



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 4

#### CONFISCATION: NORTHERN IRELAND

*[<sup>F1</sup> Code of practice about search and seizure and detention of property: Secretary of State*

#### Textual Amendments

- F1** Ss. 195A-195T and cross-headings inserted (22.11.2014 for the insertion of ss. 195S(1)-(5), 195T(1)-(7) for specified purposes, 1.3.2016 in so far as not already in force) by [Policing and Crime Act 2009](#) (c. 26), [ss. 57\(2\), 116\(1\)](#) (as amended by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2012](#) (S.I. 2012/2595), [arts. 1\(2\), 18\(2\)\(m\)](#) (with arts. 24-28); S.I. 2014/3101, [art. 3](#); S.I. 2016/147, [art. 3\(b\)](#))

#### 195S Codes of practice [<sup>F2</sup>: Secretary of State]

- (1) The Secretary of State must make a code of practice in connection with—
- (a) the carrying out by [<sup>F3</sup>officers of Revenue and Customs][<sup>F4</sup>, immigration officers and SFO officers] of the functions conferred by section 195C to 195H,
  - (b) the carrying out by senior officers of their functions under section 195G, and
  - <sup>F5</sup>(c) the detention of property [<sup>F6</sup>by officers of Revenue and Customs [<sup>F7</sup>, immigration officers][<sup>F5</sup>, SFO officers] and members of staff of SOCA][by officers of Revenue and Customs and [<sup>F8</sup>NCA officers]] under or by virtue of sections 190A, 193A and 195J to 195P.

[<sup>F9</sup>(1A) In subsection (1) senior officers means—

- (a) officers of Revenue and Customs of a rank designated by the Commissioners for Her Majesty's Revenue and Customs as equivalent to that of a senior police officer,
- (b) immigration officers of a rank designated by the Secretary of State as equivalent to that of a senior police officer.

*Status: Point in time view as at 28/06/2021.*

*Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Code of practice about search and seizure and detention of property: Secretary of State is up to date with all changes known to be in force on or before 04 September 2024. 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)*

[<sup>F10</sup>(c) the Director of the Serious Fraud Office.]

(1B) A senior police officer means a police officer of at least the rank of inspector.]

- (2) Where the Secretary of State proposes to issue a code of practice the Secretary of State must—
- (a) publish a draft,
  - (b) consider any representations made about the draft,
  - (c) if the Secretary of State thinks appropriate, modify the draft in the light of any such representations.

[ The Secretary of State must also consult the Attorney General about the draft in its  
<sup>F11</sup>(2A) application to the exercise of powers by SFO officers and the Director of the Serious Fraud Office.]

- (3) The Secretary of State must lay a draft of the code before Parliament.
- (4) When the Secretary of State has laid a draft of the code before Parliament the Secretary of State may bring it into operation by order.
- (5) The Secretary of State may revise the whole or any part of the code and issue the code as revised; and subsections (2) to (4) apply to such a revised code as they apply to the original code.
- (6) A failure by a person to comply with a provision of the code does not of itself make the person liable to criminal or civil proceedings.
- (7) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.

#### Textual Amendments

- F2** Words in s. 195S title inserted (22.11.2014 for specified purposes, 1.3.2016 in so far as not already in force) by 2009 c. 26, s. 57(2) (as amended by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), 18(2)(i) (with arts. 24-28); S.I. 2014/3101, art. 3; S.I. 2016/147, art. 3(b))
- F3** Words in s. 195S(1)(a) substituted (22.11.2014 for specified purposes, 1.3.2016 in so far as not already in force) by 2009 c. 26, s. 57(2) (as amended by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), 18(2)(j) (with arts. 24-28); S.I. 2014/3101, art. 3; S.I. 2016/147, art. 3(b))
- F4** Words in s. 195S(1)(a) substituted (27.4.2017 for specified purposes, 28.6.2021 in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), Sch. 1 para. 10(2)(a); S.I. 2021/724, reg. 3(b)
- F5** Words in s. 195S(1)(c) inserted (27.4.2017 for specified purposes, 28.6.2021 in so far as not already in force) by Criminal Finances Act 2017 (c. 22), s. 58(1)(6), Sch. 1 para. 10(2)(b); S.I. 2021/724, reg. 3(b)
- F6** Words in s. 195S(1)(c) inserted (22.11.2014 for specified purposes, 1.3.2016 in so far as not already in force) by 2009 c. 26, s. 57(2) (as amended by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595), arts. 1(2), 18(2)(k) (with arts. 24-28); S.I. 2014/3101, art. 3; S.I. 2016/147, art. 3(b))
- F7** Words in s. 195S(1)(c) inserted (13.2.2015) by The Crime and Courts Act 2013 (Consequential Amendments) Order 2015 (S.I. 2015/230), arts. 1(1), 2(b)
- F8** Words in s. 195S(1)(c) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 8 para. 118; S.I. 2013/1682, art. 3(v)

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- F9** S. 195S(1A)(1B) substituted for s. 195S(1A) (13.2.2015) by [The Crime and Courts Act 2013 \(Consequential Amendments\) Order 2015 \(S.I. 2015/230\)](#), arts. 1(1), 2(c)
- F10** S. 195S(1A)(c) inserted (27.4.2017 for specified purposes, 28.6.2021 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 10\(3\)](#); S.I. 2021/724, reg. 3(b)
- F11** S. 195S(2A) inserted (27.4.2017 for specified purposes, 28.6.2021 in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(1)(6), [Sch. 1 para. 10\(4\)](#); S.I. 2021/724, reg. 3(b)

## 195T Codes of practice: Department of Justice

- (1) The Department of Justice must make a code of practice in connection with—
  - (a) the carrying out by constables and accredited financial investigators of the functions conferred by sections 195C to 195H,
  - (b) the carrying out by senior officers of their functions under section 195G, and
  - (c) the detention of property by—
    - (i) constables,
    - (ii) accredited financial investigators, and
    - (iii) members of staff of the relevant director (within the meaning of section 352(5A)(b)),under or by virtue of sections 190A, 193A and 195J to 195P.
- (2) In subsection (1)(b) senior officers means—
  - (a) police officers of at least the rank of inspector,
  - (b) accredited financial investigators who fall within a description specified in an order made for this purpose by the Secretary of State under section 453.
- (3) Where the Department of Justice proposes to issue a code of practice the Department of Justice must—
  - (a) publish a draft,
  - (b) consider any representations made about the draft,
  - (c) if the Department of Justice thinks appropriate, modify the draft in the light of any such representations.
- (4) The Department of Justice must lay a draft of the code before the Northern Ireland Assembly.
- (5) When the Department of Justice has laid a draft of the code before the Assembly the Department of Justice may bring it into operation by order.
- (6) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (4) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.
- (7) The Department of Justice may revise the whole or any part of the code and issue the code as revised; and subsections (3) to (6) apply to such a revised code as they apply to the original code.
- (8) A failure by a person to comply with a provision of the code does not of itself make the person liable to criminal or civil proceedings.
- (9) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.]

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**Changes to legislation:**

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