

Draft Order laid before Parliament under section 459(6)(a) of the Proceeds of Crime Act 2002, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2021 No.

PROCEEDS OF CRIME, NORTHERN IRELAND

The Proceeds of Crime Act 2002 (Search, Seizure and Detention of Property: Code of Practice) (Northern Ireland) Order 2021

Made - - - -

Coming into force - -

28th June 2021

The Secretary of State makes this Order in exercise of the powers conferred by section 195S(4) and (5) of the Proceeds of Crime Act 2002(a) (“the Act”).

The Secretary of State has—

- (a) under section 195S(5) of the Act, revised the code of practice made under section 195S(1) of the Act(b);
- (b) in accordance with section 195S(2) of the Act, published a draft of the revised code of practice, considered any representations made about the draft and, as thought appropriate, modified the draft in the light of such representations;
- (c) in accordance with section 195S(2A) of the Act, consulted with the Attorney General about the draft in its application to the exercise of powers by SFO officers and the Director of the Serious Fraud Office; and
- (d) in accordance with section 195S(3) of the Act, laid a draft of the revised code of practice before Parliament.

In accordance with section 459(6)(a) of the Act(c), a draft of this instrument has been laid before and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (Search, Seizure and Detention of Property: Code of Practice) (Northern Ireland) Order 2021 and comes into force on 28th June 2021.

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- (a) 2002 c. 29. Section 195S was inserted by section 57 of the Policing and Crime Act 2009 (c. 26) (which was amended by S.I. 2012/2595). Section 195S was amended by section 55(4) and paragraph 118 of Schedule 8 to the Crime and Courts Act 2013 (c. 22), paragraph 10 of Schedule 1 to the Criminal Finances Act 2017 (c. 22), and S.I. 2015/230.
 - (b) The revised code of practice brought into operation by this Order replaces the code of practice brought into operation in relation to Northern Ireland on 1st March 2016 by S.I. 2016/210.
 - (c) Amended by section 112(1) and paragraph 95 of Schedule 7 to the Policing and Crime Act 2009. Other amendments have been made but none are relevant.

Revised code of practice

2. The revised code of practice entitled “Code of Practice issued under section 195S of the Proceeds of Crime Act 2002 Search, Seizure and Detention of Property (Northern Ireland)” laid in draft before Parliament on 22nd March 2021 comes into operation on 28th June 2021.

Revocation

3. The Proceeds of Crime Act 2002 (Search, Seizure and Detention of Property: Code of Practice) (Northern Ireland) Order 2016(a) is revoked.

Date

Name
Minister of State
Home Office

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation on 28th June 2021 a revised code of practice made under section 195S of the Proceeds of Crime Act 2002 (c. 29) (“the 2002 Act”). Revisions to the code of practice are necessitated by the commencement in Northern Ireland of amendments made to the 2002 Act by the Criminal Finances Act 2017 (c. 22) which extended certain powers in Part 4 of the 2002 Act to immigration officers, Serious Fraud Office (“SFO”) officers and National Crime Agency (“NCA”) officers.

Part 4 of the 2002 Act is concerned with the confiscation of the proceeds of crime in Northern Ireland. That Part permits the making of a confiscation order under section 156 of the 2002 Act after a defendant is convicted. A confiscation order can be made ancillary to conviction and sentence to deprive a criminal of the benefit of their criminal conduct. Part 4 also contains powers to search, seize and detain property before conviction. The code of practice is made in connection with—

- (a) the carrying out by officers of Revenue and Customs, immigration officers and SFO officers of the functions conferred by sections 195C to 195H of the 2002 Act in Northern Ireland,
- (b) the carrying out by senior officers of their functions under section 195G of the 2002 Act in Northern Ireland, and
- (c) the detention of property by officers of Revenue and Customs, immigration officers, SFO officers and NCA officers under or by virtue of sections 190A, 193A and 195J to 195P of the 2002 Act in Northern Ireland.

The revised code of practice brought into operation by this Order replaces the code of practice that was brought into operation by the Proceeds of Crime Act 2002 (Search, Seizure and Detention of Property: Code of Practice) (Northern Ireland) Order 2016 (S.I. 2016/210). This Order revokes S.I. 2016/210.

A full impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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(a) S.I. 2016/210.

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