

*Status: Point in time view as at 01/05/2004.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 June 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)*

## SCHEDULES

### SCHEDULE 1

Section 1

#### ASSETS RECOVERY AGENCY

##### *Director's terms of appointment*

- 1 (1) The Director holds office for the period determined by the Secretary of State on his appointment (or re-appointment) to the office.
- (2) But—
  - (a) the Director may at any time resign by giving notice to the Secretary of State;
  - (b) the Secretary of State may at any time remove the Director from office if satisfied that he is unable or unfit to exercise his functions.
- 2 Subject to that, the Director holds office on the terms determined by the Secretary of State with the approval of the Minister for the Civil Service.

##### *Staff*

- 3 (1) The members of staff of the Agency must include—
  - (a) a deputy to the Director who is to act as Director during any vacancy in that office or if the Director is absent, subject to suspension or unable to act, and
  - (b) an assistant to the Director with responsibilities in relation to the exercise of the Director's functions in Northern Ireland.
- (2) But the Director must not appoint a person under sub-paragraph (1)(b) unless he first consults the Secretary of State.
- 4 The members of staff of the Agency hold office on the terms determined by the Director with the approval of the Minister for the Civil Service.

##### *Finances*

- 5 (1) These amounts are to be paid out of money provided by Parliament—
  - (a) the remuneration of the Director and the staff of the Agency;
  - (b) any expenses incurred by the Director or any of the staff in the exercise of his or their functions.
- (2) Subject to anything in this Act any sums received by the Director are to be paid into the Consolidated Fund.

##### *Annual plan*

- 6 (1) The Director must, before the beginning of each financial year apart from the first, prepare a plan setting out how he intends to exercise his functions during the financial year (an annual plan).

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- (2) The annual plan must, in particular, set out how the Director intends to exercise his functions in Northern Ireland.
- (3) The annual plan must also include a statement of—
  - (a) the Director’s objectives for the financial year;
  - (b) any performance targets which he has for the financial year (whether or not relating to his objectives);
  - (c) his priorities for the financial year;
  - (d) the financial resources expected to be available to him for the financial year;
  - (e) his proposed allocation of those resources.
- (4) Once the annual plan has been prepared the Director must send a copy to the Secretary of State for his approval.
- (5) If the Secretary of State does not approve the annual plan—
  - (a) he must give the Director his reasons for not approving it, and
  - (b) he may require the Director to revise it in the manner specified by the Secretary of State.
- (6) The Director must revise the annual plan, but if sub-paragraph (5)(b) applies he must do so in the manner specified by the Secretary of State.
- (7) The Director must send a copy of the revised annual plan to the Secretary of State for his approval.

#### *Annual report*

- 7 (1) The Director must, as soon as possible after the end of each financial year, prepare a report on how he has exercised his functions during the financial year.
- (2) The report for any financial year apart from the first must include—
  - (a) the Director’s annual plan for the financial year, and
  - (b) an assessment of the extent to which it has been carried out.
- (3) The Director must send a copy of each report to the Secretary of State who must—
  - (a) lay a copy of it before each House of Parliament, and
  - (b) arrange for it to be published.

#### *Meaning of “financial year”*

- 8 In this Schedule “financial year” means—
  - (a) the period beginning with the day on which section 1 comes into force and ending with the next 31 March (which is the first financial year), and
  - (b) each subsequent period of twelve months beginning with 1 April.

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## SCHEDULE 2

Section 75

### LIFESTYLE OFFENCES: ENGLAND AND WALES

#### *Drug trafficking*

- 1 (1) An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38)—
- (a) section 4(2) or (3) (unlawful production or supply of controlled drugs);
  - (b) section 5(3) (possession of controlled drug with intent to supply);
  - (c) section 8 (permitting certain activities relating to controlled drugs);
  - (d) section 20 (assisting in or inducing the commission outside the UK of an offence punishable under a corresponding law).
- (2) An offence under any of the following provisions of the Customs and Excise Management Act 1979 (c. 2) if it is committed in connection with a prohibition or restriction on importation or exportation which has effect by virtue of section 3 of the Misuse of Drugs Act 1971—
- (a) section 50(2) or (3) (improper importation of goods);
  - (b) section 68(2) (exploration of prohibited or restricted goods);
  - (c) section 170 (fraudulent evasion).
- (3) An offence under either of the following provisions of the Criminal Justice (International Co-operation) Act 1990 (c. 5)—
- (a) section 12 (manufacture or supply of a substance for the time being specified in Schedule 2 to that Act);
  - (b) section 19 (using a ship for illicit traffic in controlled drugs).

#### **Commencement Information**

**I1** Sch. 2 para. 1 in force at 24.3.2003 by [S.I. 2003/333, art. 2, Sch.](#)

#### *Money laundering*

- 2 An offence under either of the following provisions of this Act—
- (a) section 327 (concealing etc criminal property);
  - (b) section 328 (assisting another to retain criminal property).

#### **Commencement Information**

**I2** Sch. 2 para. 2 in force at 24.3.2003 by [S.I. 2003/333, art. 2, Sch.](#)

#### *Directing terrorism*

- 3 An offence under section 56 of the Terrorism Act 2000 (c. 11) (directing the activities of a terrorist organisation).

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#### Commencement Information

**I3** Sch. 2 para. 3 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

#### People trafficking

[<sup>F1</sup>4 (1) An offence under section 25, 25A or 25B of the Immigration Act 1971 (c. 77) (assisting unlawful immigration etc. ).

[<sup>F2</sup>(2) An offence under any of sections 57 to 59 of the Sexual Offences Act 2003 (trafficking for sexual exploitation).]]

#### Textual Amendments

**F1** Sch. 2 para. 4 substituted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), s. 162(1), [Sch. 7 para. 31](#) (with s. 159); [S.I. 2003/1](#), art. 2, [Sch.](#)

**F2** Sch. 2 para. 4(2) substituted (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 6 para. 46\(2\)](#); [S.I. 2004/874](#), art. 2

#### Commencement Information

**I4** Sch. 2 para. 4 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

#### Arms trafficking

5 (1) An offence under either of the following provisions of the Customs and Excise Management Act 1979 if it is committed in connection with a firearm or ammunition—

- (a) section 68(2) (exportation of prohibited goods);
- (b) section 170 (fraudulent evasion).

(2) An offence under section 3(1) of the Firearms Act 1968 (c. 27) (dealing in firearms or ammunition by way of trade or business).

(3) In this paragraph “firearm” and “ammunition” have the same meanings as in section 57 of the Firearms Act 1968 (c. 27).

#### Commencement Information

**I5** Sch. 2 para. 5 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

#### Counterfeiting

6 An offence under any of the following provisions of the Forgery and Counterfeiting Act 1981 (c. 45)—

- (a) section 14 (making counterfeit notes or coins);
- (b) section 15 (passing etc counterfeit notes or coins);
- (c) section 16 (having counterfeit notes or coins);
- (d) section 17 (making or possessing materials or equipment for counterfeiting).

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#### Commencement Information

**I6** Sch. 2 para. 6 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

#### *Intellectual property*

- 7 (1) An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48)—
- (a) section 107(1) (making or dealing in an article which infringes copyright);
  - (b) section 107(2) (making or possessing an article designed or adapted for making a copy of a copyright work);
  - (c) section 198(1) (making or dealing in an illicit recording);
  - (d) section 297A (making or dealing in unauthorised decoders).
- (2) An offence under section 92(1), (2) or (3) of the Trade Marks Act 1994 (c. 26) (unauthorised use etc of trade mark).

#### Commencement Information

**I7** Sch. 2 para. 7 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

#### *Prostitution and child sex*

- [<sup>F3</sup> 8 (1) An offence under section 33 or 34 of the Sexual Offences Act 1956 (keeping or letting premises for use as a brothel).
- (2) An offence under any of the following provisions of the Sexual Offences Act 2003—
- (a) section 14 (arranging or facilitating commission of a child sex offence);
  - (b) section 48 (causing or inciting child prostitution or pornography);
  - (c) section 49 (controlling a child prostitute or a child involved in pornography);
  - (d) section 50 (arranging or facilitating child prostitution or pornography);
  - (e) section 52 (causing or inciting prostitution for gain);
  - (f) section 53 (controlling prostitution for gain).]

#### Textual Amendments

**F3** Sch. 2 para. 8 substituted (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 6 para. 46\(3\)](#); [S.I. 2004/874](#), art. 2

#### Commencement Information

**I8** Sch. 2 para. 8 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

#### *Blackmail*

- 9 An offence under section 21 of the Theft Act 1968 (c. 60) (blackmail).

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**Commencement Information**

**I9** Sch. 2 para. 9 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

*Inchoate offences*

- 10 (1) An offence of attempting, conspiring or inciting the commission of an offence specified in this Schedule.
- (2) An offence of aiding, abetting, counselling or procuring the commission of such an offence.

**Commencement Information**

**I10** Sch. 2 para. 10 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

SCHEDULE 3

Section 137

ADMINISTRATORS: FURTHER PROVISION

*General*

- 1 In this Schedule, unless otherwise expressly provided—
- (a) references to an administrator are to an administrator appointed under section 125 or 128(3);
- (b) references to realisable property are to the realisable property in respect of which the administrator is appointed.

**Commencement Information**

**I11** [Sch. 3 para. 1](#) in force at 24.3.2003 by [S.I. 2003/210](#), art. 2(1)(a)

*Appointment etc*

- 2 (1) If the office of administrator is vacant, for whatever reason, the court must appoint a new administrator.
- (2) Any property vested in the previous administrator by virtue of paragraph 5(4) vests in the new administrator.
- (3) Any order under section 125 or 128(7) in relation to the previous administrator applies in relation to the new administrator when he gives written notice of his appointment to the person subject to the order.
- (4) The administration of property by an administrator must be treated as continuous despite any temporary vacancy in that office.
- (5) The appointment of an administrator is subject to such conditions as to caution as the accountant of court may impose.

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- (6) The premium of any bond of caution or other security required by such conditions must be treated as part of the administrator's expenses in the exercise of his functions.

#### Commencement Information

I12 Sch. 3 para. 2 in force at 24.3.2003 by S.S.I. 2003/210, art. 2(1)(a)

#### Functions

- 3 (1) An administrator—
- (a) may, if appointed under section 125, and
  - (b) must, if appointed under section 128(3),
- as soon as practicable take possession of the realisable property and of the documents mentioned in sub-paragraph (2).
- (2) Those documents are any document which—
- (a) is in the possession or control of the person (“A”) in whom the property is vested (or would be vested but for an order made under paragraph 5(4)), and
  - (b) relates to the property or to A's assets, business or financial affairs.
- (3) An administrator is entitled to have access to, and to copy, any document relating to the property or to A's assets, business or financial affairs and not falling within sub-paragraph (2)(a).
- (4) An administrator may bring, defend or continue any legal proceedings relating to the property.
- (5) An administrator may borrow money so far as it is necessary to do so to safeguard the property and may for the purposes of such borrowing create a security over any part of the property.
- (6) An administrator may, if he considers that it would be beneficial for the management or realisation of the property—
- (a) carry on any business of A;
  - (b) exercise any right of A as holder of securities in a company;
  - (c) grant a lease of the property or take on lease any other property;
  - (d) enter into any contract, or execute any deed, as regards the property or as regards A's business.
- (7) An administrator may, where any right, option or other power forms part of A's estate, make payments or incur liabilities with a view to—
- (a) obtaining property which is the subject of, or
  - (b) maintaining,
- the right, option or power.
- (8) An administrator may effect or maintain insurance policies as regards the property on A's business.
- (9) An administrator may, if appointed under section 128(3), complete any uncompleted title which A has to any heritable estate; but completion of title in A's name does not validate by accretion any unperfected right in favour of any person other than the administrator.

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- (10) An administrator may sell, purchase or exchange property or discharge any security for an obligation due to A; but it is incompetent for the administrator or an associate of his (within the meaning of section 74 of the Bankruptcy (Scotland) Act 1985 (c. 66)) to purchase any of A's property in pursuance of this sub-paragraph.
- (11) An administrator may claim, vote and draw dividends in the sequestration of the estate (or bankruptcy or liquidation) of a debtor of A and may accede to a voluntary trust deed for creditors of such a debtor.
- (12) An administrator may discharge any of his functions through agents or employees, but is personally liable to meet the fees and expenses of any such agent or employee out of such remuneration as is payable to the administrator on a determination by the accountant of court.
- (13) An administrator may take such professional advice as he considers necessary in connection with the exercise of his functions.
- (14) An administrator may at any time apply to the court for directions as regards the exercise of his functions.
- (15) An administrator may exercise any power specifically conferred on him by the court, whether conferred on his appointment or subsequently.
- (16) An administrator may—
  - (a) enter any premises;
  - (b) search for or inspect anything authorised by the court;
  - (c) make or obtain a copy, photograph or other record of anything so authorised;
  - (d) remove anything which the administrator is required or authorised to take possession of in pursuance of an order of the court.
- (17) An administrator may do anything incidental to the powers and duties listed in the previous provisions of this paragraph.

**Commencement Information**

**I13** Sch. 3 para. 3 in force at 24.3.2003 by S.S.I. 2003/210, art. 2(1)(a)

*Consent of accountant of court*

- 4 An administrator proposing to exercise any power conferred by paragraph 3(4) to (17) must first obtain the consent of the accountant of court.

**Commencement Information**

**I14** Sch. 3 para. 4 in force at 24.3.2003 by S.S.I. 2003/210, art. 2(1)(a)

*Dealings in good faith with administrator*

- 5 (1) A person dealing with an administrator in good faith and for value is not concerned to enquire whether the administrator is acting within the powers mentioned in paragraph 3.



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- (2) Sub-paragraph (1) does not apply where the administrator or an associate purchases property in contravention of paragraph 3(10).
- (3) The validity of any title is not challengeable by reason only of the administrator having acted outwith the powers mentioned in paragraph 3.
- (4) The exercise of a power mentioned in paragraph 3(4) to (11) must be in A's name except where and in so far as an order made by the court under this sub-paragraph vests the property in the administrator (or in a previous administrator).
- (5) The court may make an order under sub-paragraph (4) on the application of the administrator or on its own motion.

#### Commencement Information

**I15** Sch. 3 para. 5 in force at 24.3.2003 by S.S.I. 2003/210, art. 2(1)(a)

#### *Money received by administrator*

- 6 (1) All money received by an administrator in the exercise of his functions must be deposited by him, in the name (unless vested in the administrator by virtue of paragraph 5(4)) of the holder of the property realised, in an appropriate bank or institution.
- (2) But the administrator may at any time retain in his hands a sum not exceeding £200 or such other sum as may be prescribed by the Scottish Ministers by regulations.
- (3) In sub-paragraph (1), “appropriate bank or institution” means a bank or institution mentioned in section 3(1) of the Banking Act 1987 (c. 22) or for the time being specified in Schedule 2 to that Act.

#### Commencement Information

**I16** Sch. 3 para. 6 in force at 24.3.2003 by S.S.I. 2003/210, art. 2(1)(a)

#### *Effect of appointment of administrator on diligence*

- 7 (1) An arrestment or [F4attachment] of realisable property executed on or after the appointment of an administrator does not create a preference for the arrester or [F5attacher] .
- (2) Any realisable property so arrested or [F6attached] , or (if the property has been sold) the proceeds of sale, must be handed over to the administrator.
- (3) A poinding of the ground in respect of realisable property on or after such appointment is ineffectual in a question with the administrator except for the interest mentioned in sub-paragraph (4).
- (4) That interest is—
  - (a) interest on the debt of a secured creditor for the current half-yearly term, and
  - (b) arrears of interest on that debt for one year immediately before the commencement of that term.

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- (5) On and after such appointment no other person may raise or insist in an adjudication against realisable property or be confirmed as executor-creditor on that property.
- (6) An inhibition on realisable property which takes effect on or after such appointment does not create a preference for the inhibitor in a question with the administrator.
- (7) This paragraph is without prejudice to sections 123 and 124.
- (8) In this paragraph, the reference to an administrator is to an administrator appointed under section 128(3).

#### Textual Amendments

- F4** Words in Sch. 3 para. 7(1) substituted (30.12.2002) by Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), ss. 61, 64(2), Sch. 3 Pt. 1 para. 29(2)(a)(i)
- F5** Words in Sch. 3 para. 7(1) substituted (30.12.2002) by Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), ss. 61, 64(2), Sch. 3 Pt. 1 para. 29(a)(ii)
- F6** Words in Sch. 3 para. 7(2) substituted (30.12.2002) by Debt Arrangement and Attachment (Scotland) Act 2002 (asp 17), ss. 61, 64(2), Sch. 3 Pt. 1 para. 29(b)

#### Commencement Information

- I17** Sch. 3 para. 7 in force at 24.3.2003 by S.S.I. 2003/210, art. 2(1)(a)

#### Supervision

- 8 (1) If the accountant of court reports to the court that an administrator has failed to perform any duty imposed on him, the court may, after giving the administrator an opportunity to be heard as regards the matter—
  - (a) remove him from office,
  - (b) censure him, or
  - (c) make such other order as it thinks fit.
- (2) Section 6 of the Judicial Factors (Scotland) Act 1889 (c. 39) (supervision of judicial factors) does not apply in relation to an administrator.

#### Commencement Information

- I18** Sch. 3 para. 8 in force at 24.3.2003 by S.S.I. 2003/210, art. 2(1)(a)

#### Accounts and remuneration

- 9 (1) Not later than two weeks after the issuing of any determination by the accountant of court as to the remuneration and expenses payable to the administrator, the administrator or the Lord Advocate may appeal against it to the court.
- (2) The amount of remuneration payable to the administrator must be determined on the basis of the value of the work reasonably undertaken by him, regard being had to the extent of the responsibilities involved.
- (3) The accountant of court may authorise the administrator to pay without taxation an account in respect of legal services incurred by the administrator.

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**Commencement Information**

**I19** Sch. 3 para. 9 in force at 24.3.2003 by S.S.I. 2003/210, art. 2(1)(a)

*Discharge of administrator*

- 10 (1) After an administrator has lodged his final accounts under paragraph 9(1), he may apply to the accountant of court to be discharged from office.
- (2) A discharge, if granted, frees the administrator from all liability (other than liability arising from fraud) in respect of any act or omission of his in exercising his functions as administrator.

**Commencement Information**

**I20** Sch. 3 para. 10 in force at 24.3.2003 by S.S.I. 2003/210, art. 2(1)(a)

SCHEDULE 4

Section 142

LIFESTYLE OFFENCES: SCOTLAND

*Money laundering*

- 1 An offence under either of the following provisions of this Act—
- (a) section 327 (concealing etc. criminal property);
  - (b) section 328 (assisting another person to retain criminal property).

**Commencement Information**

**I21** Sch. 4 para. 1 in force at 24.3.2003 by S.S.I. 2003/210, art. 2(1)(a)

*Drug trafficking*

- 2 (1) An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38)—
- (a) section 4(2) or (3) (unlawful production or supply of controlled drugs);
  - (b) section 5(3) (possession of controlled drug with intent to supply);
  - (c) section 8 (permitting certain activities relating to controlled drugs);
  - (d) section 20 (assisting in or inducing the commission outside the UK of an offence punishable under a corresponding law).
- (2) An offence under any of the following provisions of the Customs and Excise Management Act 1979 (c. 2) if it is committed in connection with a prohibition or restriction on importation or exportation which has effect by virtue of section 3 of the Misuse of Drugs Act 1971—
- (a) section 50(2) or (3) (improper importation of goods);
  - (b) section 68(2) (exploration of prohibited or restricted goods);

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(c) section 170 (fraudulent evasion).

(3) An offence under either of the following provisions of the Criminal Justice (International Co-operation) Act 1990 (c. 5)—

- (a) section 12 (manufacture or supply of a substance for the time being specified in Schedule 2 to that Act);
- (b) section 19 (using a ship for illicit traffic in controlled drugs).

**Commencement Information**

**I22** Sch. 4 para. 2 in force at 24.3.2003 by [S.S.I. 2003/210](#), [art. 2\(1\)\(a\)](#)

*Directing terrorism*

3 An offence under section 56 of the Terrorism Act 2000 (c. 11) (directing the activities of a terrorist organisation).

**Commencement Information**

**I23** Sch. 4 para. 3 in force at 24.3.2003 by [S.S.I. 2003/210](#), [art. 2\(1\)\(a\)](#)

*People trafficking*

4 An offence under [<sup>F7</sup> section 25, 25A or 25B of the Immigration Act 1971 (assisting unlawful immigration etc.) ].

**Textual Amendments**

**F7** Words in Sch. 4 para. 4 substituted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), [s. 162\(1\)](#), [Sch. 7 para. 32](#) (with [s. 159](#)); [S.I. 2003/1](#), [art. 2](#), [Sch.](#)

**Commencement Information**

**I24** Sch. 4 para. 4 in force at 24.3.2003 by [S.S.I. 2003/210](#), [art. 2\(1\)\(a\)](#)

*Arms trafficking*

5 (1) An offence under either of the following provisions of the Customs and Excise Management Act 1979 if it is committed in connection with a firearm or ammunition—

- (a) section 68(2) (exportation of prohibited goods);
- (b) section 170 (fraudulent evasion).

(2) An offence under section 3(1) of the Firearms Act 1968 (c. 27)(dealing in firearms or ammunition by way of trade or business).

(3) In this paragraph “firearm” and “ammunition” have the same meanings as in section 57 of the Firearms Act 1968 (c. 27).

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#### Commencement Information

**I25** Sch. 4 para. 5 in force at 24.3.2003 by [S.S.I. 2003/210](#), **art. 2(1)(a)**

#### Counterfeiting

- 6 An offence under any of the following provisions of the Forgery and Counterfeiting Act 1981 (c. 45)—
- (a) section 14 (making counterfeit notes or coins);
  - (b) section 15 (passing etc counterfeit notes or coins);
  - (c) section 16 (having counterfeit notes or coins);
  - (d) section 17 (making or possessing materials or equipment for counterfeiting).

#### Commencement Information

**I26** Sch. 4 para. 6 in force at 24.3.2003 by [S.S.I. 2003/210](#), **art. 2(1)(a)**

#### Intellectual property

- 7 (1) An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48)—
- (a) section 107(1) (making or dealing in an article which infringes copyright);
  - (b) section 107(2) (making or possessing an article designed or adapted for making a copy of a copyright work);
  - (c) section 198(1) (making or dealing in an illicit recording);
  - (d) section 297A (making or dealing in unauthorised decoders).
- (2) An offence under section 92(1), (2), or (3) of the Trade Marks Act 1994 (c. 26) (unauthorised use etc of trade mark).

#### Commencement Information

**I27** Sch. 4 para. 7 in force at 24.3.2003 by [S.S.I. 2003/210](#), **art. 2(1)(a)**

#### Pimps and brothels

- 8 An offence under either of the following provisions of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)—
- (a) section 11(1) (living on earnings of prostitution or soliciting for immoral purposes);
  - (b) section 11(5) (running of brothels).

#### Commencement Information

**I28** Sch. 4 para. 8 in force at 24.3.2003 by [S.S.I. 2003/210](#), **art. 2(1)(a)**

*Status: Point in time view as at 01/05/2004.*

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*Traffic in prostitution etc.*

- [<sup>F8</sup>8A. An offence under section 22 of the [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#) (traffic in prostitution etc.).]

**Textual Amendments**

- F8** Sch. 4 para. 8A inserted (30.11.2003) by [Proceeds of Crime Act 2002 Amendment \(Scotland\) Order 2003 \(S.S.I. 2003/594\)](#), arts. 1(1), 3

*Blackmail*

- 9 An offence of blackmail or extortion.

**Commencement Information**

- I29** Sch. 4 para. 9 in force at 24.3.2003 by [S.S.I. 2003/210](#), art. 2(1)(a)

*Inchoate offences*

- 10 (1) An offence of conspiring or inciting the commission of an offence specified in this Schedule.
- (2) An offence of aiding, abetting, counselling or procuring the commission of such an offence.

**Commencement Information**

- I30** Sch. 4 para. 10 in force at 24.3.2003 by [S.S.I. 2003/210](#), art. 2(1)(a)

SCHEDULE 5

Section 223

LIFESTYLE OFFENCES: NORTHERN IRELAND

*Drug trafficking*

- 1 (1) An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38)—
- (a) section 4(2) or (3) (unlawful production or supply of controlled drugs);
  - (b) section 5(3) (possession of controlled drug with intent to supply);
  - (c) section 8 (permitting certain activities relating to controlled drugs);
  - (d) section 20 (assisting in or inducing the commission outside the UK of an offence punishable under a corresponding law).
- (2) An offence under any of the following provisions of the Customs and Excise Management Act 1979 (c. 2) if it is committed in connection with a prohibition or restriction on importation or exportation which has effect by virtue of section 3 of the Misuse of Drugs Act 1971—
- (a) section 50(2) or (3) (improper importation of goods);

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- (b) section 68(2) (exportation of prohibited or restricted goods);
  - (c) section 170 (fraudulent evasion).
- (3) An offence under either of the following provisions of the Criminal Justice (International Co-operation) Act 1990 (c. 5)—
- (a) section 12 (manufacture or supply of a substance for the time being specified in Schedule 2 to that Act);
  - (b) section 19 (using a ship for illicit traffic in controlled drugs).

#### Commencement Information

**I31** Sch. 5 para. 1 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

#### Money laundering

- 2 An offence under either of the following provisions of this Act—
- (a) section 327 (concealing etc. criminal property);
  - (b) section 328 (assisting another to retain criminal property).

#### Commencement Information

**I32** Sch. 5 para. 2 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

#### Directing terrorism

- 3 An offence under section 56 of the Terrorism Act 2000 (c. 11) (directing the activities of a terrorist organisation).

#### Commencement Information

**I33** Sch. 5 para. 3 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

#### People trafficking

- [<sup>F9</sup> 4 (1) An offence under section 25, 25A or 25B of the Immigration Act 1971 (assisting unlawful immigration etc. ).
- [<sup>F10</sup>(2) An offence under any of sections 57 to 59 of the Sexual Offences Act 2003 (trafficking for sexual exploitation).]]

#### Textual Amendments

**F9** Sch. 5 para. 4 substituted (10.2.2003) by [Nationality, Immigration and Asylum Act 2002 \(c. 41\)](#), s. 162(1), [Sch. 7 para. 33](#) (with s. 159); [S.I. 2003/1](#), art. 2, [Sch.](#)

**F10** Sch. 5 para. 4(2) substituted (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 6 para. 46\(4\)](#); [S.I. 2004/874](#), art. 2

#### Commencement Information

**I34** Sch. 5 para. 4 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

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### *Arms trafficking*

- 5 (1) An offence under either of the following provisions of the Customs and Excise Management Act 1979 if it is committed in connection with a firearm or ammunition—
- (a) section 68(2) (exportation of prohibited goods);
  - (b) section 170 (fraudulent evasion).
- (2) An offence under Article 4(1) of the Firearms (Northern Ireland) Order 1981 (S.I. 1981/155 (N.I. 2) (dealing in firearms or ammunition by way of trade or business).
- (3) In this paragraph “firearm” and “ammunition” have the same meanings as in Article 2(2) of that Order.

#### **Commencement Information**

**I35** Sch. 5 para. 5 in force at 24.3.2003 by [S.I. 2003/333, art. 2, Sch.](#)

### *Counterfeiting*

- 6 An offence under any of the following provisions of the Forgery and Counterfeiting Act 1981 (c. 45)—
- (a) section 14 (making counterfeit notes or coins);
  - (b) section 15 (passing etc counterfeit notes or coins);
  - (c) section 16 (having counterfeit notes or coins);
  - (d) section 17 (making or possessing materials or equipment for counterfeiting).

#### **Commencement Information**

**I36** Sch. 5 para. 6 in force at 24.3.2003 by [S.I. 2003/333, art. 2, Sch.](#)

### *Intellectual property*

- 7 (1) An offence under any of the following provisions of the Copyright, Designs and Patents Act 1988 (c. 48)—
- (a) section 107(1) (making or dealing in an article which infringes copyright);
  - (b) section 107(2) (making or possessing an article designed or adapted for making a copy of a copyright work);
  - (c) section 198(1) (making or dealing in an illicit recording);
  - (d) section 297A (making or dealing in unauthorised decoders).
- (2) An offence under section 92(1), (2) or (3) of the Trade Marks Act 1994 (c. 26) (unauthorised use etc of trade mark).

#### **Commencement Information**

**I37** Sch. 5 para. 7 in force at 24.3.2003 by [S.I. 2003/333, art. 2, Sch.](#)



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### *Pimps and brothels*

8 (1) An offence under any of the following provisions of the Criminal Law Amendment Act 1885 (c. 69)—

- (a) section 2 (procuring a woman or girl);
- (b) section 3 (procuring a woman or girl by threats or false pretences);
- (c) section 8 (detaining a woman in a brothel);
- (d) section 13(3) (letting premises for use as a brothel).

[<sup>F11</sup>(1A) An offence under any of the following provisions of the Sexual Offences Act 2003—

- (a) section 48 (causing or inciting child prostitution or pornography);
- (b) section 49 (controlling a child prostitute or a child involved in pornography);
- (c) section 50 (arranging or facilitating child prostitution or pornography);
- (d) section 52 (causing or inciting prostitution for gain);
- (e) section 53 (controlling prostitution for gain).]

<sup>F12</sup>(2) .....

<sup>F12</sup>(3) .....

<sup>F12</sup>(4) .....

<sup>F12</sup>(5) .....

(6) An offence under Article 122(1)(b) or (c) of the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)) (procuring or causing prostitution by woman suffering from severe mental handicap).

(7) An offence of keeping a bawdy house.

#### **Textual Amendments**

**F11** Sch. 5 para. 8(1A) inserted (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 6 para. 46\(5\)\(a\)](#); [S.I. 2004/874](#), art. 2

**F12** Sch. 5 para. 8(2)-(5) repealed (1.5.2004) by [Sexual Offences Act 2003 \(c. 42\)](#), s. 141, [Sch. 6 para. 46\(5\)\(b\)](#), [Sch. 7](#); [S.I. 2004/874](#), art. 2

#### **Commencement Information**

**I38** Sch. 5 para. 8 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

### *Blackmail*

9 An offence under section 20 of the Theft Act (Northern Ireland) 1969 (c. 16) (blackmail).

#### **Commencement Information**

**I39** Sch. 5 para. 9 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#)

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### *Inchoate offences*

- 10 (1) An offence of attempting, conspiring or inciting the commission of an offence specified in this Schedule.
- (2) An offence of aiding, abetting, counselling or procuring the commission of such an offence.

#### **Commencement Information**

**I40** Sch. 5 para. 10 in force at 24.3.2003 by S.I. 2003/333, art. 2, Sch.

## SCHEDULE 6

Sections 247 and 257

### POWERS OF INTERIM RECEIVER OR ADMINISTRATOR

### *Seizure*

- 1 Power to seize property to which the order applies.

#### **Commencement Information**

**I41** Sch. 6 para. 1 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

### *Information*

- 2 (1) Power to obtain information or to require a person to answer any question.
- (2) A requirement imposed in the exercise of the power has effect in spite of any restriction on the disclosure of information (however imposed).
- (3) An answer given by a person in pursuance of such a requirement may not be used in evidence against him in criminal proceedings.
- (4) Sub-paragraph (3) does not apply—
- (a) on a prosecution for an offence under section 5 of the Perjury Act 1911, section 44(2) of the Criminal Law (Consolidation) (Scotland) Act 1995 or Article 10 of the Perjury (Northern Ireland) Order 1979 (false statements), or
  - (b) on a prosecution for some other offence where, in giving evidence, he makes a statement inconsistent with it.
- (5) But an answer may not be used by virtue of sub-paragraph (4)(b) against a person unless—
- (a) evidence relating to it is adduced, or
  - (b) a question relating to it is asked,
- by him or on his behalf in the proceedings arising out of the prosecution.

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#### Commencement Information

**I42** Sch. 6 para. 2 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### Entry, search, etc.

- 3 (1) Power to—
- (a) enter any premises in the United Kingdom to which the interim order applies, and
  - (b) take any of the following steps.
- (2) Those steps are—
- (a) to carry out a search for or inspection of anything described in the order,
  - (b) to make or obtain a copy, photograph or other record of anything so described,
  - (c) to remove anything which he is required to take possession of in pursuance of the order or which may be required as evidence in the proceedings under Chapter 2 of Part 5.
- (3) The order may describe anything generally, whether by reference to a class or otherwise.

#### Commencement Information

**I43** Sch. 6 para. 3 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### Supplementary

- 4 (1) An order making any provision under paragraph 2 or 3 must make provision in respect of legal professional privilege (in Scotland, legal privilege within the meaning of Chapter 3 of Part 8).
- (2) An order making any provision under paragraph 3 may require any person—
- (a) to give the interim receiver or administrator access to any premises which he may enter in pursuance of paragraph 3,
  - (b) to give the interim receiver or administrator any assistance he may require for taking the steps mentioned in that paragraph.

#### Commencement Information

**I44** Sch. 6 para. 4 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### Management

- 5 (1) Power to manage any property to which the order applies.
- (2) Managing property includes—

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- (a) selling or otherwise disposing of assets comprised in the property which are perishable or which ought to be disposed of before their value diminishes,
- (b) where the property comprises assets of a trade or business, carrying on, or arranging for another to carry on, the trade or business,
- (c) incurring capital expenditure in respect of the property.

**Commencement Information**

**I45** Sch. 6 para. 5 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

SCHEDULE 7

Section 267

POWERS OF TRUSTEE FOR CIVIL RECOVERY

*Sale*

- 1 Power to sell the property or any part of it or interest in it.

**Commencement Information**

**I46** Sch. 7 para. 1 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

*Expenditure*

- 2 Power to incur expenditure for the purpose of—
- (a) acquiring any part of the property, or any interest in it, which is not vested in him,
  - (b) discharging any liabilities, or extinguishing any rights, to which the property is subject.

**Commencement Information**

**I47** Sch. 7 para. 2 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

*Management*

- 3 (1) Power to manage property.
- (2) Managing property includes doing anything mentioned in paragraph 5(2) of Schedule 6.

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**Commencement Information**

**I48** Sch. 7 para. 3 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

*Legal proceedings*

4 Power to start, carry on or defend any legal proceedings in respect of the property.

**Commencement Information**

**I49** Sch. 7 para. 4 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

*Compromise*

5 Power to make any compromise or other arrangement in connection with any claim relating to the property.

**Commencement Information**

**I50** Sch. 7 para. 5 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

*Supplementary*

- 6 (1) For the purposes of, or in connection with, the exercise of any of his powers—
- (a) power by his official name to do any of the things mentioned in subparagraph (2),
  - (b) power to do any other act which is necessary or expedient.
- (2) Those things are—
- (a) holding property,
  - (b) entering into contracts,
  - (c) suing and being sued,
  - (d) employing agents,
  - (e) executing a power of attorney, deed or other instrument.

**Commencement Information**

**I51** Sch. 7 para. 6 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

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## SCHEDULE 8

Section 325

### FORMS OF DECLARATIONS

#### Commencement Information

**I52** Sch. 8 in force at 24.2.2003 by [S.I. 2003/120, art. 2, Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

#### THE DIRECTOR

“I, A.B., do solemnly declare that I will not disclose any information received by me in carrying out my functions under Part 6 of the Proceeds of Crime Act 2002 except for the purposes of those functions or for the purposes of any prosecution for an offence relating to inland revenue, or in such other cases as may be required or permitted by law.”

#### MEMBERS OF THE STAFF OF THE AGENCY

“I, A.B., do solemnly declare that I will not disclose any information received by me in carrying out the functions under Part 6 of the Proceeds of Crime Act 2002 which I may from time to time be authorised by the Director of the Assets Recovery Agency to carry out except for the purposes of those functions, or to the Director or in accordance with his instructions, or for the purposes of any prosecution for an offence relating to inland revenue, or in such other cases as may be required or permitted by law.”

## SCHEDULE 9

Section 330

### REGULATED SECTOR AND SUPERVISORY AUTHORITIES

#### [<sup>F13</sup>PART 1

#### REGULATED SECTOR

#### Textual Amendments

**F13** Sch. 9 Pt. 1 substituted (with effect in accordance with art. 1(2) of the amending S.I.) by [The Proceeds of Crime Act 2002 \(Business in the Regulated Sector and Supervisory Authorities\) Order 2003 \(S.I. 2003/3074\), arts. 1, 2, Sch.](#)

#### *Business in the regulated sector*

1. (1) A business is in the regulated sector to the extent that it engages in any of the following activities in the United Kingdom—
  - (a) a regulated activity specified in sub-paragraph (2);
  - (b) the activities of the National Savings Bank;

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- (c) any activity carried on for the purpose of raising money authorised to be raised under the National Loans Act 1968 (c. 13) under the auspices of the Director of Savings;
  - (d) the business of operating a bureau de change, transmitting money (or any representation of monetary value) by any means or cashing cheques which are made payable to customers;
  - (e) any of the activities in points 1 to 12 or 14 of Annex 1 to the Banking Consolidation Directive when carried on by way of business, ignoring an activity falling within any of paragraphs (a) to (d);
  - (f) estate agency work;
  - (g) operating a casino by way of business;
  - (h) the activities of a person appointed to act as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 (c. 45) or Article 3 of the Insolvency (Northern Ireland) Order 1989 ( S.I.1989/2405 (N.I. 19) );
  - (i) the provision by way of business of advice about the tax affairs of another person by a body corporate or unincorporate or, in the case of a sole practitioner, by an individual;
  - (j) the provision by way of business of accountancy services by a body corporate or unincorporate or, in the case of a sole practitioner, by an individual;
  - (k) the provision by way of business of audit services by a person who is eligible for appointment as a company auditor under section 25 of the Companies Act 1989 (c. 40) or Article 28 of the Companies (Northern Ireland) Order 1990 ( S.I.1990/593 (N.I. 5) );
  - (l) the provision by way of business of legal services by a body corporate or unincorporate or, in the case of a sole practitioner, by an individual and which involves participation in a financial or real property transaction (whether by assisting in the planning or execution of any such transaction or otherwise by acting for, or on behalf of, a client in any such transaction);
  - (m) the provision by way of business of services in relation to the formation, operation or management of a company or a trust;
  - (n) the activity of dealing in goods of any description by way of business (including dealing as an auctioneer) whenever a transaction involves accepting a total cash payment of 15,000 euro or more.
- (2) These are the regulated activities—
- (a) accepting deposits;
  - (b) effecting or carrying out contracts of long-term insurance when carried on by a person who has received official authorisation pursuant to Article 4 or 51 of the Life Assurance Consolidation Directive;
  - (c) dealing in investments as principal or as agent;
  - (d) arranging deals in investments;
  - (e) managing investments;
  - (f) safeguarding and administering investments;
  - (g) sending dematerialised instructions;
  - (h) establishing (and taking other steps in relation to) collective investment schemes;
  - (i) advising on investments;
  - (j) issuing electronic money.

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### **Excluded activities**

2. A business is not in the regulated sector to the extent that it engages in any of the following activities—
  - (a) the issue of withdrawable share capital within the limit set by section 6 of the Industrial and Provident Societies Act 1965 (c. 12) by a society registered under that Act;
  - (b) the acceptance of deposits from the public within the limit set by section 7(3) of that Act by such a society;
  - (c) the issue of withdrawable share capital within the limit set by section 6 of the Industrial and Provident Societies Act (Northern Ireland) 1969 (c. 24 (N.I.)) by a society registered under that Act;
  - (d) the acceptance of deposits from the public within the limit set by section 7(3) of that Act by such a society;
  - (e) activities carried on by the Bank of England;
  - (f) any activity in respect of which an exemption order under section 38 of the Financial Services and Markets Act 2000 (c. 8) has effect if it is carried on by a person who is for the time being specified in the order or falls within a class of persons so specified;
  - (g) the regulated activities of arranging deals in investments or advising on investments, in so far as the investment consists of rights under a regulated mortgage contract;
  - (h) the regulated activities of dealing in investments as agent, arranging deals in investments, managing investments or advising on investments, in so far as the investment consists of rights under, or any right to or interest in, a contract of insurance which is not a qualifying contract of insurance.
  
3.
  - (1) This paragraph has effect for the purposes of paragraphs 1 and 2.
  - (2) Paragraphs 1(1)(a) and 2(g) and (h) must be read with section 22 of the Financial Services and Markets Act 2000, any relevant order under that section and Schedule 2 to that Act.
  - (3) The Banking Consolidation Directive is the Directive of the European Parliament and Council relating to the taking up and pursuit of the business of credit institutions ( No. 2000/12/ EC ), as amended.
  - (4) The Life Assurance Consolidation Directive is the Directive of the European Parliament and Council concerning life assurance ( No. 2002/83/ EC ).
  - (5) “Estate agency work” has the meaning given by section 1 of the Estate Agents Act 1979 (c. 38) save for the omission of the words “(including a business in which he is employed)” in subsection (1) and includes a case where, in relation to a disposal or acquisition, the person acts as principal.
  - (6) References to amounts in euro include references to equivalent amounts in another currency.
  - (7) “Cash” means notes, coins or travellers' cheques in any currency.
  - (8) For the purpose of the application of this Part to Scotland, “real property” means “heritable property”.]



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## PART 2

### SUPERVISORY AUTHORITIES

- 4 (1) Each of the following is a supervisory authority—
- (a) the Bank of England;
  - (b) the Financial Services Authority;
  - (c) the Council of Lloyd’s;
  - (d) the Director General of Fair Trading;
  - (e) a body which is a designated professional body for the purposes of Part 20 of the Financial Services and Markets Act 2000 (c. 8).<sup>F14</sup>;
  - (f) the Occupational Pensions Regulatory Authority;
  - (g) the Gaming Board for Great Britain]
- (2) The Secretary of State is also a supervisory authority in the exercise, in relation to a person carrying on a business in the regulated sector, of his functions under the enactments relating to companies or insolvency or under the Financial Services and Markets Act 2000.
- (3) The Treasury are also a supervisory authority in the exercise, in relation to a person carrying on a business in the regulated sector, of their functions under the enactments relating to companies or insolvency or under the Financial Services and Markets Act 2000.

#### Textual Amendments

**F14** Sch. 9 para. 4(1)(f)(g) inserted (1.3.2004) by [The Proceeds of Crime Act 2002 \(Business in the Regulated Sector and Supervisory Authorities\) Order 2003 \(S.I. 2003/3074\)](#), [arts. 1,3](#)

#### Commencement Information

**I53** Sch. 9 para. 4 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

## PART 3

### POWER TO AMEND

- 5 The Treasury may by order amend Part 1 or 2 of this Schedule.

#### Commencement Information

**I54** Sch. 9 para. 5 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

*Status: Point in time view as at 01/05/2004.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 June 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)*

## SCHEDULE 10

Section 448

### TAX

#### PART 1

##### GENERAL

- 1 Sections 75 and 77 of the Taxes Management Act 1970 (c. 9) (receivers: income tax and capital gains tax) shall not apply in relation to—
- (a) a receiver appointed under section 48, 50 or 52;
  - (b) an administrator appointed under section 125 or 128;
  - (c) a receiver appointed under section 196, 198 or 200;
  - (d) an interim receiver appointed under section 246;
  - (e) an interim administrator appointed under section 256.

#### Commencement Information

**I55** Sch. 10 para. 1 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### PART 2

##### PROVISIONS RELATING TO PART 5

##### INTRODUCTORY

- 2
- (1) The vesting of property in the trustee for civil recovery or any other person by a recovery order or in pursuance of an order under section 276 is referred to as a Part 5 transfer.
  - (2) The person who holds the property immediately before the vesting is referred to as the transferor; and the person in whom the property is vested is referred to as the transferee.
  - (3) Any amount paid in respect of the transfer by the trustee for civil recovery, or another, to a person who holds the property immediately before the vesting is referred to (in relation to that person) as a compensating payment.
  - (4) If the recovery order provides or (as the case may be) the terms on which the order under section 276 is made provide for the creation of any interest in favour of a person who holds the property immediately before the vesting, he is to be treated instead as receiving (in addition to any payment referred to in sub-paragraph (3)) a compensating payment of an amount equal to the value of the interest.
  - (5) Where the property belongs to joint tenants immediately before the vesting and a compensating payment is made to one or more (but not both or all) of the joint tenants, this Part has effect separately in relation to each joint tenant.
  - (6) Expressions used in this paragraph have the same meaning as in Part 5 of this Act.

*Status: Point in time view as at 01/05/2004.*

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(7) “The Taxes Act 1988” means the Income and Corporation Taxes Act 1988 (c. 1), and “the Allowances Act 2001” means the Capital Allowances Act 2001 (c. 2).

(8) This paragraph applies for the purposes of this Part.

#### Commencement Information

**I56** Sch. 10 para. 2 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

### CAPITAL GAINS TAX

- 3 (1) If a gain attributable to a Part 5 transfer accrues to the transferor, it is not a chargeable gain.
- (2) But if a compensating payment is made to the transferor—
- (a) sub-paragraph (1) does not apply, and
  - (b) the consideration for the transfer is the amount of the compensating payment.
- (3) If a gain attributable to the forfeiture under section 298 of property consisting of—
- (a) notes or coins in any currency other than sterling,
  - (b) anything mentioned in section 289(6)(b) to (d), if expressed in any currency other than sterling, or
  - (c) bearer bonds or bearer shares,
- accrues to the person who holds the property immediately before the forfeiture, it is not a chargeable gain.
- (4) This paragraph has effect as if it were included in Chapter 1 of Part 2 of the Taxation of Chargeable Gains Act 1992 (c. 12).

#### Commencement Information

**I57** Sch. 10 para. 3 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

### INCOME TAX AND CORPORATION TAX

#### *Accrued income scheme*

- 4 If a Part 5 transfer is a transfer of securities within the meaning of sections 711 to 728 of the Taxes Act 1988 (transfers with or without accrued interest), sections 713(2) and (3) and 716 of that Act do not apply to the transfer.

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#### Commencement Information

**I58** Sch. 10 para. 4 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### *Discounted securities*

- 5 In the case of a Part 5 transfer of property consisting of a relevant discounted security (within the meaning of Schedule 13 to the Finance Act 1996 (c. 8)), it is not to be treated as a transfer for the purposes of that Schedule.

#### Commencement Information

**I59** Sch. 10 para. 5 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### *Rights to receive amounts stated in certificates of deposit etc.*

- 6 In the case of a Part 5 transfer of property consisting of a right to which section 56(2) of the Taxes Act 1988 applies, or a right mentioned in section 56A(1) of that Act, (rights stated in certificates of deposit etc.) it is not to be treated as a disposal of the right for the purposes of section 56(2) of that Act.

#### Commencement Information

**I60** Sch. 10 para. 6 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### *Non-qualifying offshore funds*

- 7 In the case of a Part 5 transfer of property consisting of an asset mentioned in section 757(1)(a) or (b) of the Taxes Act 1988 (interests in non-qualifying offshore funds etc.), it is not to be treated as a disposal for the purposes of that section.

#### Commencement Information

**I61** Sch. 10 para. 7 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### *Futures and options*

- 8 In the case of a Part 5 transfer of property consisting of futures or options (within the meaning of paragraph 4 of Schedule 5AA to the Taxes Act 1988), it is not to be treated as a disposal of the futures or options for the purposes of that Schedule.

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#### Commencement Information

**I62** Sch. 10 para. 8 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### Loan relationships

- 9 (1) Sub-paragraph (2) applies if, apart from this paragraph, a Part 5 transfer would be a related transaction for the purposes of section 84 of the Finance Act 1996 (c. 8) (debits and credits brought into account for the purpose of taxing loan relationships under Chapter 2 of Part 4 of that Act).
- (2) The Part 5 transfer is to be disregarded for the purposes of that Chapter, except for the purpose of identifying any person in whose case any debit or credit not relating to the transaction is to be brought into account.

#### Commencement Information

**I63** Sch. 10 para. 9 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### Exception from paragraphs 4 to 9

- 10 Paragraphs 4 to 9 do not apply if a compensating payment is made to the transferor.

#### Commencement Information

**I64** Sch. 10 para. 10 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### Trading stock

- 11 (1) Sub-paragraph (2) applies, in the case of a Part 5 transfer of property consisting of the trading stock of a trade, for the purpose of computing any profits of the trade for tax purposes.
- (2) If, because of the transfer, the trading stock is to be treated for that purpose as if it had been sold in the course of the trade, the amount realised on the sale is to be treated for that purpose as equal to its acquisition cost.
- (3) Sub-paragraph (2) has effect in spite of anything in section 100 of the Taxes Act 1988 (valuation of trading stock at discontinuance).
- (4) In this paragraph, trading stock and trade have the same meaning as in that section.

#### Commencement Information

**I65** Sch. 10 para. 11 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

*Status: Point in time view as at 01/05/2004.*

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## CAPITAL ALLOWANCES

### *Plant and machinery*

- 12 (1) If there is a Part 5 transfer of plant or machinery, Part 2 of the Allowances Act 2001 is to have effect as if a transferor who has incurred qualifying expenditure were required to bring the disposal value of the plant or machinery into account in accordance with section 61 of that Act for the chargeable period in which the transfer occurs.
- (2) But the Part 5 transfer is not to be treated as a disposal event for the purposes of Part 2 of that Act other than by virtue of sub-paragraph (1).

#### Commencement Information

**I66** Sch. 10 para. 12 in force at 24.2.2003 by [S.I. 2003/120, art. 2, Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

- 13 (1) If a compensating payment is made to the transferor, the disposal value to be brought into account is the amount of the payment.
- (2) Otherwise, the disposal value to be brought into account is the amount which would give rise neither to a balancing allowance nor to a balancing charge.

#### Commencement Information

**I67** Sch. 10 para. 13 in force at 24.2.2003 by [S.I. 2003/120, art. 2, Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333, art. 14](#))

- 14 (1) Paragraph 13(2) does not apply if the qualifying expenditure has been allocated to the main pool or a class pool.
- (2) Instead, the disposal value to be brought into account is the notional written-down value of the qualifying expenditure incurred by the transferor on the provision of the plant or machinery.
- (3) The notional written-down value is—

## QE-A

where—

QE is the qualifying expenditure incurred by the transferor on the provision of the plant or machinery,

A is the total of all allowances which could have been made to the transferor in respect of the expenditure if—

(a) that expenditure had been the only expenditure that had ever been taken into account in determining his available qualifying expenditure, and

(b) all allowances had been made in full.

- (4) But if—

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- (a) the Part 5 transfer of the plant or machinery occurs in the same chargeable period as that in which the qualifying expenditure is incurred, and
- (b) a first-year allowance is made in respect of an amount of the expenditure, the disposal value to be brought into account is that which is equal to the balance left after deducting the first year allowance.

#### Commencement Information

**I68** Sch. 10 para. 14 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

- 15 (1) Paragraph 13 does not apply if—
- (a) a qualifying activity is carried on in partnership,
  - (b) the Part 5 transfer is a transfer of plant or machinery which is partnership property, and
  - (c) compensating payments are made to one or more, but not both or all, of the partners.
- (2) Instead, the disposal value to be brought into account is the sum of—
- (a) any compensating payments made to any of the partners, and
  - (b) in the case of each partner to whom a compensating payment has not been made, his share of the tax-neutral amount.
- (3) A partner's share of the tax-neutral amount is to be determined according to the profit-sharing arrangements for the twelve months ending immediately before the date of the Part 5 transfer.

#### Commencement Information

**I69** Sch. 10 para. 15 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

- 16 (1) Paragraph 13 does not apply if—
- (a) a qualifying activity is carried on in partnership,
  - (b) the Part 5 transfer is a transfer of plant or machinery which is not partnership property but is owned by two or more of the partners (“the owners”),
  - (c) the plant or machinery is used for the purposes of the qualifying activity, and
  - (d) compensating payments are made to one or more, but not both or all, of the owners.
- (2) Instead, the disposal value to be brought into account is the sum of—
- (a) any compensating payments made to any of the owners, and
  - (b) in the case of each owner to whom a compensating payment has not been made, his share of the tax-neutral amount.
- (3) An owner's share of the tax-neutral amount is to be determined in proportion to the value of his interest in the plant or machinery.

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#### Commencement Information

**I70** Sch. 10 para. 16 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 17 (1) Paragraphs 12 to 16 have effect as if they were included in section 61 of the Allowances Act 2001.
- (2) In paragraphs 15 and 16, the tax-neutral amount is the amount that would be brought into account as the disposal value under paragraph 13(2) or (as the case may be) 14 if the provision in question were not disapplied.

#### Commencement Information

**I71** Sch. 10 para. 17 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

#### *Industrial buildings*

- 18 (1) If there is a Part 5 transfer of a relevant interest in an industrial building, Part 3 of the Allowances Act 2001 is to have effect as if the transfer were a balancing event within section 315(1) of that Act.
- (2) But the Part 5 transfer is not to be treated as a balancing event for the purposes of Part 3 of that Act other than by virtue of sub-paragraph (1).

#### Commencement Information

**I72** Sch. 10 para. 18 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 19 (1) If a compensating payment is made to the transferor, the proceeds from the balancing event are the amount of the payment.
- (2) Otherwise—
- the proceeds from the balancing event are the amount which is equal to the residue of qualifying expenditure immediately before the transfer, and
  - no balancing adjustment is to be made as a result of the event under section 319 of the Allowances Act 2001.

#### Commencement Information

**I73** Sch. 10 para. 19 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 20 (1) Paragraph 19 does not apply to determine the proceeds from the balancing event if—
- the relevant interest in the industrial building is partnership property, and
  - compensating payments are made to one or more, but not both or all, of the partners.
- (2) Instead, the proceeds from the balancing event are the sum of—



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- (a) any compensating payments made to any of the partners, and
  - (b) in the case of each partner to whom a compensating payment has not been made, his share of the amount which is equal to the residue of qualifying expenditure immediately before the Part 5 transfer.
- (3) A partner's share of that amount is to be determined according to the profit-sharing arrangements for the twelve months ending immediately before the date of the Part 5 transfer.

**Commencement Information**

**I74** Sch. 10 para. 20 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 21 Paragraphs 18 to 20 have effect as if they were included in Part 3 of the Allowances Act 2001.

**Commencement Information**

**I75** Sch. 10 para. 21 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

*Flat conversion*

- 22 (1) If there is a Part 5 transfer of a relevant interest in a flat, Part 4A of the Allowances Act 2001 is to have effect as if the transfer were a balancing event within section 393N of that Act.
- (2) But the Part 5 transfer is not to be treated as a balancing event for the purposes of Part 4A of that Act other than by virtue of sub-paragraph (1).

**Commencement Information**

**I76** Sch. 10 para. 22 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 23 (1) If a compensating payment is made to the transferor, the proceeds from the balancing event are the amount of the payment.
- (2) Otherwise, the proceeds from the balancing event are the amount which is equal to the residue of qualifying expenditure immediately before the transfer.

**Commencement Information**

**I77** Sch. 10 para. 23 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 24 (1) Paragraph 23 does not apply to determine the proceeds from the balancing event if—
- (a) the relevant interest in the flat is partnership property, and
  - (b) compensating payments are made to one or more, but not both or all, of the partners.

*Status: Point in time view as at 01/05/2004.*

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- (2) Instead, the proceeds from the balancing event are the sum of—
- (a) any compensating payments made to any of the partners, and
  - (b) in the case of each partner to whom a compensating payment has not been made, his share of the amount which is equal to the residue of qualifying expenditure immediately before the transfer.
- (3) A partner's share of that amount is to be determined according to the profit-sharing arrangements for the twelve months ending immediately before the date of the transfer.

#### Commencement Information

**I78** Sch. 10 para. 24 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 25 Paragraphs 22 to 24 have effect as if they were included in Part 4A of the Allowances Act 2001.

#### Commencement Information

**I79** Sch. 10 para. 25 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

#### Research and development

- 26 If there is a Part 5 transfer of an asset representing qualifying expenditure incurred by a person, the disposal value he is required to bring into account under section 443(1) of the Allowances Act 2001 for any chargeable period is to be determined as follows (and not in accordance with subsection (4) of that section).

#### Commencement Information

**I80** Sch. 10 para. 26 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 27 (1) If a compensating payment is made to the transferor, the disposal value he is required to bring into account is the amount of the payment.
- (2) Otherwise, the disposal value he is required to bring into account is nil.

#### Commencement Information

**I81** Sch. 10 para. 27 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

- 28 (1) Paragraph 27 does not apply to determine the disposal value to be brought into account if—
- (a) the asset is partnership property, and
  - (b) compensating payments are made to one or more, but not both or all, of the partners.

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(2) Instead, the disposal value to be brought into account is equal to the sum of any compensating payments.

**Commencement Information**

**I82** Sch. 10 para. 28 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

29 Paragraphs 26 to 28 have effect as if they were included in Part 6 of the Allowances Act 2001.

**Commencement Information**

**I83** Sch. 10 para. 29 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

## EMPLOYEE ETC. SHARE SCHEMES

### *Share options*

30 Section 135(6) of the Taxes Act 1988 (gains by directors and employees) does not make any person chargeable to tax in respect of any gain realised by the trustee for civil recovery.

**Commencement Information**

**I84** [Sch. 10 para. 30](#) in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

### *Conditional acquisition of shares*

31 Section 140A(4) of the Taxes Act 1988 (disposal etc. of shares) does not make the transferor chargeable to income tax in respect of a Part 5 transfer of shares or an interest in shares.

**Commencement Information**

**I85** [Sch. 10 para. 31](#) in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

### *Shares acquired at an undervalue*

32 Section 162(5) of the Taxes Act 1988 (employee shareholdings) does not make the transferor chargeable to income tax in respect of a Part 5 transfer of shares.

*Status: Point in time view as at 01/05/2004.*

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**Commencement Information**

**186** Sch. 10 para. 32 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

*Shares in dependent subsidiaries*

33 Section 79 of the Finance Act 1988 (c. 39) (charge on increase in value of shares) does not make the transferor chargeable to income tax in respect of a Part 5 transfer of shares or an interest in shares.

**Commencement Information**

**187** Sch. 10 para. 33 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

SCHEDULE 11

Section 456

AMENDMENTS

*Introduction*

1 The amendments specified in this Schedule shall have effect.

**Commencement Information**

**188** Sch. 11 para. 1 in force at 24.3.2003 by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

*Parliamentary Commissioner Act 1967 (c. 13)*

- 2 (1) The Parliamentary Commissioner Act 1967 is amended as follows.
- (2) In Schedule 2 (Departments etc. subject to investigation) at the appropriate place insert—
- “Director of the Assets Recovery Agency.”
- (3) In the Notes to that Schedule before paragraph 1 insert—
- “A1 In the case of the Director of the Assets Recovery Agency an investigation under this Act may be conducted only in respect of the exercise of functions vested in him by virtue of a notice served on the Commissioners of Inland Revenue under section 317(2), 321(2) or 322(2) of the Proceeds of Crime Act 2002 (Inland Revenue functions).”

**Commencement Information**

**189** Sch. 11 para. 2 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

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*Police (Scotland) Act 1967 (c. 77)*

- 3 (1) The Police (Scotland) Act 1967 is amended as follows.
- (2) In section 38(3B)(liability of Scottish Ministers for constables on central service) after “central service” insert “ or on temporary service as mentioned in section 38A(1)(aa) of this Act ”.
- (3) In section 38A(1) (meaning of “relevant service”) after paragraph (a) insert—
- “(aa) temporary service with the Scottish Ministers in connection with their functions under Part 5 or 8 of the Proceeds of Crime Act 2002, on which a person is engaged with the consent of the appropriate authority;”.

**Commencement Information**

**I90** Sch. 11 para. 3 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

*Criminal Appeal Act 1968 (c. 19)*

- 4 (1) The Criminal Appeal Act 1968 is amended as follows.
- (2) In section 33 (appeal to House of Lords) after subsection (1) insert—
- “(1A) In subsection (1) above the reference to the prosecutor includes a reference to the Director of the Assets Recovery Agency in a case where (and to the extent that) he is a party to the appeal to the Court of Appeal.”
- (3) In section 50(1) (meaning of sentence) after paragraph (c) insert—
- “(ca) a confiscation order under Part 2 of the Proceeds of Crime Act 2002;
- (cb) an order which varies a confiscation order made under Part 2 of the Proceeds of Crime Act 2002 if the varying order is made under section 21, 22 or 29 of that Act (but not otherwise);”.

**Commencement Information**

**I91** Sch. 11 para. 4 in force at 24.3.2003 by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

*Misuse of Drugs Act 1971 (c. 38)*

- 5 (1) Section 27 of the Misuse of Drugs Act 1971 (forfeiture) is amended as follows.
- (2) In subsection (1) for “a drug trafficking offence, as defined in section 1(3) of the Drug Trafficking Act 1994” substitute “ an offence falling within subsection (3) below ”.
- (3) After subsection (2) insert—
- “(3) An offence falls within this subsection if it is an offence which is specified in—
- (a) paragraph 1 of Schedule 2 to the Proceeds of Crime Act 2002 (drug trafficking offences), or
- (b) so far as it relates to that paragraph, paragraph 10 of that Schedule.”

*Status: Point in time view as at 01/05/2004.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 June 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)*

**Commencement Information**

**I92** Sch. 11 para. 5 in force at 24.3.2003 by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

*Immigration Act 1971 (c. 77)*

- 6 In section 28L of the Immigration Act 1971, in paragraph (c) for the words “33 of the Criminal Law (Consolidation) (Scotland) Act 1995” substitute “412 of the Proceeds of Crime Act 2002”.

**Commencement Information**

**I93** Sch. 11 para. 6 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

*Rehabilitation of Offenders Act 1974 (c. 53)*

- 7 In section 1 of the Rehabilitation of Offenders Act 1974 (rehabilitated persons and spent convictions) after subsection (2A) insert—

“(2B) In subsection (2)(a) above the reference to a fine or other sum adjudged to be paid by or imposed on a conviction does not include a reference to an amount payable under a confiscation order made under Part 2 or 3 of the Proceeds of Crime Act 2002.”

**Commencement Information**

**I94** Sch. 11 para. 7 in force at 24.3.2003 for specified purposes by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

**I95** Sch. 11 para. 7 in force at 24.3.2003 in so far as not already in force by S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7)

*Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27))*

- 8 In Article 3 of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (rehabilitated persons and spent convictions) after paragraph (2) insert—

“(2A) In paragraph (2)(a) the reference to a fine or other sum adjudged to be paid by or imposed on a conviction does not include a reference to an amount payable under a confiscation order made under Part 4 of the Proceeds of Crime Act 2002.”

**Commencement Information**

**I96** Sch. 11 para. 8 in force at 24.3.2003 by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

*Criminal Appeal (Northern Ireland) Act 1980 (c. 47)*

- 9 (1) The Criminal Appeal (Northern Ireland) Act 1980 is amended as follows.

*Status: Point in time view as at 01/05/2004.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 June 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)*

(2) In section 30(3) (meaning of sentence) omit “and” after paragraph (b) and after paragraph (c) insert—

- “(d) a confiscation order under Part 4 of the Proceeds of Crime Act 2002;
- (e) an order which varies a confiscation order made under Part 4 of the Proceeds of Crime Act 2002 if the varying order is made under section 171, 172 or 179 of that Act (but not otherwise).”

(3) In section 31 (appeal to House of Lords) after subsection (1) insert—

“(1A) In subsection (1) above the reference to the prosecutor includes a reference to the Director of the Assets Recovery Agency in a case where (and to the extent that) he is a party to the appeal to the Court of Appeal.”

#### Commencement Information

**I97** Sch. 11 para. 9 in force at 24.3.2003 by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

#### *Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8))*

10 (1) Part I of Schedule 1 to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (proceedings for which legal aid may be given under Part II of the Order) is amended as follows.

(2) After paragraph 2 insert—

“2A (1) The following proceedings in the Crown Court under the Proceeds of Crime Act 2002—

- (a) proceedings which relate to a direction under section 202(3) or 204(3) as to the distribution of funds in the hands of a receiver;
- (b) applications under section 210 relating to action taken or proposed to be taken by a receiver;
- (c) applications under section 211 to vary or discharge an order under any of sections 196 to 201 for the appointment of or conferring powers on a receiver;
- (d) applications under section 220 or 221 for the payment of compensation;
- (e) applications under sections 351(3), 362(3), 369(3) or 375(2) to vary or discharge certain orders made under Part 8.

(2) But sub-paragraph (1) does not apply in relation to a defendant (within the meaning of Part 4 of that Act) in the following proceedings—

- (a) proceedings mentioned in head (b) of that sub-paragraph;
- (b) an application under section 221 for the payment of compensation if the confiscation order was varied under section 179.”

(3) In paragraph 3 (courts of summary jurisdiction), after sub-paragraph (i) insert—

“(j) proceedings under sections 295, 297, 298, 301 and 302 of the Proceeds of Crime Act 2002”.

(4) The amendments made by this paragraph are without prejudice to the power to make regulations under Article 10(2) of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 amending or revoking the provisions inserted by this paragraph.

*Status: Point in time view as at 01/05/2004.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 June 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)*

#### Commencement Information

- I98** Sch. 11 para. 10(1)(3)(4) in force at 30.12.2002 by [S.I. 2002/3145](#), [art. 2\(b\)](#)  
**I99** Sch. 11 para. 10(2) in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

#### *Civil Jurisdiction and Judgments Act 1982 (c. 27)*

- 11 In section 18 of the Civil Jurisdiction and Judgments Act 1982 (enforcement of United Kingdom judgments in other parts of the United Kingdom) in subsection (3) (exceptions) insert after paragraph (c)—  
 “(d) an order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002 (confiscation).”

#### Commencement Information

- I100** Sch. 11 para. 11 in force at 24.3.2003 for specified purposes by [S.I. 2003/333](#), [art. 2](#), [Sch.](#) (with [arts. 10-13](#))  
**I101** Sch. 11 para. 11 in force at 24.3.2003 in so far as not already in force by [S.S.I. 2003/210](#), [art. 2\(1\)\(b\)\(2\)](#), [sch.](#) (with [art. 7](#))

#### *Civic Government (Scotland) Act 1982 (c. 45)*

- 12 (1) The Civic Government (Scotland) Act 1982 is amended as follows.  
 (2) In section 86A(3) (application of Part VIIA) for “sections 21(2) and 28(1) of the Proceeds of Crime (Scotland) Act 1995” substitute “section 21(2) of the Proceeds of Crime (Scotland) Act 1995 and Part 3 of the Proceeds of Crime Act 2002”.  
 (3) In paragraph 8 of Schedule 2A (interpretation) for the definition of “restraint order” substitute—  
 ““restraint order” means a restraint order made under Part 3 of the Proceeds of Crime Act 2002”.

#### Commencement Information

- I102** Sch. 11 para. 12 in force for specified purposes at 24.3.2003 by [S.S.I. 2003/210](#), [art. 2\(1\)\(b\)\(2\)](#), [sch.](#) (with [art. 7](#))

#### *Criminal Justice Act 1982 (c. 48)*

- 13 In Part 2 of Schedule 1 to the Criminal Justice Act 1982 (offences excluded from early release provisions) after the entry relating to the Drug Trafficking Act 1994 insert—

#### **“PROCEEDS OF CRIME ACT 2002**

Section 327 (concealing criminal property etc).

Section 328 (arrangements relating to criminal property).



*Status: Point in time view as at 01/05/2004.*

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Section 329 (acquisition, use and possession of criminal property).”

**Commencement Information**

**I103** Sch. 11 para. 13 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

*Police and Criminal Evidence Act 1984 (c. 60)*

- 14 (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 56 (right to have someone informed when arrested) for subsection (5A) substitute—
- “(5A) An officer may also authorise delay where he has reasonable grounds for believing that—
- (a) the person detained for the serious arrestable offence has benefited from his criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit will be hindered by telling the named person of the arrest.
- (5B) For the purposes of subsection (5A) above the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 2 of the Proceeds of Crime Act 2002.”
- (3) In section 58 (access to legal advice) for subsection (8A) substitute—
- “(8A) An officer may also authorise delay where he has reasonable grounds for believing that—
- (a) the person detained for the serious arrestable offence has benefited from his criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit will be hindered by the exercise of the right conferred by subsection (1) above.
- (8B) For the purposes of subsection (8A) above the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 2 of the Proceeds of Crime Act 2002.”
- (4) In section 116 (meaning of serious arrestable offence) in subsection (2) for paragraph (c) and the word “and” immediately preceding it substitute—
- “(c) any offence which is specified in paragraph 1 of Schedule 2 to the Proceeds of Crime Act 2002 (drug trafficking offences),
  - (d) any offence under section 327, 328 or 329 of that Act (certain money laundering offences).”

**Commencement Information**

**I104** Sch. 11 para. 14(1)(4) in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

**I105** Sch. 11 para. 14(2)(3) in force at 24.3.2003 by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

*Status: Point in time view as at 01/05/2004.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 June 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)*

### *Bankruptcy (Scotland) Act 1985 (c. 66)*

- 15 (1) The Bankruptcy (Scotland) Act 1985 is amended as follows.
- (2) In section 5(4) (meaning of “qualified creditor”) for the words from “has the meaning” to “1995” substitute “ means a confiscation order under Part 2, 3 or 4 of the Proceeds of Crime Act 2002 ”.
- (3) In section 7(1) (meaning of “apparent insolvency”) for the words from “has the meaning assigned” where second occurring to “said Act of 1994” where second occurring substitute “ “confiscation order” and “restraint order” mean a confiscation order or a restraint order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002 ”.
- (4) After section 31 (vesting of estate at date of sequestration) insert—

#### **“31A Property subject to restraint order**

- (1) This section applies where—
- property is excluded from the debtor’s estate by virtue of section 420(2)(a) of the Proceeds of Crime Act 2002 (property subject to a restraint order),
  - an order under section 50, 52, 128, 198 or 200 of that Act has not been made in respect of the property, and
  - the restraint order is discharged.
- (2) On the discharge of the restraint order the property vests in the permanent trustee as part of the debtor’s estate.
- (3) But subsection (2) does not apply to the proceeds of property realised by a management receiver under section 49(2)(d) or 197(2)(d) of that Act (realisation of property to meet receiver’s remuneration and expenses).

#### **31B Property in respect of which receivership or administration order is made**

- (1) This section applies where—
- property is excluded from the debtor’s estate by virtue of section 420(2)(b), (c) or (d) of the Proceeds of Crime Act 2002 (property in respect of which an order for the appointment of a receiver or administrator under certain provisions of that Act is in force), and
  - a confiscation order is made under section 6, 92 or 156 of that Act,
  - the amount payable under the confiscation order is fully paid, and
  - any of the property remains in the hands of the receiver or administrator (as the case may be).
- (2) The property vests in the permanent trustee as part of the debtor’s estate.

#### **31C Property subject to certain orders where confiscation order discharged or quashed**

- (1) This section applies where—

*Status: Point in time view as at 01/05/2004.*

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- (a) property is excluded from the debtor's estate by virtue of section 420(2)(a), (b), (c) or (d) of the Proceeds of Crime Act 2002 (property in respect of which a restraint order or an order for the appointment of a receiver or administrator under that Act is in force),
  - (b) a confiscation order is made under section 6, 92 or 156 of that Act, and
  - (c) the confiscation order is discharged under section 30, 114 or 180 of that Act (as the case may be) or quashed under that Act or in pursuance of any enactment relating to appeals against conviction or sentence.
- (2) Any property in the hands of a receiver appointed under Part 2 or 4 of that Act or an administrator appointed under Part 3 of that Act vests in the permanent trustee as part of the debtor's estate.
- (3) But subsection (2) does not apply to the proceeds of property realised by a management receiver under section 49(2)(d) or 197(2)(d) of that Act (realisation of property to meet receiver's remuneration and expenses)."
- (5) In section 55 (effect of discharge) after subsection (3) insert—
- “(4) In subsection (2)(a) above the reference to a fine or other penalty due to the Crown includes a reference to a confiscation order made under Part 2, 3 or 4 of the Proceeds of Crime Act 2002.”.

#### Commencement Information

- I106** Sch. 11 para. 15 in force at 24.3.2003 for specified purposes by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)
- I107** Sch. 11 para. 15 in force at 24.3.2003 in so far as not already in force by S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7)

#### *Insolvency Act 1986 (c. 45)*

- 16 (1) The Insolvency Act 1986 is amended as follows.
- (2) In section 281 (effect of discharge) after subsection (4) insert—
- “(4A) In subsection (4) the reference to a fine includes a reference to a confiscation order under Part 2, 3 or 4 of the Proceeds of Crime Act 2002.”
- (3) After section 306 insert—

#### “306A Property subject to restraint order

- (1) This section applies where—
- (a) property is excluded from the bankrupt's estate by virtue of section 417(2)(a) of the Proceeds of Crime Act 2002 (property subject to a restraint order),
  - (b) an order under section 50, 52, 128, 198 or 200 of that Act has not been made in respect of the property, and
  - (c) the restraint order is discharged.

*Status: Point in time view as at 01/05/2004.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 June 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)*

- (2) On the discharge of the restraint order the property vests in the trustee as part of the bankrupt's estate.
- (3) But subsection (2) does not apply to the proceeds of property realised by a management receiver under section 49(2)(d) or 197(2)(d) of that Act (realisation of property to meet receiver's remuneration and expenses).

### **306B Property in respect of which receivership or administration order made**

- (1) This section applies where—
  - (a) property is excluded from the bankrupt's estate by virtue of section 417(2)(b), (c) or (d) of the Proceeds of Crime Act 2002 (property in respect of which an order for the appointment of a receiver or administrator under certain provisions of that Act is in force),
  - (b) a confiscation order is made under section 6, 92 or 156 of that Act,
  - (c) the amount payable under the confiscation order is fully paid, and
  - (d) any of the property remains in the hands of the receiver or administrator (as the case may be).
- (2) The property vests in the trustee as part of the bankrupt's estate.

### **306C Property subject to certain orders where confiscation order discharged or quashed**

- (1) This section applies where—
  - (a) property is excluded from the bankrupt's estate by virtue of section 417(2)(a), (b), (c) or (d) of the Proceeds of Crime Act 2002 (property in respect of which a restraint order or an order for the appointment of a receiver or administrator under that Act is in force),
  - (b) a confiscation order is made under section 6, 92 or 156 of that Act, and
  - (c) the confiscation order is discharged under section 30, 114 or 180 of that Act (as the case may be) or quashed under that Act or in pursuance of any enactment relating to appeals against conviction or sentence.
- (2) Any such property in the hands of a receiver appointed under Part 2 or 4 of that Act or an administrator appointed under Part 3 of that Act vests in the trustee as part of the bankrupt's estate.
- (3) But subsection (2) does not apply to the proceeds of property realised by a management receiver under section 49(2)(d) or 197(2)(d) of that Act (realisation of property to meet receiver's remuneration and expenses)."

#### **Commencement Information**

**I108** Sch. 11 para. 16 in force at 24.3.2003 in so far as not already in force by [S.S.I. 2003/210, art. 2\(1\)\(b\)\(2\), sch.](#) (with [art. 7](#))

**I109** Sch. 11 para. 16 in force at 24.3.2003 for specified purposes by [S.I. 2003/333, art. 2, Sch.](#) (with [arts. 10-13](#))

*Status: Point in time view as at 01/05/2004.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 June 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)*

*Criminal Justice Act 1988 (c. 33)*

- 17 (1) The Criminal Justice Act 1988 is amended as follows.
- (2) The following provisions shall cease to have effect—
- (a) sections 71 to 102;
  - (b) Schedule 4.
- (3) In section 151(4) (Customs and Excise power of arrest) omit “and” after paragraph (a), and after paragraph (b) insert—
- “(c) a money laundering offence;”
- (4) In section 151(5) for the words after “means” substitute “any offence which is specified in—
- (a) paragraph 1 of Schedule 2 to the Proceeds of Crime Act 2002 (drug trafficking offences), or
  - (b) so far as it relates to that paragraph, paragraph 10 of that Schedule.”
- (5) In section 151 after subsection (5) insert—
- “(6) In this section “money laundering offence” means any offence which by virtue of section 415 of the Proceeds of Crime Act 2002 is a money laundering offence for the purposes of Part 8 of that Act.”
- (6) In section 152(4) (remands of suspected drugs offenders to customs detention) for the words after “means” substitute “any offence which is specified in—
- (a) paragraph 1 of Schedule 5 to the Proceeds of Crime Act 2002 (drug trafficking offences), or
  - (b) so far as it relates to that paragraph, paragraph 10 of that Schedule.”

**Commencement Information**

- I110** Sch. 11 para. 17(1)(3)(5) in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)
- I111** Sch. 11 para. 17(2) in force at 24.2.2003 for specified purposes by [S.I. 2003/120](#), art. 2, **Sch.** (with arts. 3-6) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)
- I112** Sch. 11 para. 17(2) in force at 24.3.2003 for specified purposes by [S.I. 2003/333](#), art. 2, **Sch.** (with arts. 10-13)
- I113** Sch. 11 para. 17(4)(6) in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, **Sch.** (with arts. 10-13)

*Extradition Act 1989 (c. 33)*

<sup>F15</sup>18 .....

**Textual Amendments**

- F15** Sch. 11 para. 18 repealed (1.1.2004) by [Extradition Act 2003 \(c. 41\)](#), s. 221, **Sch. 4**; [S.I. 2003/3103](#), art. 2 (with arts. 3-5) (as amended (11.12.2003) by [S.I. 2003/3258](#), art. 2 and (18.12.2003) by [S.I. 2003/3312](#), art. 2)

*Status: Point in time view as at 01/05/2004.*

**Changes to legislation:** *Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 June 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)*

#### Commencement Information

**I114** Sch. 11 para. 18 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4, 7) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### *Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))*

19 (1) The Police and Criminal Evidence (Northern Ireland) Order 1989 is amended as follows.

(2) In Article 57 (right to have someone informed when arrested) for paragraph (5A) substitute—

“(5A) An officer may also authorise delay where he has reasonable grounds for believing that—

- (a) the person detained for the serious arrestable offence has benefited from his criminal conduct, and
- (b) the recovery of the value of the property constituting the benefit will be hindered by telling the named person of the arrest.

(5B) For the purposes of paragraph (5A) the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 4 of the Proceeds of Crime Act 2002.”

(3) In Article 59 (access to legal advice) for paragraph (8A) substitute—

“(8A) An officer may also authorise delay where he has reasonable grounds for believing that—

- (a) the person detained for the serious arrestable offence has benefited from his criminal conduct, and
- (b) the recovery of the value of the property constituting the benefit will be hindered by the exercise of the right conferred by paragraph (1).

(8B) For the purposes of paragraph (8A) the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 4 of the Proceeds of Crime Act 2002.”

(4) In Article 87 (meaning of serious arrestable offence) in paragraph (2) for subparagraph (aa) substitute—

- “(aa) any offence which is specified in paragraph 1 of Schedule 5 to the Proceeds of Crime Act 2002 (drug trafficking offences);
- (ab) any offence under section 327, 328 or 329 of that Act (certain money laundering offences);”.

#### Commencement Information

**I115** Sch. 11 para. 19(1)(4) in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

**I116** Sch. 11 para. 19(2)(3) in force at 24.3.2003 by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

#### *Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19))*

20 (1) The Insolvency (Northern Ireland) Order 1989 is amended as follows.

*Status: Point in time view as at 01/05/2004.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 June 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)*

(2) In Article 255 (effect of discharge) after paragraph (4) insert—

“(4A) In paragraph (4) the reference to a fine includes a reference to a confiscation order under Part 2, 3 or 4 of the Proceeds of Crime Act 2002.”

(3) After Article 279 insert—

#### **Property subject to restraint order**

“279A) This Article applies where—

- (a) property is excluded from the bankrupt’s estate by virtue of section 423(2)(a) of the Proceeds of Crime Act 2002 (property subject to a restraint order),
- (b) an order under section 50, 52, 128, 198 or 200 of that Act has not been made in respect of the property, and
- (c) the restraint order is discharged.

(2) On the discharge of the restraint order the property vests in the trustee as part of the bankrupt’s estate.

(3) But paragraph (2) does not apply to the proceeds of property realised by a management receiver under section 49(2)(d) or 197(2)(d) of that Act (realisation of property to meet receiver’s remuneration and expenses).

#### **Property in respect of which receivership or administration order made**

279B) This Article applies where—

- (a) property is excluded from the bankrupt’s estate by virtue of section 423(2)(b), (c) or (d) of the Proceeds of Crime Act 2002 (property in respect of which an order for the appointment of a receiver or administrator under certain provisions of that Act is in force),
- (b) a confiscation order is made under section 6, 92 or 156 of that Act,
- (c) the amount payable under the confiscation order is fully paid, and
- (d) any of the property remains in the hands of the receiver or administrator (as the case may be).

(2) The property vests in the trustee as part of the bankrupt’s estate.

#### **Property subject to certain orders where confiscation order discharged or quashed**

279C) This Article applies where—

- (a) property is excluded from the bankrupt’s estate by virtue of section 423(2)(a), (b), (c) or (d) of the Proceeds of Crime Act 2002 (property in respect of which a restraint order or an order for the appointment of a receiver or administrator under that Act is in force),
- (b) a confiscation order is made under section 6, 92 or 156 of that Act, and
- (c) the confiscation order is discharged under section 30, 114 or 180 of that Act (as the case may be) or quashed under that Act or in

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**Changes to legislation:** *Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 June 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)*

pursuance of any enactment relating to appeals against conviction or sentence.

- (2) Any such property in the hands of a receiver appointed under Part 2 or 4 of that Act or an administrator appointed under Part 3 of that Act vests in the trustee as part of the bankrupt's estate.
- (3) But paragraph (2) does not apply to the proceeds of property realised by a management receiver under section 49(2)(d) or 197(2)(d) of that Act (realisation of property to meet receiver's remuneration and expenses)."

#### Commencement Information

- I117** Sch. 11 para. 20 in force at 24.3.2003 for specified purposes by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)
- I118** Sch. 11 para. 20 in force at 24.3.2003 in so far as not already in force by S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7)

#### *Criminal Justice (International Co-operation) Act 1990 (c. 5)*

- 21 In section 13(6) of the Criminal Justice (International Co-operation) Act 1990 (information not to be disclosed except for certain purposes)—
- (a) omit “the Drug Trafficking Act 1994 or the Criminal Justice (Scotland) Act 1987”;
  - (b) at the end insert “or of proceedings under Part 2, 3 or 4 of the Proceeds of Crime Act 2002”.

#### Commencement Information

- I119** Sch. 11 para. 21 in force at 24.3.2003 for specified purposes by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)
- I120** Sch. 11 para. 21 in force at 24.3.2003 in so far as not already in force by S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7)

#### *Pension Schemes Act 1993 (c. 48)*

- 22 (1) The Pension Schemes Act 1993 is amended as follows.
- (2) In section 10 (protected rights and money purchase benefits), after subsection (5) insert—
 

“(6) Where, in the case of a scheme which makes such provision as is mentioned in subsection (2) or (3), any liability of the scheme in respect of a member's protected rights ceases by virtue of a civil recovery order, his protected rights are extinguished or reduced accordingly.”
  - (3) In section 14 (earner's guaranteed minimum), after subsection (2) insert—
 

“(2A) Where any liability of a scheme in respect of an earner's guaranteed minimum pension ceases by virtue of a civil recovery order, his guaranteed minimum in relation to the scheme is extinguished or reduced accordingly.”



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- (4) In section 47 (further provisions relating to guaranteed minimum pensions), in subsection (6), after “but for” insert “ section 14(2A) and ”.
- (5) In section 68B (safeguarded rights), at the end insert “including provision for such rights to be extinguished or reduced in consequence of a civil recovery order made in respect of such rights”.
- (6) In section 181(1) (general interpretation), after the definition of “Category A retirement pension” insert—

““civil recovery order” means an order under section 266 of the Proceeds of Crime Act 2002 or an order under section 276 imposing the requirement mentioned in section 277(3).”

#### Commencement Information

**I121** Sch. 11 para. 22 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### *Pension Schemes (Northern Ireland) Act 1993 (c. 49)*

- 23 (1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.
- (2) In section 6 (protected rights and money purchase benefits), after subsection (5) insert—

“(6) Where, in the case of a scheme which makes such provision as is mentioned in subsection (2) or (3), any liability of the scheme in respect of a member’s protected rights ceases by virtue of a civil recovery order, his protected rights are extinguished or reduced accordingly.”
  - (3) In section 10 (earner’s guaranteed minimum), after subsection (2) insert—

“(2A) Where any liability of a scheme in respect of an earner’s guaranteed minimum pension ceases by virtue of a civil recovery order, his guaranteed minimum in relation to the scheme is extinguished or reduced accordingly.”
  - (4) In section 43 (further provisions relating to guaranteed minimum pensions), in subsection (6), after “but for” insert “ section 10(2A) and ”.
  - (5) In section 64B (safeguarded rights), at the end insert “including provision for such rights to be extinguished or reduced in consequence of a civil recovery order made in respect of such rights”.
  - (6) In section 176(1) (general interpretation), after the definition of “Category A retirement pension” insert—

““civil recovery order” means an order under section 266 of the Proceeds of Crime Act 2002 or an order under section 276 imposing the requirement mentioned in section 277(3).”

*Status: Point in time view as at 01/05/2004.*

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#### Commencement Information

**I122** Sch. 11 para. 23 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

#### *Criminal Justice and Public Order Act 1994 (c. 33)*

- 24 In section 139(12) of the Criminal Justice and Public Order Act 1994 (search powers) in paragraph (b) of the definition of “items subject to legal privilege” for “section 40 of the Criminal Justice (Scotland) Act 1987” substitute “ section 412 of the Proceeds of Crime Act 2002 ”.

#### Commencement Information

**I123** [Sch. 11 para. 24](#) in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

#### *Drug Trafficking Act 1994 (c. 37)*

- 25 (1) The Drug Trafficking Act 1994 is amended as follows.
- (2) The following provisions shall cease to have effect—
- (a) sections 1 to 54;
  - (b) in sections 55(4)(a) (orders to make material available) and 56(3)(a) and (4) (a) (authority for search) the words “or has benefited from”;
  - (c) in section 59 (disclosure of information held by government departments), subsections (1) to (10) and in subsection (11) the words “An order under subsection (1) above, and,”;
  - (d) in section 60(6) (Customs and Excise prosecution powers), in the definition of “specified offence”, in paragraph (a) the words “Part III or” and paragraph (c) and the word “or” immediately preceding it;
  - (e) in section 60(6) the words from “and references to the institution of proceedings” to the end;
  - (f) in section 60, subsections (7) and (8);
  - (g) in section 61 (extension of certain offences to the Crown), subsections (2) to (4);
  - (h) sections 62, 63(1), (2) and (3)(a) and 64 (interpretation);
  - (i) in section 68(2) (extent -Scotland), paragraphs (a) to (c) and in paragraph (g) the words “1, 41, 62” and “64”;
  - (j) in section 68(3) (extent -Northern Ireland), paragraph (a) and in paragraph (d) the word “64”.
- (3) In section 59(12)(b) for the words “referred to in subsection (1) above” substitute “ specified in an order under section 55(2) ”.
- (4) After section 59 insert the following section—

#### **“59A Construction of sections 55 to 59**

- (1) This section has effect for the purposes of sections 55 to 59.

*Status: Point in time view as at 01/05/2004.*

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- (2) A reference to a constable includes a reference to a customs officer.
- (3) A customs officer is a person commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979 (c. 2).
- (4) Drug trafficking means doing or being concerned in any of the following (whether in England and Wales or elsewhere)—
- (a) producing or supplying a controlled drug where the production or supply contravenes section 4(1) of the Misuse of Drugs Act 1971 or a corresponding law;
  - (b) transporting or storing a controlled drug where possession of the drug contravenes section 5(1) of that Act or a corresponding law;
  - (c) importing or exporting a controlled drug where the importation or exportation is prohibited by section 3(1) of that Act or a corresponding law;
  - (d) manufacturing or supplying a scheduled substance within the meaning of section 12 of the Criminal Justice (International Co-operation) Act 1990 where the manufacture or supply is an offence under that section or would be such an offence if it took place in England and Wales;
  - (e) using any ship for illicit traffic in controlled drugs in circumstances which amount to the commission of an offence under section 19 of that Act.
- (5) In this section “corresponding law” has the same meaning as in the Misuse of Drugs Act 1971.”
- (5) In section 60 after subsection (6) insert—
- “(6A) Proceedings for an offence are instituted—
- (a) when a justice of the peace issues a summons or warrant under section 1 of the Magistrates’ Courts Act 1980 (issue of summons to, or warrant for arrest of, accused) in respect of the offence;
  - (b) when a person is charged with the offence after being taken into custody without a warrant;
  - (c) when a bill of indictment is preferred under section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 in a case falling within paragraph (b) of subsection (2) of that section (preferment by direction of the criminal division of the Court of Appeal or by direction, or with the consent, of a High Court judge).
- (6B) Where the application of subsection (6A) would result in there being more than one time for the institution of proceedings they must be taken to have been instituted at the earliest of those times.”
- (6) In section 61(1) for “sections 49(2), 50 to 53 and 58” substitute “ section 58 ”.
- (7) In section 68(2)(d), for “59(10)” substitute “ 59(11) ”.

#### **Commencement Information**

**I124** Sch. 11 para. 25(1) in force for specified purposes at 30.12.2002 by [S.I. 2002/3015](#), [art. 2](#), [Sch.](#)

*Status: Point in time view as at 01/05/2004.*

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- I125** Sch. 11 para. 25(2)(a) in force at 30.12.2002 for specified purposes by S.I. 2002/3015, art. 2, Sch., and at 24.2.2003 for specified purposes by S.I. 2003/120, art. 2, Sch. (with arts. 3-6) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- I126** Sch. 11 para. 25(2)(a) in force at 24.3.2003 for specified purposes by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)
- I127** Sch. 11 para. 25(2)(b)-(g)(3)-(7) in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- I128** Sch. 11 para. 25(2)(h)-(j) in force at 24.3.2003 by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

*Criminal Justice (Northern Ireland) Order 1994 (S.I. 1994/2795 (N.I. 15))*

- 26 In Article 16 of the Criminal Justice (Northern Ireland) Order 1994 in paragraph (a) after “Proceeds of Crime (Northern Ireland) Order 1996” insert “ or Part 4 of the Proceeds of Crime Act 2002 ”.

**Commencement Information**

- I129** Sch. 11 para. 26 in force at 24.3.2003 by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

*Proceeds of Crime Act 1995 (c. 11)*

- 27 Section 15(2) and (3) of the Proceeds of Crime Act 1995 (investigation into benefit to be treated as the investigation of an offence for the purposes of sections 21 and 22 of the Police and Criminal Evidence Act 1984) shall cease to have effect.

**Commencement Information**

- I130** Sch. 11 para. 27 in force at 24.2.2003 for specified purposes by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)
- I131** Sch. 11 para. 27 in force at 24.3.2003 in so far as not already in force by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

*Proceeds of Crime (Scotland) Act 1995 (c. 43)*

- 28 (1) The Proceeds of Crime (Scotland) Act 1995 is amended as follows.
- (2) The following provisions in the Act shall cease to have effect—
- (a) Part I, except section 2(7);
  - (b) in section 28, subsections (1)(a) and (2) and in subsection (5) the words “(including a restraint order made under and within the meaning of the 1994 Act)”;
  - (c) section 29;
  - (d) in section 31, subsection (2) and in subsection (4) the words “or (2)”;
  - (e) sections 35 to 39;
  - (f) in section 40, subsections (1)(a), (2) and (4);
  - (g) in section 42, subsections (1)(a) and (b);
  - (h) in section 43, in subsection (1) the words “, confiscation order” and subsection (2);
  - (i) in section 45, subsection (1)(a);

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- (j) section 47;
  - (k) in section 49, in subsection (1) the definitions of “the 1988 Act”, “the 1994 Act” and “confiscation order” and subsection (4).
- (3) The following provisions in Schedule 1 to the Act shall cease to have effect—
- (a) in paragraph 1(1)(b) the words “or a confiscation order”, in paragraph 1(2)(a) the words “subject to paragraph (b) below”, paragraph 1(2)(b) and in paragraph 1(3)(a)(i) the words “or confiscation order”;
  - (b) in paragraph 2(1)(a) the words “, and if appointed (or empowered) under paragraph 1(1)(b) above where a confiscation order has been made”;
  - (c) paragraph 4;
  - (d) in paragraph 5(1) the words “Part I of”;
  - (e) in paragraph 8(2) the words “, unless in a case where a confiscation order has been made there are sums available to be applied in payment of it under paragraph 4(4)(b) above,”;
  - (f) in paragraph 10(1) the words “or the recipient of a gift caught by Part I of this Act or an implicative gift” and paragraphs 10(2) and 10(3);
  - (g) in paragraph 12(1)(a) the words “paragraph (a) or (b) of section 4(1) or”.
- (4) The following provisions in Schedule 2 to the Act shall cease to have effect—
- (a) in paragraph 1(2) the words “and 35 to 38”;
  - (b) in paragraph 2, in sub-paragraph (1) the words “realisable or”, in sub-paragraph (2) the words “and 35 to 38”, sub-paragraph (5).
  - (c) in paragraph 3(2) the words “and 35 to 38” and paragraphs 3(4) and (5);
  - (d) in paragraph 4(2) the words “and 35 to 38”;
  - (e) paragraph 6(2)(a).
- (5) In section 28(9) (restraint orders) for “Subsections (2)(a) and” substitute “ Subsection ”.
- (6) In section 42 (enforcement) in subsections (2)(a), (c) and (d) for “Part I,” substitute “ Part ”.

#### Commencement Information

- I132** Sch. 11 para. 28 in force at 24.3.2003 for specified purposes by [S.S.I. 2003/210](#), [art. 2\(1\)\(b\)\(2\)](#), [sch.](#) (with [art. 7](#))
- I133** Sch. 11 para. 28(1) in force at 24.2.2003 for specified purposes by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))
- I134** Sch. 11 para. 28(1)(2)(e)(g) in force at 24.3.2003 by [S.I. 2003/333](#), [art. 2](#), [Sch.](#) (with [arts. 10-13](#))
- I135** Sch. 11 para. 28(2)(a) in force at 24.2.2003 for specified purposes by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

#### *Criminal Procedure (Scotland) Act 1995 (c. 46)*

- 29 (1) The Criminal Procedure (Scotland) Act 1995 is amended as follows.
- (2) In section 109(1) (intimation of appeal) for “section 10 of the Proceeds of Crime (Scotland) Act 1995 (postponed confiscation orders)” substitute “ section 99 of the Proceeds of Crime Act 2002 (postponement) ”.

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- (3) In section 205B(5) (minimum sentence for third drug trafficking offence) for the definition of “drug trafficking offence” substitute—

““drug trafficking offence” means an offence specified in paragraph 2 or (so far as it relates to that paragraph) paragraph 10 of Schedule 4 to the Proceeds of Crime Act 2002;”.

- (4) In section 219(8)(b) (fines: imprisonment for non-payment) for “14(2) of the Proceeds of Crime (Scotland) Act 1995” substitute “ 118(2) of the Proceeds of Crime Act 2002 ”.

#### Commencement Information

**I136** Sch. 11 para. 29 in force for specified purposes at 24.3.2003 by [S.S.I. 2003/210](#), [art. 2\(1\)\(b\)\(2\)](#), [sch.](#) (with [art. 7](#))

#### Police Act 1996 (c. 16)

- 30 (1) Section 97 of the Police Act 1996 (police officers engaged on service outside their force) is amended as follows.

- (2) In subsection (1) after paragraph (cc) insert—

“(cd) temporary service with the Assets Recovery Agency on which a person is engaged with the consent of the appropriate authority;”.

- (3) In subsection (6)(a) after “(cc)” insert “ (cd) ”.

- (4) In subsection (8) after “(cc)” insert “ (cd) ”.

#### Commencement Information

**I137** Sch. 11 para. 30 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

#### Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996/1299 (N.I. 9))

- 31 (1) The Proceeds of Crime (Northern Ireland) Order 1996 is amended as follows.

- (2) Parts II and III shall cease to have effect.

- (3) The following provisions shall also cease to have effect—

- (a) in Article 2 (interpretation) in paragraph (2) from the definition of “charging order” to the definition of “external confiscation order” and from the definition of “modifications” to the definition of “restraint order” and paragraphs (3) to (10) and (12);
- (b) Article 3 (definition of “property” etc.);
- (c) in Article 49 (additional investigation powers), in paragraph (1) sub-paragraph (c) and the word “and” immediately preceding it, in paragraph (1A) sub-paragraph (c) and the word “and” immediately preceding it, paragraph (4) and in paragraph (5) the definitions of “customs officer” and “relevant property”;

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- (d) in Article 52 (supplementary provisions) in paragraph (2) sub-paragraph (b) and the word “and” immediately preceding it, and paragraph (3);
  - (e) in Article 54 (disclosure of information held by government departments) paragraphs (1) to (10) and (13) and in paragraph (11) the words “An order under paragraph (1) and,”;
  - (f) in Article 55 (Customs and Excise prosecution powers), in paragraph (6) in the definition of “specified offence” in paragraph (a) the words “Part III or” and paragraph (c) and the word “or” immediately preceding it, and paragraph (7);
  - (g) Article 56(2) to (4) (extension of certain offences to the Crown);
  - (h) in Schedule 2 paragraph 3.
- (4) In Article 49(1) (additional investigation powers)—
- (a) for “county court” substitute “ Crown Court ”;
  - (b) in sub-paragraph (a) for the words from “an investigation” to the end of head (ii) substitute “ a confiscation investigation ”;
  - (c) in sub-paragraph (b) after “and who is” insert “ an accredited financial investigator ”.
- (5) In Article 49(1A)—
- (a) after “application made by” insert “ the Director of the Assets Recovery Agency or ”;
  - (b) for “county court” substitute “ Crown Court ”;
  - (c) in sub-paragraph (a) for the words from “an investigation” to the end of head (ii) substitute “ a confiscation investigation ”;
  - (d) in sub-paragraph (b) after “if” insert “ the Director or ”;
  - (e) after “authorise” insert “ the Director or ”;
  - (f) for “paragraphs 3 and 3A” where it twice occurs substitute “ paragraph 3A ”.
- (6) In Article 49(5) insert at the appropriate place in alphabetical order—
- ““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);”.
- (7) In Article 50(1) (order to make material available)—
- (a) for sub-paragraphs (a) and (b) substitute “drug trafficking”;
  - (b) for “county court” substitute “ Crown Court ”.
- (8) In Article 50(4)(a), for heads (i) to (iii) substitute “has carried on drug trafficking”.
- (9) In Article 50(8) for “county court” substitute “ Crown Court ”.
- (10) In Article 51(1) (authority for search)—
- (a) for sub-paragraphs (a) and (b) substitute “drug trafficking”;
  - (b) for “county court” substitute “ Crown Court ”.
- (11) In Article 51(3)(a) for heads (i) to (iii) substitute “has carried on drug trafficking”.
- (12) In Article 51(4)—

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- (a) in sub-paragraph (a) for heads (i) to (iii) substitute “has carried on drug trafficking”;
  - (b) in sub-paragraph (b)(i) for the words from “the question” to the end substitute “ drug trafficking ”.
- (13) In Article 52(1)(a) (supplementary provisions), for heads (i) to (ii) substitute “drug trafficking”.
- (14) In Article 54 (disclosure of information held by government departments) in paragraph (12)(b) for “referred to in paragraph (1)” substitute “ specified in an order under Article 50(2) ”.
- (15) After Article 54 insert the following Article—

#### **Construction of Articles 49 to 54**

“54(1) This Article has effect for the purposes of Articles 49 to 54.

- (2) A reference to a constable includes a reference to a customs officer.
- (3) A customs officer is a person commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979.
- (4) Drug trafficking means doing or being concerned in any of the following (whether in Northern Ireland or elsewhere)—
  - (a) producing or supplying a controlled drug where the production or supply contravenes section 4(1) of the Misuse of Drugs Act 1971 or a corresponding law;
  - (b) transporting or storing a controlled drug where possession of the drug contravenes section 5(1) of that Act or a corresponding law;
  - (c) importing or exporting a controlled drug where the importation or exportation is prohibited by section 3(1) of that Act or a corresponding law;
  - (d) manufacturing or supplying a scheduled substance within the meaning of section 12 of the Criminal Justice (International Co-operation) Act 1990 where the manufacture or supply is an offence under that section or would be such an offence if it took place in Northern Ireland;
  - (e) using any ship for illicit traffic in controlled drugs in circumstances which amount to the commission of an offence under section 19 of that Act.

(5) In this Article “corresponding law” has the same meaning as in the Misuse of Drugs Act 1971.”

- (16) In Article 55 after paragraph (6) insert—

“(6A) Proceedings for an offence are instituted—

- (a) when a summons or warrant is issued under Article 20 of the Magistrates’ Courts (Northern Ireland) Order 1981 in respect of the offence;
- (b) when a person is charged with the offence after being taken into custody without a warrant;



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- (c) when an indictment is preferred under section 2(2)(c), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969.
- (6B) Where the application of paragraph (6A) would result in there being more than one time for the institution of proceedings they must be taken to have been instituted at the earliest of those times.”
- (17) In Article 56(1) (extension of certain offences to the Crown), for “Articles 44, 45, 46, 47(2), 48 and” substitute “ Article ”.
- (18) In Schedule 2 (financial investigations) in paragraph 3A—
- (a) in sub-paragraph (1) for “any conduct to which Article 49 applies” substitute “ his criminal conduct ”;
- (b) after that paragraph insert—
- “(1A) For the purposes of sub-paragraph (1) the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 4 of the Proceeds of Crime Act 2002.”

#### Commencement Information

- I138** Sch. 11 para. 31(1)(3)(c)-(h)(4)-(18) in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))
- I139** Sch. 11 para. 31(2) in force at 24.2.2003 for specified purposes by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3-6](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))
- I140** [Sch. 11 para. 31\(2\)](#) in force at 24.3.2003 for specified purposes by [S.I. 2003/333](#), [art. 2](#), [Sch.](#) (with [arts. 10-13](#))
- I141** [Sch. 11 para. 31\(3\)\(a\)-\(c\)](#) in force at 24.3.2003 by [S.I. 2003/333](#), [art. 2](#), [Sch.](#) (with [arts. 10-13](#))

#### *Crime (Sentences) Act 1997 (c. 43)*

- 32 (1) The Crime (Sentences) Act 1997 is amended as follows.
- (2) In section 35 (fine defaulters) in subsection (1)(a) after “Drug Trafficking Act 1994” insert “ or section 6 of the Proceeds of Crime Act 2002 ”.
- (3) In section 40 (fine defaulters) in subsection (1)(a) after “Drug Trafficking Act 1994” insert “ or section 6 of the Proceeds of Crime Act 2002 ”.

#### Commencement Information

- I142** [Sch. 11 para. 32](#) in force at 24.3.2003 by [S.I. 2003/333](#), [art. 2](#), [Sch.](#) (with [arts. 10-13](#))

#### *Crime and Punishment (Scotland) Act 1997 (c. 48)*

- 33 The following provisions of the Crime and Punishment (Scotland) Act 1997 shall cease to have effect—
- (a) section 15(3),
- (b) in Schedule 1, paragraph 20.

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**Commencement Information**

**I143** Sch. 11 para. 33 in force for specified purposes at 24.3.2003 by [S.S.I. 2003/210](#), [art. 2\(1\)\(b\)\(2\)](#), [sch.](#) (with [art. 7](#))

*Police (Northern Ireland) Act 1998 (c. 32)*

- 34 (1) Section 27 of the Police (Northern Ireland) Act 1998 (members of the Police Service engaged on other police service) is amended as follows.
- (2) In subsection (1) after paragraph (c) insert—
- “(ca) temporary service with the Assets Recovery Agency on which a member of the Police Service of Northern Ireland is engaged with the consent of the Chief Constable;”.
- (3) In subsection (5)(b) after “(c)” insert “ (ca) ”.
- (4) In subsection (7) for “or (c)” there is substituted “ (c) or (ca) ”.

**Commencement Information**

**I144** Sch. 11 para. 34 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

*Crime and Disorder Act 1998 (c. 37)*

- 35 In Schedule 8 to the Crime and Disorder Act 1998 paragraphs 115 and 116 shall cease to have effect.

**Commencement Information**

**I145** [Sch. 11 para. 35](#) in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

*Access to Justice Act 1999 (c. 22)*

- 36 (1) Schedule 2 to the Access to Justice Act 1999 (services excluded from the Community Legal Service) is amended as follows.
- (2) In paragraph 2(2), after paragraph (d) insert “or
- (e) under the Proceeds of Crime Act 2002 to the extent specified in paragraph 3,”
- and omit the “or” at the end of paragraph (c).
- (3) In paragraph 2(3) (magistrates courts), after “2001” insert—
- “(l) for an order or direction under section 295, 297, 298, 301 or 302 of the Proceeds of Crime Act 2002,”
- and omit the “or” at the end of paragraph (j).
- (4) After paragraph 2 insert—

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- “3 (1) These are the proceedings under the Proceeds of Crime Act 2002—
- (a) an application under section 42(3) to vary or discharge a restraint order or an order under section 41(7);
  - (b) proceedings which relate to a direction under section 54(3) or 56(3) as to the distribution of funds in the hands of a receiver;
  - (c) an application under section 62 relating to action taken or proposed to be taken by a receiver;
  - (d) an application under section 63 to vary or discharge an order under any of sections 48 to 53 for the appointment of or conferring powers on a receiver;
  - (e) an application under section 72 or 73 for the payment of compensation;
  - (f) proceedings which relate to an order under section 298 for the forfeiture of cash;
  - (g) an application under section 351(3), 362(3), 369(3) or 375(2) to vary or discharge certain orders made under Part 8.
- (2) But sub-paragraph (1) does not authorise the funding of the provision of services to a defendant (within the meaning of Part 1 of that Act) in relation to—
- (a) proceedings mentioned in paragraph (b);
  - (b) an application under section 73 for the payment of compensation if the confiscation order was varied under section 29.”

*Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)*

- 37 (1) The Powers of Criminal Courts (Sentencing) Act 2000 is amended as follows.
- (2) In section 110(5) (minimum sentence for third drug trafficking offence) for the definition of “drug trafficking offence” there is substituted—
- ““drug trafficking offence” means an offence which is specified in—
- (a) paragraph 1 of Schedule 2 to the Proceeds of Crime Act 2002 (drug trafficking offences), or
  - (b) so far as it relates to that paragraph, paragraph 10 of that Schedule.”
- (3) In section 133 (review of compensation orders) in subsection (3)(c) after “Criminal Justice Act 1988” insert “, or Part 2 of the Proceeds of Crime Act 2002, ”.

**Commencement Information**

**I146** Sch. 11 para. 37 in force at 24.3.2003 by [S.I. 2003/333](#), [art. 2](#), [Sch.](#) (with [arts. 10-13](#))

*Financial Services and Markets Act 2000 (c. 8)*

- 38 In Schedule 1 to the Financial Services and Markets Act 2000 (provisions relating to the Financial Services Authority) after paragraph 19 insert—

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- “19A For the purposes of this Act anything done by an accredited financial investigator within the meaning of the Proceeds of Crime Act 2002 who is—
- (a) a member of the staff of the Authority, or
  - (b) a person appointed by the Authority under section 97, 167 or 168 to conduct an investigation,
- must be treated as done in the exercise or discharge of a function of the Authority.”

#### Commencement Information

**I147** Sch. 11 para. 38 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

#### *Terrorism Act 2000 (c. 11)*

- 39 (1) Schedule 8 to the Terrorism Act 2000 (detention) is amended as follows.
- (2) In paragraph 8 (authorisation of delay in exercise of detained person’s rights) for sub-paragraph (5) substitute—
- “(5) An officer may also give an authorisation under sub-paragraph (1) if he has reasonable grounds for believing that—
- (a) the detained person has benefited from his criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit will be hindered by—
    - (i) informing the named person of the detained person’s detention (in the case of an authorisation under sub-paragraph (1)(a)), or
    - (ii) the exercise of the right under paragraph 7 (in the case of an authorisation under sub-paragraph (1)(b)).
- (5A) For the purposes of sub-paragraph (5) the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 2 of the Proceeds of Crime Act 2002.”
- (3) In paragraph 17(3) (grounds for authorising delay or requiring presence of senior officer), in paragraph (d) for “Part VI of the Criminal Justice Act 1988, Part I of the Proceeds of Crime (Scotland) Act 1995” substitute “ Part 2 or 3 of the Proceeds of Crime Act 2002 ”.
- (4) For paragraph 17(4) (further grounds for authorising delay in exercise of detained person’s rights) substitute—
- “(4) This sub-paragraph applies where an officer mentioned in paragraph 16(4) or (7) has reasonable grounds for believing that—
- (a) the detained person has benefited from his criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit will be hindered by—
    - (i) informing the named person of the detained person’s detention (in the case of an authorisation under paragraph 16(4)), or

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(ii) the exercise of the entitlement under paragraph 16(6) (in the case of an authorisation under paragraph 16(7)).

(4A) For the purposes of sub-paragraph (4) the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 3 of the Proceeds of Crime Act 2002.”

(5) In paragraph 34 (authorisation for withholding information from detained person) for sub-paragraph (3) substitute—

“(3) A judicial authority may also make an order under sub-paragraph (1) in relation to specified information if satisfied that there are reasonable grounds for believing that—

- (a) the detained person has benefited from his criminal conduct, and
- (b) the recovery of the value of the property constituting the benefit would be hindered if the information were disclosed.

(3A) For the purposes of sub-paragraph (3) the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 2 or 3 of the Proceeds of Crime Act 2002.”

#### Commencement Information

**I148** Sch. 11 para. 39 in force at 24.3.2003 in so far as not already in force by [S.S.I. 2003/210](#), [art. 2\(1\)\(b\)\(2\)](#), [sch.](#) (with [art. 7](#))

**I149** Sch. 11 para. 39 in force at 24.3.2003 for specified purposes by [S.I. 2003/333](#), [art. 2](#), [Sch.](#) (with [arts. 10-13](#))

#### *Criminal Justice and Police Act 2001 (c. 16)*

40 (1) The Criminal Justice and Police Act 2001 is amended as follows.

(2) In section 55 (obligation to return excluded and special procedure material) in subsection (5) (powers in relation to which section does not apply as regards special procedure material) omit “and” after paragraph (b), and after paragraph (c) insert—

“and

(d) section 352(4) of the Proceeds of Crime Act 2002,”.

(3) In section 60 (cases where duty to secure seized property arises) in subsection (4) (powers in relation to which duty does not arise as regards special procedure material) omit “or” after paragraph (b), and after paragraph (c) insert—

“or

(d) section 352(4) of the Proceeds of Crime Act 2002,”.

(4) In section 64 (meaning of appropriate judicial authority) in subsection (3) after paragraph (a) omit “and” and insert—

“(aa) the power of seizure conferred by section 352(4) of the Proceeds of Crime Act 2002, if the power is exercisable for the purposes of a civil recovery investigation (within the meaning of Part 8 of that Act);”.

(5) In section 65 (meaning of “legal privilege”)—

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(a) in subsection (1)(b) for the words “33 of the Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)” substitute “412 of the Proceeds of Crime Act 2002”;

(b) after subsection (3) insert—

“(3A) In relation to property which has been seized in exercise, or purported exercise, of—

(a) the power of seizure conferred by section 352(4) of the Proceeds of Crime Act 2002, or

(b) so much of any power of seizure conferred by section 50 as is exercisable by reference to that power,

references in this Part to an item subject to legal privilege shall be read as references to privileged material within the meaning of section 354(2) of that Act.”

(6) In Part 1 of Schedule 1 (powers of seizure to which section 50 applies) at the end add—

**“Proceeds of Crime Act 2002 (c. 00)**

73A The power of seizure conferred by section 352(4) of the Proceeds of Crime Act 2002 (seizure of material likely to be of substantial value to certain investigations).”

(7) In Part 3 of Schedule 1 (powers of seizure to which section 55 applies) at the end add—

**“Proceeds of Crime Act 2002 (c. 00)**

110 The power of seizure conferred by section 352(4) of the Proceeds of Crime Act 2002 (seizure of material likely to be of substantial value to certain investigations).”

**Commencement Information**

**I150** Sch. 11 para. 40 in force at 24.2.2003 by S.I. 2003/120, art. 2, Sch. (with arts. 3, 4) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

SCHEDULE 12

Section 457

REPEALS AND REVOCATIONS

**Commencement Information**

**I151** Sch. 12 in force at 30.12.2002 for specified purposes by S.I. 2002/3015, art. 2, Sch.

**I152** Sch. 12 in force at 24.2.2003 for specified purposes by S.I. 2003/120, art. 2, Sch. (with arts. 3-6) (as amended (20.2.2003) by S.I. 2003/333, art. 14)

**I153** Sch. 12 in force at 24.3.2003 for specified purposes by S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7)

**I154** Sch. 12 in force at 24.3.2003 for specified purposes by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

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<b>Short title and chapter</b>	<b>Extent of repeal or revocation</b>
Misuse of Drugs Act 1971 (c. 38)	In section 21 the words “or section 49 of the Drug Trafficking Act 1994”. In section 23(3A) the words “or section 49 of the Drug Trafficking Act 1994”.
Criminal Appeal (Northern Ireland) Act 1980 (c. 47)	In section 30(3) the word “and” after paragraph (b).
Police and Criminal Evidence Act 1984 (c. 60)	In section 65— (a) the definitions of “drug trafficking” and “drug trafficking offence”; (b) the words from “references in this Part” to “in accordance with the Drug Trafficking Act 1994”.
Criminal Justice Act 1988 (c. 33)	Sections 71 to 102. In section 151(4) the word “and” after paragraph (a). In section 172— (a) in subsection (2) the words from “section 76(3)” to “extending to Scotland”; (b) in subsection (4) the words from “sections 90” to “section 93E”. Schedule 4.
Housing Act 1988 (c. 50)	In Schedule 17, paragraphs 83 and 84.
Extradition Act 1989 (c. 33)	In section 22(4)(h) the word “and” after subparagraph (ii).
Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))	In Article 53— (a) the definitions of “drug trafficking” and “drug trafficking offence”; (b) the words from “References in this Part” to “Order 1996”.
Criminal Justice (International Co-operation) Act 1990 (c. 5)	In section 13(6) the words “the Drug Trafficking Act 1994 or”. Section 14. In Schedule 4, paragraph 1.
Criminal Justice (Confiscation) (Northern Ireland) Order 1990 (S.I. 1990/2588 (N.I. 17))	In Article 37— (a) paragraph (2); (b) in paragraphs (3) and (4) subparagraph (b) and the word “and” before it; (c) paragraph (5).
Criminal Justice Act 1993 (c. 36)	Section 21(3)(e) to (g). Sections 27 to 35. In Schedule 4, paragraph 3. In Schedule 5, paragraph 14.
Criminal Justice and Public Order Act 1994 (c. 33)	In Schedule 9, paragraph 36.
Drug Trafficking Act 1994 (c. 37)	Sections 1 to 54.

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	<p>In sections 55(4)(a) and 56(3)(a) and (4)(a) the words “or has benefited from”.</p> <p>In section 59, subsections (1) to (10) and in subsection (11) the words “An order under subsection (1) above, and”.</p> <p>In section 60(6), in the definition of “specified offence”, in paragraph (a) the words “Part III or” and paragraph (c) and the word “or” immediately preceding it.</p> <p>In section 60(6), the words from “and references to the institution of proceedings” to the end.</p> <p>Section 60(7) and (8).</p> <p>Section 61(2) to (4).</p> <p>Sections 62, 63(1), (2) and (3)(a) and 64.</p> <p>In section 68(2), paragraphs (a) to (c) and in paragraph (g) the words “1, 41, 62” and “64”.</p> <p>In section 68(3), paragraph (a) and in paragraph (d) the word “64”.</p> <p>In Schedule 1, paragraphs 3, 4(a), 8, 21 and 26.</p>
Proceeds of Crime Act 1995 (c. 11)	<p>Sections 1 to 13.</p> <p>Section 15(1) to (3).</p> <p>Section 16(2), (5) and (6).</p> <p>Schedule 1.</p>
Criminal Law (Consolidation) (Scotland) Act 1995 (c. 39)	Part V.
Criminal Procedure (Consequential Provisions) (Scotland) Act 1995 (c. 40)	<p>In Schedule 3, paragraph 4(2).</p> <p>In Schedule 4, paragraphs 69 and 94.</p>
Private International Law (Miscellaneous Provisions) Act 1995 (c. 42)	Section 4(3).
Proceeds of Crime (Scotland) Act 1995 (c. 43)	<p>Part I, except section 2(7).</p> <p>In section 28, subsections (1)(a) and (2) and in subsection (5) the words “(including a restraint order made under and within the meaning of the 1994 Act)”.</p> <p>Section 29.</p> <p>In section 31, subsection (2), in subsection (4) the words “or (2)”.</p> <p>Sections 35 to 39.</p> <p>In section 40, subsections (1)(a), (2) and (4).</p> <p>In section 42, subsections (1)(a) and (b).</p> <p>In section 43, in subsection (1) the words “confiscation order”, subsection (2).</p> <p>Section 45(1)(a).</p> <p>Section 47.</p> <p>In section 49, in subsection (1) the definitions of “the 1988 Act”, “the 1994 Act” and “confiscation order” and subsection (4).</p>



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In Schedule 1, in paragraph 1, in sub-paragraph (1)(b) the words “or a confiscation order”, in sub-paragraph (2)(a) the words “subject to paragraph (b) below”, sub-paragraph (2)(b), in sub-paragraph (3)(a)(i) the words “or confiscation order”.

In Schedule 1, in paragraph 2, in sub-paragraph (1)(a) the words “, and if appointed (or empowered) under paragraph 1(1)(b) above where a confiscation order has been made”, paragraph 4, in paragraph 5(1) the words “Part I of”, in paragraph 8(2) the words from “, unless in a case where a confiscation order has been” to “4(4)(b) above,”.

In Schedule 1, in paragraph 10(1) the words “or the recipient of a gift caught by Part I of this Act or an implicative gift”, paragraphs 10(2) and (3), in paragraph 12(1)(a) the words “paragraph (a) or (b) of section 4(1) or”.

In Schedule 2, in paragraph 1(2) the words “and 35 to 38”, in paragraph 2(1) the words “realisable or”, in paragraph 2(2) the words “and 35 to 38”, paragraph 2(5), in paragraph 3(2) the words “and 35 to 38”, paragraphs 3(4) and (5), in paragraph 4(2) the words “and 35 to 38”, paragraph 6(2)(a).

Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996/1299 (N.I. 9))

Parts II and III.

In Article 2 in paragraph (2) from the definition of “charging order” to the definition of “external confiscation order” and from the definition of “modifications” to the definition of “restraint order” and paragraphs (3) to (10) and (12).

Article 3.

In Article 49, in paragraph (1) sub-paragraph (c) and the word “and” immediately preceding it, in paragraph (1A) sub-paragraph (c) and the word “and” immediately preceding it, paragraph (4) and in paragraph (5) the definitions of “customs officer” and “relevant property”.

In Article 52 in paragraph (2) sub-paragraph (b) and the word “and” immediately preceding it, and paragraph (3).

In Article 54 paragraphs (1) to (10) and (13) and in paragraph (11) the words “An order under paragraph (1) and,”.

In Article 55, in paragraph (6) in the definition of “specified offence” in paragraph (a) the words “Part III or” and

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	paragraph (c) and the word “or” immediately preceding it, and paragraph (7). Article 56(2) to (4). In Schedule 2— (a) in paragraph 1(3) “3 or”; (b) paragraph 3; (c) in paragraphs 4(2), 5(1) and 6(1) “3”. In Schedule 3, paragraphs 1 to 3 and 18.
Justices of the Peace Act 1997 (c. 25)	In Schedule 5, paragraphs 23 and 36.
Crime and Punishment (Scotland) Act 1997 (c. 48)	Section 15(3). In Schedule 1, paragraph 20.
Crime and Disorder Act 1998 (c. 37)	Section 83. In Schedule 8, paragraphs 115 and 116. In Schedule 8, paragraph 114. In Schedule 9, paragraph 8.
Access to Justice Act 1999 (c. 22)	In Schedule 2— (a) in paragraph 2(2) the word “or” at the end of paragraph (c); (b) in paragraph 2(3) the word “or” at the end of paragraph (j). In Schedule 13, paragraphs 139 and 172.
Powers of Criminal Courts (Sentencing) Act 2000 (c. 6)	In Schedule 9, paragraphs 105 to 113 and 163 to 173.
Terrorism Act 2000 (c. 11)	In Schedule 15, paragraphs 6, 10 and 11(2).
Criminal Justice and Police Act 2001 (c. 16)	In section 55(5) paragraph (a) and the word “and” after paragraph (b). In section 60(4) paragraph (a) and the word “or” after paragraph (b). In section 64(3) the word “and” after paragraph (a). In Schedule 1, paragraphs 47 and 105.
Financial Investigations (Northern Ireland) Order 2001 (S.I. 2001/1866 (N.I. 1))	Articles 3(2)(b) and 4(1)(a) and (c), (2), (3) and (5).
Land Registration Act 2002 (c. 9)	In Schedule 11, paragraphs 22 and 32.
This Act	Section 248(2)(a) and (4).

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