is made, and
 - (ii) does not consist of or include items subject to legal privilege or excluded material, and
- (c) that there are reasonable grounds for believing that it is in the public interest, having regard—
 - (i) to the benefit likely to accrue to the investigation if the material is obtained, and