

*Status: Point in time view as at 30/04/2011.*

*Changes to legislation: Proceeds of Crime Act 2002, SCHEDULE 11 is up to date with all changes known to be in force on or before 15 July 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 11

Section 456

#### AMENDMENTS

#### Introduction

1 The amendments specified in this Schedule shall have effect.

#### Commencement Information

**I1** 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)

<sup>F12</sup> .....

#### Textual Amendments

**F1** Sch. 11 para. 2 repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 14; S.I. 2008/755, art. 2(1)(d) (with arts. 3-14)

#### Commencement Information

**I2** 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)

#### 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

**I3** 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)

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*Criminal Appeal Act 1968 (c. 19)*

4 (1) The Criminal Appeal Act 1968 is amended as follows.

<sup>F2</sup>(2) .....

(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);”.

**Textual Amendments**

**F2** Sch. 11 para. 4(2) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 14](#); S.I. 2008/755, art. 2(1)(d) (with arts. 3-14)

**Commencement Information**

**I4** 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.”

**Commencement Information**

**I5** 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**

**I6** 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)

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*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**

- I7** 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)  
**I8** Sch. 11 para. 7 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)

*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**

- I9** 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.

(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).”

<sup>F3</sup>(3) .....

**Textual Amendments**

- F3** Sch. 11 para. 9(3) repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 14; S.I. 2008/755, art. 2(1)(d) (with arts. 3-14)

**Commencement Information**

- I10** Sch. 11 para. 9 in force at 24.3.2003 by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

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*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.

**Commencement Information**

**I11** Sch. 11 para. 10(1)(3)(4) in force at 30.12.2002 by [S.I. 2002/3145](#), [art. 2\(b\)](#)

**I12** 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).”

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#### Commencement Information

- I13** 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)
- I14** 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

- I15** 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).

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

#### Commencement Information

- I16** 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—

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“(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.”

<sup>F4</sup>(4) .....

#### Textual Amendments

**F4** Sch. 11 para. 14(4) repealed (E.W.) (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8)(8), [Sch. 17 Pt. 2](#); S.I. 2005/3495, art. 2(1)(u)

#### Commencement Information

**I17** 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)

**I18** Sch. 11 para. 14(2)(3) in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#) (with arts. 10-13)

#### *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—

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

- (1) This section applies where—
  - (a) 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),
  - (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 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—
  - (a) 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
  - (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 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—
  - (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.

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(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

**I19** 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)

**I20** 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.

(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),



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- (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**

- I21** 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](#))
- I22** 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](#))

#### *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—

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- (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**

- I23** 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](#))
- I24** 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](#))
- I25** 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](#))
- I26** 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>F5</sup>18 .....

**Textual Amendments**

- F5** 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](#))

**Commencement Information**

- I27** 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

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- (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

**I28** 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)

**I29** [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.
- (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.

*Status: Point in time view as at 30/04/2011.*

*Changes to legislation: Proceeds of Crime Act 2002, SCHEDULE 11 is up to date with all changes known to be in force on or before 15 July 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 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 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**

- I30** 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)
- I31** 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)

*Status: Point in time view as at 30/04/2011.*

*Changes to legislation: Proceeds of Crime Act 2002, SCHEDULE 11 is up to date with all changes known to be in force on or before 15 July 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 (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**

- I32** 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)
- I33** Sch. 11 para. 21 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)

*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.”
- (4) In section 47 (further provisions relating to guaranteed minimum pensions), in subsection (6), after “but for” insert “section 14(2A) and”.
- <sup>F6</sup>(5) .....
- (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).”

**Textual Amendments**

- F6** Sch. 11 para. 22(5) repealed (6.4.2009) by Pensions Act 2008 (c. 30), s. 149(1), Sch. 11 Pt. 2; S.I. 2009/82, art. 2(2)(g)

**Commencement Information**

- I34** 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)

*Status: Point in time view as at 30/04/2011.*

*Changes to legislation: Proceeds of Crime Act 2002, SCHEDULE 11 is up to date with all changes known to be in force on or before 15 July 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)*

*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 ”.
- <sup>F7</sup>(5) .....
- (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).”

**Textual Amendments**

**F7** Sch. 11 para. 23(5) repealed (N.I.) (6.4.2009) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), s. 118(1), [Sch. 10 Pt. 2](#) (with s. 73); S.R. 2009/22, art. 2(2)(d)

**Commencement Information**

**I35** 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**

**I36** [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.

*Status: Point in time view as at 30/04/2011.*

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- (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.
- (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;

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- (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

- I37** Sch. 11 para. 25(1) in force for specified purposes at 30.12.2002 by [S.I. 2002/3015](#), [art. 2](#), [Sch.](#)
- I38** 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](#))
- I39** [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](#))
- I40** 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](#))
- I41** [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

- I42** [Sch. 11 para. 26](#) 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 30/04/2011.*

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*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**

- I43** 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)
- I44** 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);
  - (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—

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- (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**

- I45** 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](#))
- I46** 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](#))
- I47** 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](#))
- I48** 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) ”.
- (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**

- I49** 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 <sup>F8</sup>(1) . . . . .
- <sup>F9</sup>(2) . . . . .

*Status: Point in time view as at 30/04/2011.*

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F10(3) .....

F10(4) .....

#### Textual Amendments

- F8** Sch. 11 para. 30(1)(2) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), **Sch. 14**; S.I. 2008/755, art. 2(1)(d) (with arts. 3-14)
- F9** Sch. 11 para. 30(2) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), **Sch. 14**; S.I. 2008/755, art. 2(1)(d) (with arts. 3-14)
- F10** Sch. 11 para. 30(3)(4) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. para. 13(nn)

#### Commencement Information

- I50** 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”;
  - (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 ”;

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- (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)—
- (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**

“54A(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.

*Status: Point in time view as at 30/04/2011.*

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- (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;
  - (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.”

*Status: Point in time view as at 30/04/2011.*

*Changes to legislation: Proceeds of Crime Act 2002, SCHEDULE 11 is up to date with all changes known to be in force on or before 15 July 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

- I51** 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](#))
- I52** 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](#))
- I53** [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](#))
- I54** [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

- I55** [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.

#### Commencement Information

- I56** 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 <sup>F11</sup>(1) . . . . .
- <sup>F12</sup>(2) . . . . .
- <sup>F13</sup>(3) . . . . .
- <sup>F13</sup>(4) . . . . .

#### Textual Amendments

- F11** Sch. 11 para. 34(1)(2) repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [s. 94\(1\)](#), [Sch. 14](#); [S.I. 2008/755](#), [art. 2\(1\)\(d\)](#) (with [arts. 3-14](#))

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**F12** Sch. 11 para. 34(2) repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 14; S.I. 2008/755, art. 2(1)(d) (with arts. 3-14)

**F13** Sch. 11 para. 34(3)(4) repealed (1.4.2006) by Serious Organised Crime and Police Act 2005 (c. 15), s. 178(8), Sch. 17 Pt. 2; S.I. 2006/378, art. 4(1), Sch. para. 13(nn)

#### Commencement Information

**I57** 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

**I58** 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—

“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;

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- (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**

**I59** 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—
- “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**

**I60** [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.



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(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
  - (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.

*Status: Point in time view as at 30/04/2011.*

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- (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

- I61** 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)
- I62** 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”)—
- (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.”

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(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).”

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**Commencement Information**

**I63** 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)

**Status:**

Point in time view as at 30/04/2011.

**Changes to legislation:**

Proceeds of Crime Act 2002, SCHEDULE 11 is up to date with all changes known to be in force on or before 15 July 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.