

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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

F1 ...

F1

Textual Amendments

F1 Sch. 1 repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 8 para. 142, **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)

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F1 Sch. 1 repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 8 para. 142, **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)

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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)—

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- (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).

Commencement Information

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

People trafficking

- [^{F2}4 (1) An offence under section 25, 25A or 25B of the Immigration Act 1971 (c. 77) (assisting unlawful immigration etc.).
- [^{F3}(2) An offence under [^{F4}section 59A] of the Sexual Offences Act 2003 (trafficking for sexual exploitation).]
- [^{F5}(3) An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (exploitation).]]

Textual Amendments

- F2** 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.](#)
- F3** 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
- F4** Words in Sch. 2 para. 4(2) substituted (6.4.2013) by [Protection of Freedoms Act 2012](#) (c. 9), s. 120, [Sch. 9 para. 138](#) (with s. 97); [S.I. 2013/470](#), art. 2(d) (with arts. 3(b), 5-8)
- F5** Sch. 2 para. 4(3) added (1.12.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004](#) (c. 19), [ss. 5\(7\)](#), 48(3); [S.S.I. 2004/494](#); [S.I. 2004/2999](#), art. 2, [Sch.](#)

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Commencement Information

14 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

15 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).

Commencement Information

16 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).

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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

- [^{F6} 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

F6 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).

Commencement Information

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

- [^{F7}9A An offence under section 12(1) or (2) of the Gangmasters (Licensing) Act 2004 (acting as a gangmaster other than under the authority of a licence, possession of false documents etc).]

Textual Amendments

F7 Sch. 2 para. 9A inserted (1.10.2006) by [Gangmasters \(Licensing\) Act 2004 \(c. 11\)](#), ss. [14\(4\)](#), 29(1); [S.I. 2006/2406](#), art. 2(e)

Textual Amendments

F7 Sch. 2 para. 9A inserted (1.10.2006) by [Gangmasters \(Licensing\) Act 2004 \(c. 11\)](#), ss. [14\(4\)](#), 29(1); [S.I. 2006/2406](#), art. 2(e)

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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.

[^{F8}(1A) An offence under section 44 of the Serious Crime Act 2007 of doing an act capable of encouraging or assisting the commission of an offence specified in this Schedule.]

(2) An offence of aiding, abetting, counselling or procuring the commission of such an offence.

Textual Amendments

F8 Sch. 2 para. 10(1A) inserted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 6 para. 62](#) (with [Sch. 13 para. 5](#)); [S.I. 2008/2504](#), [art. 2\(a\)](#)

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.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.

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- (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.
- (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.

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- (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.
- (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)

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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.
 - (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 [F⁹attachment] of realisable property executed on or after the appointment of an administrator does not create a preference for the arrester or [F¹⁰attacher] .
 - (2) Any realisable property so arrested or [F¹¹attached] , or (if the property has been sold) the proceeds of sale, must be handed over to the administrator.
 - (3) A poiding 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).

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- (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.
- (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

- F9** 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\(2\)\(a\)\(i\)](#)
- F10** 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\(a\)\(ii\)](#)
- F11** 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.

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- (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.

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).

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- (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) ([^{F12}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).

Textual Amendments

F12 Word in Sch. 4 para. 2(2)(b) substituted (with application in accordance with art. 2 of the amending S.S.I.) by The Proceeds of Crime Act 2002 Amendment (Scotland) Order 2011 (S.S.I. 2011/231), arts. 1, 4(a)

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 [^{F13} section 25, 25A or 25B of the Immigration Act 1971 (assisting unlawful immigration etc.)][^{F14} or under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (exploitation)].

Textual Amendments

F13 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.

F14 Words in Sch. 4 para. 4 added (1.12.2004) by Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (c. 19), ss. 5(8), 48(3); S.S.I. 2004/494; S.I. 2004/2999, 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)

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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 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

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);
 - ^{F15}(ca) section 296ZB(1) or (2) (devices and services designed to circumvent technological measures);]
 - (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).

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

Textual Amendments

F15 Sch. 4 para. 7(1)(ca) inserted (with application in accordance with art. 2 of the amending S.S.I.) by The Proceeds of Crime Act 2002 Amendment (Scotland) Order 2011 (S.S.I. 2011/231), arts. 1, **4(b)**

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);
 - [^{F16}(aa) section 11(4) (aiding, abetting or compelling prostitution for gain);]
 - (b) section 11(5) (running of brothels).

Textual Amendments

F16 Sch. 4 para. 8(aa) inserted (with application in accordance with art. 2 of the amending S.S.I.) by The Proceeds of Crime Act 2002 Amendment (Scotland) Order 2011 (S.S.I. 2011/231), arts. 1, **4(c)**

Commencement Information

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

Traffic in prostitution etc.

- [^{F17}8A. An offence under section 22 of the Criminal Justice (Scotland) Act 2003 (asp 7) (traffic in prostitution etc.).]

Textual Amendments

F17 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)**

[^{F18}Gangmasters]

- [^{F19}9A An offence under section 12(1) or (2) of the Gangmasters (Licensing) Act 2004 (acting as a gangmaster other than under the authority of a licence, possession of false documents etc).]

Status: Point in time view as at 06/04/2013.

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Textual Amendments

- F18** Sch. 4 para. 9A cross-heading inserted (with application in accordance with art. 2 of the amending S.S.I.) by [The Proceeds of Crime Act 2002 Amendment \(Scotland\) Order 2011 \(S.S.I. 2011/231\)](#), arts. 1, **4(d)**
- F19** Sch. 4 para. 9A inserted (1.10.2006) by [Gangmasters \(Licensing\) Act 2004 \(c. 11\)](#), ss. **14(4)**, 29(1); S.I. 2006/2406, art. 2(e)

Consumer credit

- [^{F20}9B.** An offence under section 39(1) of the Consumer Credit Act 1974 (offences against Part III) if it concerns the carrying on of a consumer credit business (as defined in section 189(1) of that Act).

Textual Amendments

- F20** Sch. 4 paras. 9B-9F inserted (with application in accordance with art. 2 of the amending S.S.I.) by [The Proceeds of Crime Act 2002 Amendment \(Scotland\) Order 2011 \(S.S.I. 2011/231\)](#), arts. 1, **4(e)**

Distribution of obscene material

- 9C.** An offence under section 51(2) of the Civic Government (Scotland) Act 1982 (obscene material).

Textual Amendments

- F20** Sch. 4 paras. 9B-9F inserted (with application in accordance with art. 2 of the amending S.S.I.) by [The Proceeds of Crime Act 2002 Amendment \(Scotland\) Order 2011 \(S.S.I. 2011/231\)](#), arts. 1, **4(e)**

Unclassified video recordings

- 9D.** An offence under either of the following provisions of the Video Recordings Act 1984—
- (a) section 9(1) (supplying video recording of unclassified work);
 - (b) section 10(1) (possession of video recording of unclassified work for the purposes of supply).

Textual Amendments

- F20** Sch. 4 paras. 9B-9F inserted (with application in accordance with art. 2 of the amending S.S.I.) by [The Proceeds of Crime Act 2002 Amendment \(Scotland\) Order 2011 \(S.S.I. 2011/231\)](#), arts. 1, **4(e)**

Private security industry

- 9E.** An offence under section 5(1) of the Private Security Industry Act 2001 (using an unlicensed security operative).

Status: Point in time view as at 06/04/2013.

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Textual Amendments

F20 Sch. 4 paras. 9B-9F inserted (with application in accordance with art. 2 of the amending S.S.I.) by [The Proceeds of Crime Act 2002 Amendment \(Scotland\) Order 2011 \(S.S.I. 2011/231\)](#), arts. 1, **4(e)**

Serious organised crime

- 9F. (1) An offence under either of the following provisions of the Criminal Justice and Licensing (Scotland) Act 2010—
- (a) section 28(1) (involvement in serious organised crime);
 - (b) section 30(1) or (2) (directing serious organised crime).
- (2) An offence to which section 29(1) of the Criminal Justice and Licensing (Scotland) Act 2010 (offences aggravated by connection with serious organised crime) applies.]

Textual Amendments

F20 Sch. 4 paras. 9B-9F inserted (with application in accordance with art. 2 of the amending S.S.I.) by [The Proceeds of Crime Act 2002 Amendment \(Scotland\) Order 2011 \(S.S.I. 2011/231\)](#), arts. 1, **4(e)**

Inchoate offences

- 10 (1) An offence of [^{F21}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.

Textual Amendments

F21 Word in [Sch. 4 para. 10\(1\)](#) inserted (with application in accordance with art. 2 of the amending S.S.I.) by [The Proceeds of Crime Act 2002 Amendment \(Scotland\) Order 2011 \(S.S.I. 2011/231\)](#), arts. 1, **4(f)**

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);

Status: Point in time view as at 06/04/2013.

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- (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) (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

- [^{F22} 4 (1) An offence under section 25, 25A or 25B of the Immigration Act 1971 (assisting unlawful immigration etc.).
- [^{F23} (2) An offence under any of sections 57 to 59 of the Sexual Offences Act 2003 (trafficking for sexual exploitation).]
- [^{F24} (3) An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (exploitation).]

Status: Point in time view as at 06/04/2013.

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Textual Amendments

- F22** 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.
- F23** 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
- F24** Sch. 5 para. 4(3) added (1.12.2004) by [Asylum and Immigration \(Treatment of Claimants, etc.\) Act 2004 \(c. 19\)](#), [ss. 5\(9\)](#), 48(3); S.S.I. 2004/494; S.I. 2004/2999, art. 2, Sch.

Commencement Information

- I34** Sch. 5 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 [^{F25}Article 24(1)] of the Firearms (Northern Ireland) Order [^{F25}2004 (S.I. 2004/ (N.I.))] (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.

Textual Amendments

- F25** Words in Sch. 5 para. 5(2) substituted (1.2.2005) by [The Firearms \(Northern Ireland\) Order 2004 \(S.I. 2004/702\)](#), art. 1(3), [Sch. 7 para. 26](#) (with art. 81); S.R. 2005/4, art. 3 (with arts. 4-7)

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.

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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.

Pimps and brothels

- 8 (1) An offence under any of the following (1) provisions of the Criminal Law Amendment Act 1885 (c. 69)—
- ^{F26}(a)
 - ^{F26}(b)
 - ^{F26}(c)
 - (d) section 13(3) (letting premises for use as a brothel).
- [^{F27}(1A) An offence under any of the following provisions of the Sexual Offences (Northern Ireland) Order 2008—
- (a) Article 21 (arranging or facilitating commission of a sex offence against a child);
 - (b) Article 38 (causing or inciting child prostitution or pornography);
 - (c) Article 39 (controlling a child prostitute or a child involved in pornography);
 - (d) Article 40 (arranging or facilitating child prostitution or pornography);
 - (e) Article 62 (causing or inciting prostitution for gain);
 - (f) Article 63 (controlling prostitution for gain).]

^{F28}(2)

^{F28}(3)

^{F28}(4)

^{F28}(5)

^{F29}(6)

(7) An offence of keeping a bawdy house.

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Textual Amendments

- F26** Sch. 5 para. 8(1)(a)-(c) repealed (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769\)](#), art. 1(3), [Sch. 1 para. 29\(2\)](#), [Sch. 3](#); S.R. 2008/510, art. 2
- F27** Sch. 5 para. 8(1A) substituted (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769\)](#), art. 1(3), [Sch. 1 para. 29\(3\)](#); S.R. 2008/510, art. 2
- F28** 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
- F29** Sch. 5 para. 8(6) repealed (2.2.2009) by [The Sexual Offences \(Northern Ireland\) Order 2008 \(S.I. 2008/1769\)](#), art. 1(3), [Sch. 1 para. 29\(4\)](#), [Sch. 3](#); S.R. 2008/510, 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.](#)

- [^{F30}9A An offence under section 12(1) or (2) of the Gangmasters (Licensing) Act 2004 (acting as a gangmaster other than under the authority of a licence, possession of false documents etc).]

Textual Amendments

- F30** Sch. 5 para. 9A inserted (1.10.2006) by [Gangmasters \(Licensing\) Act 2004 \(c. 11\)](#), [ss. 14\(4\)](#), 29(1); S.I. 2006/2406, art. 2(e)

Textual Amendments

- F30** Sch. 5 para. 9A inserted (1.10.2006) by [Gangmasters \(Licensing\) Act 2004 \(c. 11\)](#), [ss. 14\(4\)](#), 29(1); S.I. 2006/2406, art. 2(e)

Commencement Information

- I39** Sch. 5 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.
- [^{F31}(1A) An offence under section 44 of the Serious Crime Act 2007 of doing an act capable of encouraging or assisting the commission of an offence specified in this Schedule.]
- (2) An offence of aiding, abetting, counselling or procuring the commission of such an offence.

Status: Point in time view as at 06/04/2013.

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Textual Amendments

F31 Sch. 5 para. 10(1A) inserted (1.10.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), **Sch. 6 para. 62** (with [Sch. 13 para. 5](#)); S.I. 2008/2504, art. 2(a)

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.

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)

Status: Point in time view as at 06/04/2013.

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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—
- (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.

Status: Point in time view as at 06/04/2013.

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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.

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.

Status: Point in time view as at 06/04/2013.

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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)

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)

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F32
...

Textual Amendments

F32 Words in Sch. 8 repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 101(2), [Sch. 14](#); [S.I. 2008/755](#), art. 2(1)(a)(d) (with arts. 3-14)

MEMBERS OF [F33]SOCA'S STAFF

Textual Amendments

F33 Words in Sch. 8 substituted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 101\(3\)](#); [S.I. 2008/755](#), art. 2(1)(a) (with arts. 3-14)

“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 [F34]assigned by SOCA] to carry out except for the purposes of those functions, or to [F35]to SOCA] or in accordance with [F36] its] 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.”

Textual Amendments

F34 Words in Sch. 8 substituted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 101\(4\)](#); [S.I. 2008/755](#), art. 2(1)(a) (with arts. 3-14)

F35 Words in Sch. 8 substituted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 101\(5\)](#); [S.I. 2008/755](#), art. 2(1)(a) (with arts. 3-14)

F36 Word in Sch. 8 substituted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 101\(6\)](#); [S.I. 2008/755](#), art. 2(1)(a) (with arts. 3-14)

SCHEDULE 9

Section 330

REGULATED SECTOR AND SUPERVISORY AUTHORITIES

[F37] PART 1

REGULATED SECTOR

Textual Amendments

F37 Sch. 9 Pts. 1, 2 substituted (15.12.2007) by [The Proceeds of Crime Act 2002 \(Business in the Regulated Sector and Supervisory Authorities\) Order 2007 \(S.I. 2007/3287\)](#), arts. 1, 2

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

Business in the regulated sector

1. (1) A business is in the regulated sector to the extent that it consists of—
 - (a) the acceptance by a credit institution of deposits or other repayable funds from the public, or the granting by a credit institution of credits for its own account;
 - (b) the carrying on of one or more of the activities listed in points 2 to 12 [F38, 14 and 15] of Annex 1 to the Banking Consolidation Directive by an undertaking other than—
 - (i) a credit institution; or
 - (ii) an undertaking whose only listed activity is trading for own account in one or more of the products listed in point 7 of Annex 1 to the Banking Consolidation Directive and which does not act on behalf of a customer (that is, a third party which is not a member of the same group as the undertaking);
 - (c) the carrying on of activities covered by the Life Assurance Consolidation Directive by an insurance company authorised in accordance with that Directive;
 - (d) the provision of investment services or the performance of investment activities by a person (other than a person falling within Article 2 of the Markets in Financial Instruments Directive) whose regular occupation or business is the provision to other persons of an investment service or the performance of an investment activity on a professional basis;
 - (e) the marketing or other offering of units or shares by a collective investment undertaking;
 - (f) the activities of an insurance intermediary as defined in Article 2(5) of the Insurance Mediation Directive, other than a tied insurance intermediary as mentioned in Article 2(7) of that Directive, in respect of contracts of long-term insurance within the meaning given by article 3(1) of, and Part II of Schedule 1 to, the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;
 - (g) the carrying on of any of the activities mentioned in paragraphs (b) to (f) by a branch located in an EEA State of a person referred to in those paragraphs (or of an equivalent person in any other State), wherever its head office is located;
 - (h) the activities of the National Savings Bank;
 - (i) any activity carried on for the purpose of raising money authorised to be raised under the National Loans Act 1968 under the auspices of the Director of Savings;
 - (j) the carrying on of statutory audit work within the meaning of section 1210 of the Companies Act 2006 (meaning of “statutory auditor” etc) by any firm or individual who is a statutory auditor within the meaning of Part 42 of that Act (statutory auditors);
 - (k) the activities of a person appointed to act as an insolvency practitioner within the meaning of section 388 of the Insolvency Act 1986 (meaning of “act as insolvency practitioner”) or article 3 of the Insolvency (Northern Ireland) Order 1989;
 - (l) the provision to other persons of accountancy services by a firm or sole practitioner who by way of business provides such services to other persons;

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- (m) the provision of advice about the tax affairs of other persons by a firm or sole practitioner who by way of business provides advice about the tax affairs of other persons;
 - (n) the participation in financial or real property transactions concerning—
 - (i) the buying and selling of real property (or, in Scotland, heritable property) or business entities;
 - (ii) the managing of client money, securities or other assets;
 - (iii) the opening or management of bank, savings or securities accounts;
 - (iv) the organisation of contributions necessary for the creation, operation or management of companies; or
 - (v) the creation, operation or management of trusts, companies or similar structures,by a firm or sole practitioner who by way of business provides legal or notarial services to other persons;
 - (o) the provision to other persons by way of business by a firm or sole practitioner of any of the services mentioned in sub-paragraph (4);
 - (p) the carrying on of estate agency work ^{F39}... by a firm or a sole practitioner who carries on, or whose employees carry on, such work;
 - (q) the trading in goods (including dealing as an auctioneer) whenever a transaction involves the receipt of a payment or payments in cash of at least 15,000 euros in total, whether the transaction is executed in a single operation or in several operations which appear to be linked, by a firm or sole trader who by way of business trades in goods;
 - (r) operating a casino under a casino operating licence (within the meaning given by section 65(2) of the Gambling Act 2005 (nature of licence)).
 - ^{F40}(s) the auctioning by an auction platform of two-day spot or five-day futures, within the meanings given by Article 3 of the Emission Allowance Auctioning Regulation.]
 - ^{F41}(t) bidding directly, on behalf of clients, in auctions of emissions allowances in accordance with the Emission Allowance Auctioning Regulation.]
- (2) For the purposes of sub-paragraph (1)(a) and (b) “credit institution” means—
- (a) a credit institution as defined in ^{F42}Article 4(1)] of the Banking Consolidation Directive; or
 - (b) a branch (within the meaning of Article 4(3) of that Directive) located in an EEA state of an institution falling within paragraph (a) (or of an equivalent institution in any other State) wherever its head office is located.
- (3) For the purposes of sub-paragraph (1)(n) a person participates in a transaction by assisting in the planning or execution of the transaction or otherwise acting for or on behalf of a client in the transaction.
- (4) The services referred to in sub-paragraph (1)(o) are—
- (a) forming companies or other legal persons;
 - (b) acting, or arranging for another person to act—
 - (i) as a director or secretary of a company;
 - (ii) as a partner of a partnership; or
 - (iii) in a similar position in relation to other legal persons;

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- (c) providing a registered office, business address, correspondence or administrative address or other related services for a company, partnership or any other legal person or arrangement;
 - (d) acting, or arranging for another person to act, as—
 - (i) a trustee of an express trust or similar legal arrangement; or
 - (ii) a nominee shareholder for a person other than a company whose securities are listed on a regulated market.
- (5) For the purposes of sub-paragraph (4)(d) “regulated market”—
- (a) in relation to any EEA State, has the meaning given by point 14 of Article 4(1) of the Markets in Financial Instruments Directive; and
 - (b) in relation to any other State, means a regulated financial market which subjects companies whose securities are admitted to trading to disclosure obligations which are contained in international standards and are equivalent to the specified disclosure obligations.
- (6) For the purposes of sub-paragraph (5) “the specified disclosure obligations” means disclosure requirements consistent with—
- (a) Article 6(1) to (4) of Directive [2003/6/EC](#) of the European Parliament and of the Council of 28th January 2003 on insider dealing and market manipulation;
 - (b) Articles 3, 5, 7, 8, 10, 14 and 16 of Directive [2003/71/EC](#) of the European Parliament and of the Council of 4th November 2003 on the prospectuses to be published when securities are offered to the public or admitted to trading;
 - (c) Articles 4 to 6, 14, 16 to 19 and 30 of Directive [2004/109/EC](#) of the European Parliament and of the Council of 15th December 2004 relating to the harmonisation of transparency requirements in relation to information about issuers whose securities are admitted to trading on a regulated market; or
 - (d) Community legislation made under the provisions mentioned in paragraphs (a) to (c).
- [^{F43}(6A) For the purposes of sub-paragraph (1)(p) “estate agency work” is to be read in accordance with section 1 of the Estate Agents Act 1979 (estate agency work), but for those purposes references in that section to disposing of or acquiring an interest in land are (despite anything in section 2 of that Act) to be taken to include references to disposing of or acquiring an estate or interest in land outside the United Kingdom where that estate or interest is capable of being owned or held as a separate interest.]
- (7) For the purposes of sub-paragraph (1)(j) and (l) to (q) “firm” means any entity, whether or not a legal person, that is not an individual and includes a body corporate and a partnership or other unincorporated association.
- (8) For the purposes of sub-paragraph (1)(q) “cash” means notes, coins or travellers’ cheques in any currency.
- [^{F44}(9) For the purposes of sub-paragraph (1)(s) “auction platform” means a platform on which auctions of emissions allowances are held in accordance with the Emission Allowance Auctioning Regulation.]

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Textual Amendments

- F38** Words in Sch. 9 para. 1(1)(b) substituted (9.2.2011 for specified purposes, 30.4.2011 in so far as not already in force) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), reg. 1(2), [Sch. 4 para. 4\(a\)](#)
- F39** Words in Sch. 9 para. 1(1)(p) omitted (1.10.2012) by virtue of [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) \(No.2\) Order 2012 \(S.I. 2012/2299\)](#), arts. 1, [3\(a\)](#)
- F40** Sch. 9 para. 1(1)(s) inserted (12.12.2011) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) Order 2011 \(S.I. 2011/2701\)](#), arts. 1, [3\(2\)\(a\)](#)
- F41** Sch. 9 para. 1(1)(t) inserted (7.7.2012) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) Order 2012 \(S.I. 2012/1534\)](#), arts. 1, [3](#)
- F42** Words in Sch. 9 para. 1(2)(a) substituted (9.2.2011 for specified purposes, 30.4.2011 in so far as not already in force) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), reg. 1(2), [Sch. 4 para. 4\(b\)](#)
- F43** Sch. 9 para. 1(6A) inserted (1.10.2012) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) \(No.2\) Order 2012 \(S.I. 2012/2299\)](#), arts. 1, [3\(b\)](#)
- F44** Sch. 9 para. 1(9) inserted (12.12.2011) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) Order 2011 \(S.I. 2011/2701\)](#), arts. 1, [3\(2\)\(b\)](#)

Excluded activities

2. (1) A business is not in the regulated sector to the extent that it consists of—
 - (a) the issuing of withdrawable share capital within the limit set by section 6 of the Industrial and Provident Societies Act 1965 (maximum shareholding in society), or the acceptance of deposits from the public within the limit set by section 7(3) of that Act (carrying on of banking by societies), by a society registered under that Act;
 - (b) the issuing of withdrawable share capital within the limit set by section 6 of the Industrial and Provident Societies Act (Northern Ireland) 1969 (maximum shareholding in society), or the acceptance of deposits from the public within the limit set by section 7(3) of that Act (carrying on of banking by societies), by a society registered under that Act;
 - (c) the carrying on of any activity in respect of which a person who is (or falls within a class of persons) specified in any of paragraphs 2 to 23, 25 to 38 or 40 to 49 of the Schedule to the Financial Services and Markets Act 2000 (Exemption) Order 2001 is exempt;
 - (d) the exercise of the functions specified in section 45 of the Financial Services Act 1986 (miscellaneous exemptions) by a person who was an exempted person for the purposes of that section immediately before its repeal; ^{F45}or]
 - (e) the engaging in financial activity which fulfils all of the conditions set out in paragraphs (a) to (g) of sub-paragraph (3) of this paragraph by a person whose main activity is that of a high value dealer; ^{F46}...
 - ^{F46}(f)
- (2) For the purposes of sub-paragraph (1)(e) a “high value dealer” means a person mentioned in paragraph 1(1)(q) when carrying on the activities mentioned in that paragraph.
- (3) A business is not in the regulated sector to the extent that it consists of financial activity if—
 - (a) the person’s total annual turnover in respect of the financial activity does not exceed £64,000;

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- (b) the financial activity is limited in relation to any customer to no more than one transaction exceeding 1,000 euros, whether the transaction is carried out in a single operation, or a series of operations which appear to be linked;
 - (c) the financial activity does not exceed 5% of the person's total annual turnover;
 - (d) the financial activity is ancillary to the person's main activity and directly related to that activity;
 - (e) the financial activity is not the transmission or remittance of money (or any representation of monetary value) by any means;
 - (f) the main activity of the person carrying on the financial activity is not an activity mentioned in paragraph 1(1)(a) to (p) or (r); and
 - (g) the financial activity is provided only to customers of the person's main activity and is not offered to the public.
- (4) A business is not in the regulated sector if it is carried on by—
- (a) the Auditor General for Scotland;
 - (b) the Auditor General for Wales;
 - (c) the Bank of England;
 - (d) the Comptroller and Auditor General;
 - (e) the Comptroller and Auditor General for Northern Ireland;
 - (f) the Official Solicitor to the Supreme Court, when acting as trustee in his official capacity; or
 - (g) the Treasury Solicitor.

Textual Amendments

F45 Word in Sch. 9 para. 2(1)(d) inserted (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(k), [Sch. 18 para. 2\(a\)](#)

F46 Sch. 9 para. 2(1)(f) and word repealed (15.1.2012) by [Localism Act 2011 \(c. 20\)](#), s. 240(1)(k)(m), [Sch. 18 para. 2\(b\)](#), [Sch. 25 Pt. 29](#)

INTERPRETATION

3. (1) In this Part—

“the Banking Consolidation Directive” means directive [2006/48/EC](#) of the European Parliament and of the Council of 14th June 2006 relating to the taking up and pursuit of the business of credit institutions [^{F47}as last amended by Directive [2009/111/EC](#)];

[^{F48}“the Emission Allowance Auctioning Regulation” means Commission Regulation (EU) No. 1031/2010 of 12 November 2010 on the timing, administration and other aspects of auctioning of greenhouse gas emission allowances pursuant to Directive [2003/87/EC](#) of the European Parliament and of the Council establishing a scheme for greenhouse gas emission allowances trading within the Community;]

“the Insurance Mediation Directive” means directive [2002/92/EC](#) of the European Parliament and of the Council of 9th December 2002 on insurance mediation;

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“the Life Assurance Consolidation Directive” means directive [2002/83/EC](#) of the European Parliament and of the Council of 5th November 2002 concerning life assurance; and

“the Markets in Financial Instruments Directive” means directive [2004/39/EC](#) of the European Parliament and of the Council of 12th April 2004 on markets in financial instruments.

- (2) In this Part references to amounts in euros include references to equivalent amounts in another currency.
- (3) Terms used in this Part and in the Banking Consolidation Directive or the Markets in Financial Instruments Directive have the same meaning in this Part as in those Directives.

Textual Amendments

- F47** Words in Sch. 9 para. 3(1) inserted (9.2.2011 for specified purposes, 30.4.2011 in so far as not already in force) by [The Electronic Money Regulations 2011 \(S.I. 2011/99\)](#), reg. 1(2), [Sch. 4 para. 4\(c\)](#)
- F48** Words in Sch. 9 para. 3(1) inserted (12.12.2011) by [The Terrorism Act 2000 and Proceeds of Crime Act 2002 \(Business in the Regulated Sector\) Order 2011 \(S.I. 2011/2701\)](#), arts. 1, [3\(3\)](#)

PART 2

SUPERVISORY AUTHORITIES

4. (1) The following bodies are supervisory authorities—
 - (a) the Commissioners for Her Majesty’s Revenue and Customs;
 - (b) the Department of Enterprise, Trade and Investment in Northern Ireland;
 - ^[F49](c) Financial Conduct Authority;
 - (d) the Gambling Commission;
 - (e) the Office of Fair Trading;
 - ^[F50](ea) Prudential Regulation Authority;
 - (f) the Secretary of State; and
 - (g) the professional bodies listed in sub-paragraph (2).
- (2) The professional bodies referred to in sub-paragraph (1)(g) are—
 - (a) the Association of Accounting Technicians;
 - (b) the Association of Chartered Certified Accountants;
 - (c) the Association of International Accountants;
 - (d) the Association of Taxation Technicians;
 - (e) the Chartered Institute of Management Accountants;
 - (f) the Chartered Institute of Public Finance and Accountancy;
 - (g) the Chartered Institute of Taxation;
 - (h) the Council for Licensed Conveyancers;
 - (i) the Faculty of Advocates;
 - (j) the Faculty Office of the Archbishop of Canterbury;
 - (k) the General Council of the Bar;
 - (l) the General Council of the Bar of Northern Ireland;

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- (m) the Insolvency Practitioners Association;
- (n) the Institute of Certified Bookkeepers;
- (o) the Institute of Chartered Accountants in England and Wales;
- (p) the Institute of Chartered Accountants in Ireland;
- (q) the Institute of Chartered Accountants of Scotland;
- (r) the Institute of Financial Accountants;
- (s) the International Association of Book-keepers;
- (t) the Law Society;
- (u) the Law Society for Northern Ireland; and
- (v) the Law Society of Scotland.]

Textual Amendments

- F49** Sch. 9 para. 4(1)(c) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 94\(4\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.
- F50** Sch. 9 para. 4(1)(ea) inserted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 18 para. 94\(4\)\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), art. 3, Sch.

PART 3

POWER TO AMEND

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

Commencement Information

- I53** 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)

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 [^{F51} or 50] ;
 - (b) an administrator appointed under section 125 or 128;
 - (c) a receiver appointed under section 196 [^{F52} or 198] ;
 - [^{F53}(ca) a receiver appointed under section 245E;]
 - (d) an interim receiver appointed under section 246;
 - (e) an interim administrator appointed under section 256.

Status: Point in time view as at 06/04/2013.

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Textual Amendments

- F51** Words in Sch. 10 para. 1(a) substituted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 84\(a\)](#); [S.I. 2008/755](#), art. 2(1)(a) (with arts. 3-14)
- F52** Words in Sch. 10 para. 1(c) substituted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 84\(b\)](#); [S.I. 2008/755](#), art. 2(1)(a) (with arts. 3-14)
- F53** Sch. 10 para. 1(ca) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), [ss. 83\(3\)](#), 94(1); [S.I. 2008/755](#), art. 17(1)(h)

Commencement Information

- I54** 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.
- (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)^{F54}, and “ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005].
- (8) This paragraph applies for the purposes of this Part.

Status: Point in time view as at 06/04/2013.

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Textual Amendments

F54 Words in [Sch. 10 para. 2\(7\)](#) inserted (6.4.2005) by [Income Tax \(Trading and Other Income\) Act 2005 \(c. 5\)](#), s. 883(1), [Sch. 1 para. 583\(2\)](#) (with [Sch. 2](#))

Commencement Information

I55 [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—
- sub-paragraph (1) does not apply, and
 - 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—
- notes or coins in any currency other than sterling,
 - anything mentioned in section 289(6)(b) to (d), if expressed in any currency other than sterling, or
 - 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

I56 [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 [^{F55}Chapter 2 of Part 12 of the Income Tax Act 2007, that Part does not apply to the transfer].

Textual Amendments

F55 Words in [Sch. 10 para. 4](#) substituted (6.4.2007) by [Income Tax Act 2007 \(c. 3\)](#), s. 1034(1), [Sch. 1 para. 424](#) (with [Sch. 2](#))

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Commencement Information

I57 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 [^{F56}deeply] discounted security (within the meaning of [^{F57}Chapter 8 of Part 4 of ITTOIA 2005]), it is not to be treated as a transfer for the purposes of [^{F57}that Chapter].

Textual Amendments

F56 Word in Sch. 10 para. 5 substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 583(3)(a) (with Sch. 2)

F57 Words in Sch. 10 para. 5 substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 583(3)(b) (with Sch. 2)

Commencement Information

I58 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.) [^{F58}, or a right falling within the definition of “deposit rights” in section 552(1) of ITTOIA 2005] it is not to be treated as a disposal of the right for the purposes of section 56(2) [^{F59}of the Taxes Act 1988 or Chapter 11 of Part 4 of ITTOIA 2005].

Textual Amendments

F58 Words in Sch. 10 para. 6 inserted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 583(4)(a) (with Sch. 2)

F59 Words in Sch. 10 para. 6 substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 583(4)(b) (with Sch. 2)

Commencement Information

I59 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.

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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

I60 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 [^{F60}section 562 of ITTOIA 2005]), it is not to be treated as a disposal of the futures or options for the purposes of [^{F61}Chapter 12 of Part 4 of that Act].

Textual Amendments

F60 Words in Sch. 10 para. 8 substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 583(5)(a) (with Sch. 2)

F61 Words in Sch. 10 para. 8 substituted (6.4.2005) by Income Tax (Trading and Other Income) Act 2005 (c. 5), s. 883(1), Sch. 1 para. 583(5)(b) (with Sch. 2)

Commencement Information

I61 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 [^{F62}Part 5 of the Corporation Tax Act 2009 (loan relationships)] .
- (2) The Part 5 transfer is to be disregarded for the purposes of [^{F63}that Part] , 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.

Textual Amendments

F62 Words in Sch. 10 para. 9(1) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 547(2)(a) (with Sch. 2 Pts. 1, 2)

F63 Words in Sch. 10 para. 9(2) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 547(2)(b) (with Sch. 2 Pts. 1, 2)

Commencement Information

I62 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.

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Commencement Information

I63 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 ^{F64} section 173 of ITTOIA 2005 or section 162 of the Corporation Tax Act 2009 (valuation of trading stock on cessation).]
- (4) In this paragraph, trading stock and trade have the same meaning as in ^{F65} section 174 of ITTOIA 2005 or (as the case may be) section 163 of the Corporation Tax Act 2009.]

Textual Amendments

F64 Words in Sch. 10 para. 11(3) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 547(3)(a) (with Sch. 2 Pts. 1, 2)

F65 Words in Sch. 10 para. 11(4) substituted (with effect in accordance with s. 1329(1) of the amending Act) by Corporation Tax Act 2009 (c. 4), s. 1329(1), Sch. 1 para. 547(3)(b) (with Sch. 2 Pts. 1, 2)

Commencement Information

I64 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)

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).

Status: Point in time view as at 06/04/2013.

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Commencement Information

I65 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

I66 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—

(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

I67 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)

Status: Point in time view as at 06/04/2013.

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- 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

I68 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.

Commencement Information

I69 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 disappplied.

Status: Point in time view as at 06/04/2013.

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Commencement Information

I70 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

^{F66}18

Textual Amendments

F66 Sch. 10 paras. 18-21 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 24](#)

Commencement Information

I71 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)

^{F66}19

Textual Amendments

F66 Sch. 10 paras. 18-21 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 24](#)

Commencement Information

I72 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)

^{F66}20

Textual Amendments

F66 Sch. 10 paras. 18-21 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 24](#)

Commencement Information

I73 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)

^{F66}21

Textual Amendments

F66 Sch. 10 paras. 18-21 omitted (with effect in accordance with Sch. 27 para. 30(1) of the amending Act) by virtue of [Finance Act 2008 \(c. 9\)](#), [Sch. 27 para. 24](#)

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Commencement Information

I74 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

I75 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

I76 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.
- (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

I77 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.

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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

I78 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

I79 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

I80 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.

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

Commencement Information

I81 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

I82 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](#))

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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

I83 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

I84 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.

Commencement Information

I85 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

I86 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)

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SCHEDULE 11

Section 456

AMENDMENTS

Introduction

1 The amendments specified in this Schedule shall have effect.

Commencement Information

I87 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)

^{F67}2

Textual Amendments

F67 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

I88 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

I89 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.

^{F68}(2)

(3) In section 50(1) (meaning of sentence) after paragraph (c) insert—

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- “(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

F68 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

I90 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

I91 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

I92 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

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amount payable under a confiscation order made under Part 2 or 3 of the Proceeds of Crime Act 2002.”

Commencement Information

- I93** 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)
I94 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

- I95** 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).”

^{F69}(3)

Textual Amendments

- F69** 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

- I96** 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—

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

“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

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

198 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

199 [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](#))

1100 [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](#))

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

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

I101 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

I102 [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.”

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

(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.”

^{F70}(4)

Textual Amendments

F70 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

I103 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)

I104 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—

“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.

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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 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.
- (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."

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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

- I105** 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)
- I106** 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—
- 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),
 - 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 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—
- 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),
 - 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 trustee as part of the bankrupt’s estate.

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

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

I107 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](#))

I108 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—
 - (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—

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

“(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

- I109** 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](#))
- I110** 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](#))
- I111** 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](#))
- I112** 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)

^{F71}18

Textual Amendments

- F71** 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

- I113** 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.

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

(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

I114 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)

I115 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.

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

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

- (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

I116 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)

I117 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 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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 (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

- I118** 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)
- I119** 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”.
- ^{F72}(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

- F72** 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

- I120** 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 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

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

23 (1) The Pension Schemes (Northern Ireland) Act 1993 is amended as follows.

^{F73}(2)

(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”.

^{F74}(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

F73 Sch. 11 para. 23(2) repealed (N.I.) (6.4.2012) by [Pensions \(No. 2\) Act \(Northern Ireland\) 2008 \(c. 13\)](#), s. 118(1), [Sch. 10 Pt. 3](#) (with s. 73); S.R. 2012/119, art. 2(c)

F74 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

I121 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

I122 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;

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

- (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;
 - (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.

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

(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

- I123** Sch. 11 para. 25(1) in force for specified purposes at 30.12.2002 by S.I. 2002/3015, art. 2, Sch.
- I124** 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)
- I125** 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)
- I126** 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)
- I127** 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

- I128** 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.

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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

- I129** 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)
- I130** 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—
- (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”;

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

(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

I131 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](#))

I132 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](#))

I133 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](#))

I134 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

I135 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 ^{F75}(1)

^{F76}(2)

^{F77}(3)

^{F77}(4)

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

Textual Amendments

- F75** 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)
- F76** 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)
- F77** 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

- I136** 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”;
 - (c) in sub-paragraph (b) after “and who is” insert “an accredited financial investigator”.
- (5) In Article 49(1A)—

Status: Point in time view as at 06/04/2013.

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- (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.
- (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.

Status: Point in time view as at 06/04/2013.

Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)

- (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.”

Commencement Information

I137 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)

Status: Point in time view as at 06/04/2013.

Changes to legislation: *Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 25 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)*

- I138** 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)
- I139** 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)
- I140** 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

- I141** 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

- I142** 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 ^{F78}(1)
- ^{F79}(2)
- ^{F80}(3)
- ^{F80}(4)

Textual Amendments

- F78** 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)
- F79** 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)
- F80** 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)**

Status: Point in time view as at 06/04/2013.

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Commencement Information

I143 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

I144 [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)

^{F81}36

Textual Amendments

F81 [Sch. 11 para. 36](#) repealed (1.4.2013) by [Legal Aid, Sentencing and Punishment of Offenders Act 2012 \(c. 10\), s. 151\(1\), Sch. 5 Pt. 2](#); [S.I. 2013/453, art. 3\(h\)](#) (with savings and transitional provisions in [S.I. 2013/534, art. 6](#))

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

I145 Sch. 11 para. 37 in force at 24.3.2003 by [S.I. 2003/333, art. 2](#), [Sch.](#) (with [arts. 10-13](#))

^{F82} ...

^{F82}38

Status: Point in time view as at 06/04/2013.

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Textual Amendments

F82 Sch. 11 para. 38 and italic heading before it repealed (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), s. 122(3), [Sch. 19](#) (with [Sch. 20](#)); S.I. 2013/423, art. 3, Sch.

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
 - (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—

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“(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

I146 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](#))

I147 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—

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- (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

I148 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

I149 Sch. 12 in force at 30.12.2002 for specified purposes by S.I. 2002/3015, art. 2, Sch.

I150 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)

I151 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)

I152 Sch. 12 in force at 24.3.2003 for specified purposes by S.I. 2003/333, art. 2, Sch. (with arts. 10-13)

Short title and chapter

Misuse of Drugs Act 1971 (c. 38)

Extent of repeal or revocation

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”.

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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. In sections 55(4)(a) and 56(3)(a) and (4)(a) the words “or has benefited from”. In section 59, subsections (1) to (10) and in subsection (11) the words “An order under subsection (1) above, and”. In section 60(6), in the definition of “specified offence”, in paragraph (a) the

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

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

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).

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 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.

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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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