

*Status: Point in time view as at 31/10/2017.*

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F1 Sch. 1 repealed (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), Sch. 8 para. 142, **Sch. 14**; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)

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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.](#)

[<sup>F2</sup>1A An offence under any of the following provisions of the Psychoactive Substances Act 2016—

- (a) section 4 (producing a psychoactive substance);
- (b) section 5 (supplying, or offering to supply, a psychoactive substance);
- (c) section 7 (possession of psychoactive substance with intent to supply);
- (d) section 8 (importing or exporting a psychoactive substance).]

**Textual Amendments**

**F2** Sch. 2 para. 1A inserted (26.5.2016) by [Psychoactive Substances Act 2016 \(c. 2\)](#), s. 63(2), [Sch. 5 para. 2\(2\)](#); [S.I. 2016/553](#), reg. 2

**Textual Amendments**

**F2** Sch. 2 para. 1A inserted (26.5.2016) by [Psychoactive Substances Act 2016 \(c. 2\)](#), s. 63(2), [Sch. 5 para. 2\(2\)](#); [S.I. 2016/553](#), reg. 2

**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.](#)

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### *Slavery etc*

[<sup>F3</sup>3A An offence under section 1 of the Modern Slavery Act 2015 (slavery, servitude and forced or compulsory labour).]

#### **Textual Amendments**

**F3** Sch. 2 para. 3A inserted (31.7.2015) by [Modern Slavery Act 2015 \(c. 30\)](#), **ss. 7(2)**, 61(1); S.I. 2015/1476, [reg. 2\(a\)](#)

### *People trafficking*

[<sup>F4</sup>(1) An offence under section 25, 25A or 25B of the Immigration Act 1971 (c. 77) (assisting unlawful immigration etc.).

<sup>F5</sup>(2) .....

<sup>F5</sup>(3) .....

[<sup>F6</sup>(4) An offence under section 2 of the Modern Slavery Act 2015 (human trafficking).]]

#### **Textual Amendments**

**F4** 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.

**F5** Sch. 2 para. 4(2)(3) omitted (31.7.2015) by virtue of [Modern Slavery Act 2015 \(c. 30\)](#), **ss. 7(3)(a)**, 61(1); S.I. 2015/1476, [reg. 2\(a\)](#) (with [regs. 3, 8](#))

**F6** Sch. 2 para. 4(4) inserted (31.7.2015) by [Modern Slavery Act 2015 \(c. 30\)](#), **ss. 7(3)(b)**, 61(1); S.I. 2015/1476, [reg. 2\(a\)](#) (with [regs. 3, 8](#))

#### **Commencement Information**

**I4** Sch. 2 para. 4 in force at 24.3.2003 by S.I. 2003/333, art. 2, **Sch.**

### *Arms trafficking*

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

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

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

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

#### **Commencement Information**

**I5** Sch. 2 para. 5 in force at 24.3.2003 by S.I. 2003/333, art. 2, **Sch.**

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### 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

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

### Intellectual property

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

#### Commencement Information

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

### Prostitution and child sex

- [<sup>F7</sup> 8 (1) An offence under section 33 or 34 of the Sexual Offences Act 1956 (keeping or letting premises for use as a brothel).
- (2) An offence under any of the following provisions of the Sexual Offences Act 2003—
- (a) section 14 (arranging or facilitating commission of a child sex offence);
  - (b) section 48 (causing or inciting [<sup>F8</sup>sexual exploitation of a child] );
  - (c) section 49 (controlling a child [<sup>F9</sup>in relation to sexual exploitation] );
  - (d) section 50 (arranging or facilitating [<sup>F10</sup>sexual exploitation of a child] );
  - (e) section 52 (causing or inciting prostitution for gain);
  - (f) section 53 (controlling prostitution for gain).]

#### Textual Amendments

**F7** 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](#)

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- F8** Words in Sch. 2 para. 8(2)(b) substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), [Sch. 4 para. 58\(2\)](#); S.I. 2015/820, [reg. 2\(r\)\(v\)](#)
- F9** Words in Sch. 2 para. 8(2)(c) substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), [Sch. 4 para. 58\(3\)](#); S.I. 2015/820, [reg. 2\(r\)\(v\)](#)
- F10** Words in Sch. 2 para. 8(2)(d) substituted (3.5.2015) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), [Sch. 4 para. 58\(4\)](#); S.I. 2015/820, [reg. 2\(r\)\(v\)](#)

#### 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.](#)

- [<sup>F11</sup>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

- F11** 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

- F11** 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\(e\)](#)

#### 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.

[<sup>F12</sup>(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

- F12** 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\(a\)](#)

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**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.
  - (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),

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as soon as practicable take possession of the realisable property and of the documents mentioned in sub-paragraph (2).

- (2) Those documents are any document which—
  - (a) is in the possession or control of the person (“A”) in whom the property is vested (or would be vested but for an order made under paragraph 5(4)), and
  - (b) relates to the property or to A’s assets, business or financial affairs.
- (3) An administrator is entitled to have access to, and to copy, any document relating to the property or to A’s assets, business or financial affairs and not falling within sub-paragraph (2)(a).
- (4) An administrator may bring, defend or continue any legal proceedings relating to the property.
- (5) An administrator may borrow money so far as it is necessary to do so to safeguard the property and may for the purposes of such borrowing create a security over any part of the property.
- (6) An administrator may, if he considers that it would be beneficial for the management or realisation of the property—
  - (a) carry on any business of A;
  - (b) exercise any right of A as holder of securities in a company;
  - (c) grant a lease of the property or take on lease any other property;
  - (d) enter into any contract, or execute any deed, as regards the property or as regards A’s business.
- (7) An administrator may, where any right, option or other power forms part of A’s estate, make payments or incur liabilities with a view to—
  - (a) obtaining property which is the subject of, or
  - (b) maintaining,the right, option or power.
- (8) An administrator may effect or maintain insurance policies as regards the property on A’s business.
- (9) An administrator may, if appointed under section 128(3), complete any uncompleted title which A has to any heritable estate; but completion of title in A’s name does not validate by accretion any unperfected right in favour of any person other than the administrator.
- (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 [F13229 of the Bankruptcy (Scotland) Act 2016]) 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.



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- (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.

#### Textual Amendments

**F13** Words in [Sch. 3 para. 3\(10\)](#) substituted (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 1 para. 25\(13\)](#)

#### Commencement Information

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

#### *Consent of accountant of court*

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

#### Commencement Information

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

#### *Dealings in good faith with administrator*

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

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- (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.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 <sup>F14</sup>[an appropriate bank or institution]<sup>F14</sup>[<sup>F14</sup>a bank or building society].
- (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.
- <sup>F15</sup>(3) In sub-paragraph (1)—
- (a) “bank” means an authorised deposit-taker, other than a building society, that has its head office or a branch in the United Kingdom;
  - (b) “building society” has the same meaning as in the Building Societies Act 1986.
- (4) In sub-paragraph (3)(a) “authorised deposit-taker” means—
- (a) a person who has permission under Part 4A of the Financial Services and Markets Act 2000 to accept deposits;
  - (b) a person who—
    - (i) is specified, or is within a class of persons specified, by an order under section 38 of that Act (exemption orders), and
    - (ii) accepts deposits;
  - (c) an EEA firm of the kind mentioned in paragraph 5(b) of Schedule 3 to that Act that has permission under paragraph 15 of that Schedule (as a result of qualifying for authorisation under paragraph 12(1) of that Schedule) to accept deposits.
- (5) A reference in sub-paragraph (4) to a person or firm with permission to accept deposits does not include a person or firm with permission to do so only for the purposes of, or in the course of, an activity other than accepting deposits.]

#### Textual Amendments

**F14** Words in Sch. 3 para. 6(1) substituted (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 30\(2\)](#), [58\(2\)\(6\)](#)

**F15** Sch. 3 para. 6(3)-(5) substituted for Sch. 3 para. 6(3) (27.4.2017 for specified purposes) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 30\(3\)](#), [58\(2\)\(6\)](#)

#### Commencement Information

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

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

- 7 (1) An arrestment or [<sup>F16</sup>attachment] of realisable property executed on or after the appointment of an administrator does not create a preference for the arrester or [<sup>F17</sup>attacher] .
- (2) Any realisable property so arrested or [<sup>F18</sup>attached] , or (if the property has been sold) the proceeds of sale, must be handed over to the administrator.
- (3) A pouncing of the ground in respect of realisable property on or after such appointment is ineffectual in a question with the administrator except for the interest mentioned in sub-paragraph (4).
- (4) That interest is—
- (a) interest on the debt of a secured creditor for the current half-yearly term, and
  - (b) arrears of interest on that debt for one year immediately before the commencement of that term.
- (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**

- F16** 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\(2\)\(a\)\(i\)](#)
- F17** 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\(a\)\(ii\)](#)
- F18** 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.

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**Commencement Information**

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

*Accounts and remuneration*

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

**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)**

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

### Drug trafficking

- 2 (1) An offence under any of the following provisions of the Misuse of Drugs Act 1971 (c. 38)—
- (a) section 4(2) or (3) (unlawful production or supply of controlled drugs);
  - (b) section 5(3) (possession of controlled drug with intent to supply);
  - (c) section 8 (permitting certain activities relating to controlled drugs);
  - (d) section 20 (assisting in or inducing the commission outside the UK of an offence punishable under a corresponding law).
- (2) An offence under any of the following provisions of the Customs and Excise Management Act 1979 (c. 2) if it is committed in connection with a prohibition or restriction on importation or exportation which has effect by virtue of section 3 of the Misuse of Drugs Act 1971—
- (a) section 50(2) or (3) (improper importation of goods);
  - (b) section 68(2) ([<sup>F19</sup>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

- F19** 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)**

- [<sup>F20A</sup> An offence under any of the following provisions of the Psychoactive Substances Act 2016—
- (a) section 4 (producing a psychoactive substance);
  - (b) section 5 (supplying, or offering to supply, a psychoactive substance);
  - (c) section 7 (possession of psychoactive substance with intent to supply);
  - (d) section 8 (importing or exporting a psychoactive substance).]

#### Textual Amendments

- F20** Sch. 4 para. 2A inserted (26.5.2016) by [Psychoactive Substances Act 2016 \(c. 2\)](#), s. 63(2), **Sch. 5 para. 2(3)**; [S.I. 2016/553](#), reg. 2

#### Textual Amendments

- F19** 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)**
- F20** Sch. 4 para. 2A inserted (26.5.2016) by [Psychoactive Substances Act 2016 \(c. 2\)](#), s. 63(2), **Sch. 5 para. 2(3)**; [S.I. 2016/553](#), reg. 2

*Status: Point in time view as at 31/10/2017.*

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#### 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

- [<sup>F214</sup> (1) An offence under section 25, 25A or 25B of the Immigration Act 1971 (assisting unlawful immigration etc.).
- (2) An offence under section 4 of the Asylum and Immigration (Treatment of Claimants, etc.) Act 2004 (trafficking people for exploitation).
- (3) An offence of human trafficking (see section 1 of the Human Trafficking and Exploitation (Scotland) Act 2015).
- (4) An offence to which section 5 of the Human Trafficking and Exploitation (Scotland) Act 2015 (offences aggravated by connection with human trafficking activity) applies.]

#### Textual Amendments

**F21** Sch. 4 para. 4 substituted (S.) (31.5.2016) by [Human Trafficking and Exploitation \(Scotland\) Act 2015](#) (asp 12), **ss. 15(a)**, 45(2) (with s. 44); [S.S.I. 2016/128](#), reg. 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)**

#### Slavery, servitude and forced or compulsory labour

- [<sup>F224A</sup> An offence under section 4 of the Human Trafficking and Exploitation (Scotland) Act 2015 (slavery, servitude and forced or compulsory labour).]

#### Textual Amendments

**F22** Sch. 4 para. 4A inserted (S.) (31.5.2016) by [Human Trafficking and Exploitation \(Scotland\) Act 2015](#) (asp 12), **ss. 15(b)**, 45(2) (with s. 44); [S.S.I. 2016/128](#), reg. 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—

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- (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);
  - <sup>F23</sup>(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).

#### Textual Amendments

**F23** 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\(1\)\(a\)](#)

*Status: Point in time view as at 31/10/2017.*

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### *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);
  - [<sup>F24</sup>(aa) section 11(4) (aiding, abetting or compelling prostitution for gain);]
  - (b) section 11(5) (running of brothels).

#### Textual Amendments

**F24** 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.*

- [<sup>F25</sup>8A. An offence under section 22 of the [Criminal Justice \(Scotland\) Act 2003 \(asp 7\)](#) (traffic in prostitution etc.).]

#### Textual Amendments

**F25** 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)**

### [<sup>F26</sup>*Gangmasters*]

- [<sup>F27</sup>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

**F26** 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)**

**F27** 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)**



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### Consumer credit

[<sup>F28</sup>9AA. An offence under section 23(1) of the Financial Services and Markets Act 2000 (contravention of the general prohibition) if it concerns the carrying on, or purported carrying on, of a credit-related regulated activity (as defined by section 23(1B) of that Act).]

#### Textual Amendments

**F28** Sch. 4 para. 9AA inserted (S.) (27.6.2014) by [The Proceeds of Crime Act 2002 \(Amendment of Schedule 4\) \(Scotland\) Order 2014 \(S.S.I. 2014/187\)](#), arts. 1, 3 (with art. 2)

<sup>F29</sup> ...

<sup>F29</sup>9B. ....

#### Textual Amendments

**F29** Sch. 4 para. 9B and heading omitted (26.7.2013 for specified purposes, 1.4.2014 in so far as not already in force) by virtue of [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No.2\) Order 2013 \(S.I. 2013/1881\)](#), art. 1(2)(6), **Sch. para. 8**

### Distribution of obscene material

[<sup>F30</sup>9C. An offence under section 51(2) of the Civic Government (Scotland) Act 1982 (obscene material).

#### Textual Amendments

**F30** 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

**F30** 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).

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#### Textual Amendments

**F30** 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

**F30** 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 [<sup>F31</sup>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

**F31** 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 31/10/2017.*

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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.](#)

- [<sup>F32</sup>1A An offence under any of the following provisions of the Psychoactive Substances Act 2016—
- (a) section 4 (producing a psychoactive substance);
  - (b) section 5 (supplying, or offering to supply, a psychoactive substance);
  - (c) section 7 (possession of psychoactive substance with intent to supply);
  - (d) section 8 (importing or exporting a psychoactive substance).]

#### Textual Amendments

**F32** Sch. 5 para. 1A inserted (26.5.2016) by [Psychoactive Substances Act 2016 \(c. 2\)](#), s. 63(2), [Sch. 5 para. 2\(4\)](#); [S.I. 2016/553](#), reg. 2

#### Textual Amendments

**F32** Sch. 5 para. 1A inserted (26.5.2016) by [Psychoactive Substances Act 2016 \(c. 2\)](#), s. 63(2), [Sch. 5 para. 2\(4\)](#); [S.I. 2016/553](#), reg. 2

#### 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).

*Status: Point in time view as at 31/10/2017.*

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#### 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.](#)

#### Slavery, etc.

[<sup>F33</sup>3A An offence under section 1 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (slavery, servitude and forced or compulsory labour).]

#### Textual Amendments

**F33** Sch. 5 para. 3A inserted (14.1.2015) by [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015](#) (c. 2), [ss. 8\(2\)](#), 28(2)

#### People trafficking

[<sup>F34</sup>(1) An offence under section 25, 25A or 25B of the Immigration Act 1971 (assisting unlawful immigration etc. ).

<sup>F35</sup>(2) .....

<sup>F35</sup>(3) .....

[<sup>F36</sup>(4) An offence under section 2 of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015 (human trafficking).]

#### Textual Amendments

**F34** 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.](#)

**F35** Sch. 5 para. 4(2)(3) repealed (14.1.2015) by [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015](#) (c. 2), s. 28(2), [Sch. 5](#)

**F36** Sch. 5 para. 4(4) inserted (14.1.2015) by [Human Trafficking and Exploitation \(Criminal Justice and Support for Victims\) Act \(Northern Ireland\) 2015](#) (c. 2), [ss. 8\(3\)](#), 28(2)

#### Commencement Information

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

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### *Arms trafficking*

- 5 (1) An offence under either of the following provisions of the Customs and Excise Management Act 1979 if it is committed in connection with a firearm or ammunition—
- (a) section 68(2) (exportation of prohibited goods);
  - (b) section 170 (fraudulent evasion).
- (2) An offence under [<sup>F37</sup>Article 24(1)] of the Firearms (Northern Ireland) Order [<sup>F37</sup>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**

**F37** 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.](#)

### *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

**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 provisions of the Criminal Law Amendment Act 1885 (c. 69)—

<sup>F38</sup>(a) .....

<sup>F38</sup>(b) .....

<sup>F38</sup>(c) .....

(d) section 13(3) (letting premises for use as a brothel).

[<sup>F39</sup>(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).]

<sup>F40</sup>(2) .....

<sup>F40</sup>(3) .....

<sup>F40</sup>(4) .....

<sup>F40</sup>(5) .....

<sup>F41</sup>(6) .....

(7) An offence of keeping a bawdy house.

### Textual Amendments

**F38** 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

**F39** 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

**F40** 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

**F41** 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.

*Status: Point in time view as at 31/10/2017.*

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### 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.](#)

- [<sup>F42</sup>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

**F42** 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

**F42** 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.

[<sup>F43</sup>(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

**F43** 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.](#)

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## 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)

#### *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,



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- (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.

**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)

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## 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.

#### **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](#))

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### *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)

[<sup>F44</sup>SCHEDULE 7A

Section 282A

### CONNECTION WITH RELEVANT PART OF UNITED KINGDOM

#### **Textual Amendments**

**F44** Sch. 7A inserted (retrospectively) by Crime and Courts Act 2013 (c. 22), ss. 48(3)(7), 61(11)(c) (with s. 48(8), Sch. 25) and extended to N.I. (20.3.2015) by The Crime and Courts Act 2013 (National Crime Agency and Proceeds of Crime) (Northern Ireland) Order 2015 (S.I. 2015/798), arts. 1(2), 7(a)

### *Unlawful conduct*

- 1 There is a connection where the unlawful conduct occurred entirely or partly in the relevant part of the United Kingdom.

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### *Property*

- 2        There has been a connection where the property in question has been in the relevant part of the United Kingdom, but only if it was recoverable property in relation to the unlawful conduct for some or all of the time it was there.
- 3        There is a connection where there is other property in the relevant part of the United Kingdom that is recoverable property in relation to the unlawful conduct.
- 4        There has been a connection where, at any time, there has been other property in the relevant part of the United Kingdom that, at the time, was recoverable property in relation to the unlawful conduct.

### *Person*

- 5        (1) There is or has been a connection where a person described in sub-paragraph (2)—
- (a) is linked to the relevant part of the United Kingdom,
  - (b) was linked to that part of the United Kingdom at a time when the unlawful conduct, or some of the unlawful conduct, was taking place, or
  - (c) has been linked to that part of the United Kingdom at any time since that conduct took place.
- (2) Those persons are—
- (a) a person whose conduct was, or was part of, the unlawful conduct;
  - (b) a person who was deprived of property by the unlawful conduct;
  - (c) a person who holds the property in question;
  - (d) a person who has held the property in question, but only if it was recoverable property in relation to the unlawful conduct at the time;
  - (e) a person who holds other property that is recoverable property in relation to the unlawful conduct;
  - (f) a person who, at any time, has held other property that was recoverable property in relation to the unlawful conduct at the time.
- (3) A person is linked to the relevant part of the United Kingdom if the person is—
- (a) a British citizen, a British overseas territories citizen, a British National (Overseas) or a British Overseas citizen,
  - (b) a person who, under the British Nationality Act 1981, is a British subject,
  - (c) a British protected person within the meaning of that Act,
  - (d) a body incorporated or constituted under the law of any part of the United Kingdom, or
  - (e) a person domiciled, resident or present in the relevant part of the United Kingdom.

### *Property held on trust*

- 6        (1) There is a connection where the property in question is property held on trust, or an interest in property held on trust, and—
- (a) the trust arises under the law of any part of the United Kingdom,
  - (b) the trust is entirely or partly governed by the law of any part of the United Kingdom,
  - (c) one or more of the trustees is linked to the relevant part of the United Kingdom, or

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- (d) one or more of the beneficiaries of the trust is linked to the relevant part of the United Kingdom.
- (2) A person is linked to the relevant part of the United Kingdom if the person falls within paragraph 5(3).
- (3) “Beneficiaries” includes beneficiaries with a contingent interest in the trust property and potential beneficiaries.

#### *Interpretation*

- 7 “The relevant part of the United Kingdom” has the meaning given in section 282A(4).
- 8 “The unlawful conduct” means—
- (a) in a case in which the property in question was obtained through unlawful conduct, that conduct,
  - (b) in a case in which the property in question represents property obtained through unlawful conduct, that conduct, or
  - (c) in a case in which it is shown that the property in question was obtained through unlawful conduct of one of a number of kinds or represents property so obtained (see section 242(2)(b)), one or more of those kinds of conduct.]

## 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)

F45  
...

#### **Textual Amendments**

**F45** 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 [F46SOCA'S STAFF]

#### **Textual Amendments**

**F46** 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)

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“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 [<sup>F47</sup>assigned by [<sup>F48</sup>the National Crime Agency]] to carry out except for the purposes of those functions, or to [<sup>F49</sup>to [<sup>F50</sup>that Agency]] or in accordance with [<sup>F51</sup>that Agency's] 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

- F47** 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)
- F48** Words in Sch. 8 substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 8 para. 152\(a\)](#); [S.I. 2013/1682, art. 3\(v\)](#)
- F49** 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)
- F50** Words in Sch. 8 substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 8 para. 152\(b\)](#); [S.I. 2013/1682, art. 3\(v\)](#)
- F51** Words in Sch. 8 substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\), s. 61\(2\), Sch. 8 para. 152\(c\)](#); [S.I. 2013/1682, art. 3\(v\)](#)

## SCHEDULE 9

Section 330

### REGULATED SECTOR AND SUPERVISORY AUTHORITIES

#### [<sup>F52</sup>PART 1

#### REGULATED SECTOR

#### Textual Amendments

- F52** 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](#)

#### *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 [<sup>F53</sup>, 14 and 15] of Annex 1 to the [<sup>F54</sup>Capital Requirements Directive] by an undertaking other than—
    - (i) a credit institution; <sup>F55</sup>...
    - [<sup>F56</sup>(ia) an undertaking whose only listed activity is as a creditor under an agreement which—

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- (aa) falls within section 12(a) of the Consumer Credit Act 1974 (debtor-creditor-supplier agreements);
- (bb) provides fixed sum credit (within the meaning given in section 10(1)(b) of the Consumer Credit Act 1974 (running-account credit and fixed-sum credit)) in relation to the provision of services; and
- (cc) provides financial accommodation by way of deferred payment or payment by instalments over a period not exceeding 12 months; 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 [<sup>F54</sup>Capital Requirements 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 [<sup>F57</sup>the Solvency 2 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);
- [<sup>F58</sup>(ja) the carrying on of local audit work within the meaning of Schedule 5 to the Local Audit and Accountability Act 2014 (eligibility and regulation of local auditors) by any firm or individual who is a local auditor within the meaning of section 4(1) of that Act (general requirements for audit);]
- (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;

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- (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;
  - (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 <sup>F59</sup>... 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 [<sup>F60</sup>making or] receipt of a payment or payments in cash of at least [<sup>F61</sup>10,000] 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)).
  - <sup>F62</sup>(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.]
  - <sup>F63</sup>(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 [<sup>F64</sup>Article 4(1)(1) of the Capital Requirements Regulation] ; or
  - (b) a branch (within the meaning of [<sup>F65</sup>Article 4(1)(17) of that Regulation] ) 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



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- (iii) in a similar position in relation to other legal persons;
  - (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 [F66point 14][F66point 21] 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 <sup>F67</sup>... equivalent to the specified disclosure obligations.
- [F68(6) For the purposes of sub-paragraph (5) “the specified disclosure obligations” means—
- (a) disclosure requirements set out in Articles 17 and 19 of Regulation (EU) No 596/2014 of the European Parliament and of the Council of 16 April 2014 on market abuse (market abuse regulation);
  - (b) disclosure requirements consistent with 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) disclosure requirements consistent with 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; [F69and]
  - (d) disclosure requirements consistent with EU legislation made under the provisions mentioned in paragraphs (a) to (c).]
- [F70(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.
- [F71(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

- F53** 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)**
- F54** Words in Sch. 9 para. 1(1)(b) substituted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(4)(a)(i)** (with regs. 8, 15)
- F55** Word in Sch. 9 para. 1(1)(b)(i) omitted (26.6.2017) by virtue of [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(4)(a)(ii)** (with regs. 8, 15)
- F56** Sch. 9 para. 1(1)(b)(ia) inserted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(4)(a)(iii)** (with regs. 8, 15)
- F57** Words in Sch. 9 para. 1(1)(c) substituted (1.1.2016) by virtue of [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 1 para. 23(2)**
- F58** Sch. 9 para. 1(1)(ja) inserted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(4)(b)** (with regs. 8, 15)
- F59** 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)**
- F60** Words in Sch. 9 para. 1(1)(q) inserted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(4)(c)(i)** (with regs. 8, 15)
- F61** Word in Sch. 9 para. 1(1)(q) substituted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(4)(c)(ii)** (with regs. 8, 15)
- F62** 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)**
- F63** 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**
- F64** Words in Sch. 9 para. 1(2)(a) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 41(3)**
- F65** Words in Sch. 9 para. 1(2)(b) substituted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 41(4)**
- F66** Words in Sch. 9 para. 1(5)(a) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 4 para. 7(2)** (with reg. 7)
- F67** Words in Sch. 9 para. 1(5)(b) omitted (26.6.2017) by virtue of [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(5)** (with regs. 8, 15)
- F68** Sch. 9 para. 1(6) substituted (3.7.2016) by [The Financial Services and Markets Act 2000 \(Market Abuse\) Regulations 2016 \(S.I. 2016/680\)](#), regs. 1, **14**
- F69** Word in Sch. 9 para. 1(6)(c) substituted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(6)** (with regs. 8, 15)
- F70** 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)**
- F71** 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)**

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**Modifications etc. (not altering text)**

C1 2014 c.2.

*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 [<sup>F72</sup>section 24 of the Co-operative and Community Benefit Societies Act 2014 (maximum interest in a society's withdrawable shares)], or the acceptance of deposits from the public within the limit set by [<sup>F73</sup>section 67(2) of that Act (registered society with withdrawable share capital not to carry on banking etc)], by [<sup>F74</sup>a registered society within the meaning of 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, [<sup>F75</sup>26] 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; <sup>F76</sup>...
  - (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; <sup>F77</sup>...
  - <sup>F77</sup>(f) .....
  - <sup>F78</sup>(g) the carrying on by a local authority (within the meaning given in article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001) of an activity which would be a regulated activity for the purposes of the Financial Services and Markets Act 2000 but for article 72G of that Order; or
  - (h) the preparation of a home report, which for these purposes means the documents prescribed for the purposes of sections 98, 99(1) or 101(2) of the Housing (Scotland) Act 2006.]
- (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 [<sup>F79</sup>£100,000];
  - (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;

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- (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) [<sup>F80</sup>to (t)]; 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 [<sup>F81</sup>(acting otherwise than in its capacity as the Prudential Regulation Authority)];
  - (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**

- F72** Words in Sch. 9 para. 2(1)(a) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\), s. 154, Sch. 4 para. 81\(2\)](#) (with Sch. 5)
- F73** Words in Sch. 9 para. 2(1)(a) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\), s. 154, Sch. 4 para. 81\(3\)](#) (with Sch. 5)
- F74** Words in Sch. 9 para. 2(1)(a) substituted (1.8.2014) by [Co-operative and Community Benefit Societies Act 2014 \(c. 14\), s. 154, Sch. 4 para. 81\(4\)](#) (with Sch. 5)
- F75** Word in Sch. 9 para. 2(1)(c) substituted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\), reg. 1\(2\), Sch. 7 para. 6\(7\)\(a\)](#) (with regs. 8, 15)
- F76** Word in Sch. 9 para. 2(1)(d) omitted (26.6.2017) by virtue of [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\), reg. 1\(2\), Sch. 7 para. 6\(7\)\(b\)](#) (with regs. 8, 15)
- F77** 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](#)
- F78** Sch. 9 para. 2(1)(g)(h) inserted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\), reg. 1\(2\), Sch. 7 para. 6\(7\)\(c\)](#) (with regs. 8, 15)
- F79** Word in Sch. 9 para. 2(3)(a) substituted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\), reg. 1\(2\), Sch. 7 para. 6\(7\)\(d\)\(i\)](#) (with regs. 8, 15)
- F80** Words in Sch. 9 para. 2(3)(f) inserted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\), reg. 1\(2\), Sch. 7 para. 6\(7\)\(d\)\(ii\)](#) (with regs. 8, 15)
- F81** Words in Sch. 9 para. 2(4)(c) inserted (1.3.2017) by [The Bank of England and Financial Services \(Consequential Amendments\) Regulations 2017 \(S.I. 2017/80\), reg. 1, Sch. para. 13](#)

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### INTERPRETATION

3. (1) In this Part—

F82  
...

[<sup>F83</sup>“the Capital Requirements Directive” means [Directive 2013/36/EU](#) of the European Parliament and of the Council of 26th June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms;]

[<sup>F84</sup>“the Capital Requirements Regulation” means Regulation (EU) No. 575/2013 of the European Parliament and of the Council [<sup>F85</sup>of 26th June 2013 on prudential requirements for credit institutions and investment firms]]

[<sup>F86</sup>“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;

F87  
...

“the Markets in Financial Instruments Directive” means [directive \[<sup>F88</sup>2004/39/EC](#) of the European Parliament and of the Council of 12th April 2004][<sup>F88</sup>2014/65/EU of the European Parliament and of the Council of 15 May 2014] on markets in financial instruments.

[<sup>F89</sup>“the Solvency 2 Directive” means [Directive 2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);]

- (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 [<sup>F90</sup>the Capital Requirements Regulation, the Capital Requirements Directive] or the Markets in Financial Instruments Directive have the same meaning in this Part as [<sup>F91</sup>in that Regulation or] in those Directives.

#### Textual Amendments

- F82** Words in Sch. 9 para. 3(1) omitted (1.1.2014) by virtue of [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 41(5)(a)**
- F83** Words in Sch. 9 para. 3(1) inserted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(8)(a)(i)** (with regs. 8, 15)
- F84** Words in Sch. 9 para. 3(1) inserted (1.1.2014) by [The Capital Requirements Regulations 2013 \(S.I. 2013/3115\)](#), reg. 1(2), **Sch. 2 para. 41(5)(b)**
- F85** Words in Sch. 9 para. 3(1) inserted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(8)(a)(ii)** (with regs. 8, 15)
- F86** 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)**

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- F87** Words in Sch. 9 para. 3(1) omitted (1.1.2016) by virtue of [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 1 para. 23(3)(a)**
- F88** Words in Sch. 9 para. 3(1) substituted (29.6.2017 for specified purposes, 3.7.2017 for specified purposes, 31.7.2017 for specified purposes) by [The Financial Services and Markets Act 2000 \(Markets in Financial Instruments\) Regulations 2017 \(S.I. 2017/701\)](#), reg. 1(2)(3)(4)(6), **Sch. 4 para. 7(3)** (with reg. 7)
- F89** Words in Sch. 9 para. 3(1) inserted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. 1(2), **Sch. 1 para. 23(3)(b)**
- F90** Words in Sch. 9 para. 3(3) substituted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(8)(b)(i)** (with regs. 8, 15)
- F91** Words in Sch. 9 para. 3(3) inserted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(8)(b)(ii)** (with regs. 8, 15)

## PART 2

### SUPERVISORY AUTHORITIES

4. (1) The following bodies are supervisory authorities—
- (a) the Commissioners for Her Majesty’s Revenue and Customs;
  - <sup>F92</sup>(b) .....
  - [<sup>F93</sup>(c) Financial Conduct Authority;]
  - (d) the Gambling Commission;
  - <sup>F94</sup>(e) .....
  - <sup>F92</sup>(ea) .....
  - <sup>F92</sup>(f) ... 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;
  - [<sup>F95</sup>(da) the Chartered Institute of Legal Executives;]
  - (e) the Chartered Institute of Management Accountants;
  - <sup>F96</sup>(f) .....
  - (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;
  - (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;

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- (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

- F92** Sch. 9 para. 4(1)(b)(ea)(f) omitted (26.6.2017) by virtue of [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(9)(a)** (with regs. 8, 15)
- F93** 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.](#)
- F94** Sch. 9 para. 4(1)(e) omitted (1.4.2014) by virtue of [The Enterprise and Regulatory Reform Act 2013 \(Competition\) \(Consequential, Transitional and Saving Provisions\) Order 2014 \(S.I. 2014/892\)](#), art. 1(1), **Sch. 1 para. 159** (with art. 3)
- F95** Sch. 9 para. 4(2)(da) inserted (26.6.2017) by [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(9)(b)(i)** (with regs. 8, 15)
- F96** Sch. 9 para. 4(2)(f) omitted (26.6.2017) by virtue of [The Money Laundering, Terrorist Financing and Transfer of Funds \(Information on the Payer\) Regulations 2017 \(S.I. 2017/692\)](#), reg. 1(2), **Sch. 7 para. 6(9)(b)(ii)** (with regs. 8, 15)

### 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 [<sup>F97</sup> or 50] ;
  - (b) an administrator appointed under section 125 or 128;

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- (c) a receiver appointed under section 196 [<sup>F98</sup>or 198 ] ;
- [<sup>F99</sup>(ca) a receiver appointed under section 245E;]
- (d) an interim receiver appointed under section 246;
- [<sup>F100</sup>(da) a PPO receiver appointed under section 255G;]
- (e) an interim administrator appointed under section 256.

#### Textual Amendments

- F97** 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)
- F98** 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)
- F99** 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)
- F100** Sch. 10 para. 1(da) inserted (1.6.2015) by [Serious Crime Act 2015 \(c. 9\)](#), s. 88(1), **Sch. 4 para. 59**; S.I. 2015/820, reg. 3(q)(vi)

#### 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.



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- (7) “The Taxes Act 1988” means the Income and Corporation Taxes Act 1988 (c. 1), and “the Allowances Act 2001” means the Capital Allowances Act 2001 (c. 2)<sup>F101</sup>, and “ITTOIA 2005” means the Income Tax (Trading and Other Income) Act 2005].
- (8) This paragraph applies for the purposes of this Part.

#### Textual Amendments

**F101** 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—
- (a) sub-paragraph (1) does not apply, and
  - (b) the consideration for the transfer is the amount of the compensating payment.
- (3) If a gain attributable to the forfeiture under section <sup>F102</sup> 297C or ] 298 of property consisting of—
- (a) notes or coins in any currency other than sterling,
  - (b) anything mentioned in section 289(6)(b) to (d), if expressed in any currency other than sterling, or
  - (c) bearer bonds or bearer shares,
- accrues to the person who holds the property immediately before the forfeiture, it is not a chargeable gain.
- (4) This paragraph has effect as if it were included in Chapter 1 of Part 2 of the Taxation of Chargeable Gains Act 1992 (c. 12).

#### Textual Amendments

**F102** Words in [Sch. 10 para. 3\(3\)](#) inserted (1.6.2015) by [Policing and Crime Act 2009 \(c. 26\), s. 116\(1\), Sch. 7 para. 111; S.I. 2015/983, arts. 2\(2\)\(e\), 3\(hh\)](#)

#### 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](#))

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## INCOME TAX AND CORPORATION TAX

### *Accrued income scheme*

- 4 If a Part 5 transfer is a transfer of securities within the meaning of [F103 Chapter 2 of Part 12 of the Income Tax Act 2007, that Part does not apply to the transfer].

#### Textual Amendments

**F103** 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](#))

#### 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 [F104 deeply] discounted security (within the meaning of [F105 Chapter 8 of Part 4 of ITTOIA 2005]), it is not to be treated as a transfer for the purposes of [F105 that Chapter].

#### Textual Amendments

**F104** 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](#))

**F105** 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.) [F106, 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) [F107 of the Taxes Act 1988 or Chapter 11 of Part 4 of ITTOIA 2005].

#### Textual Amendments

**F106** 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](#))

**F107** 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](#))

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#### 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.

#### 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 [F108 section 562 of ITTOIA 2005]), it is not to be treated as a disposal of the futures or options for the purposes of [F109 Chapter 12 of Part 4 of that Act].

#### Textual Amendments

**F108** 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)

**F109** 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 [F110 Part 5 of the Corporation Tax Act 2009 (loan relationships)] .
- (2) The Part 5 transfer is to be disregarded for the purposes of [F111 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

**F110** 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)

**F111** 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)

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#### 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.

#### 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 [F112 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 [F113 section 174 of ITTOIA 2005 or (as the case may be) section 163 of the Corporation Tax Act 2009. ]

#### Textual Amendments

**F112** 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)

**F113** 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

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to bring the disposal value of the plant or machinery into account in accordance with section 61 of that Act for the chargeable period in which the transfer occurs.

- (2) But the Part 5 transfer is not to be treated as a disposal event for the purposes of Part 2 of that Act other than by virtue of sub-paragraph (1).

**Commencement Information**

**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.

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#### 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](#))

- 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.

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(2) In paragraphs 15 and 16, the tax-neutral amount is the amount that would be brought into account as the disposal value under paragraph 13(2) or (as the case may be) 14 if the provision in question were not disapplied.

**Commencement Information**

**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*

**F114**18 .....

**Textual Amendments**

**F114** 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](#))

**F114**19 .....

**Textual Amendments**

**F114** 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](#))

**F114**20 .....

**Textual Amendments**

**F114** 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](#))

**F114**21 .....

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#### Textual Amendments

**F114** 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

**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.



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**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.

**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.

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#### Commencement Information

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

### EMPLOYEE ETC. SHARE SCHEMES

#### *Share options*

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

#### Commencement Information

**183** 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

**184** 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

**185** 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.

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**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](#))

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)*

**F115<sub>2</sub>** .....

**Textual Amendments**

**F115** 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;”.

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#### 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.

<sup>F116</sup>(2) .....

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

- “(ca) a confiscation order under Part 2 of the Proceeds of Crime Act 2002;
- (cb) an order which varies a confiscation order made under Part 2 of the Proceeds of Crime Act 2002 if the varying order is made under section 21, 22 or 29 of that Act (but not otherwise);”.

#### Textual Amendments

**F116** 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”.

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Commencement Information**

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

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

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

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

**Commencement Information**

**193** 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)  
**194** 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**

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

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

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

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

“(d) a confiscation order under Part 4 of the Proceeds of Crime Act 2002;

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

<sup>F117</sup>(3) .....

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Textual Amendments**

**F117** 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))*

**F118**10 .....

**Textual Amendments**

**F118** Sch. 11 para. 10 repealed (1.4.2015) by [Access to Justice \(Northern Ireland\) Order 2003 \(S.I. 2003/435\)](#), art. 1(2), [Sch. 5](#) (with art. 45); [S.R. 2015/194](#), art. 2, [Sch.](#) (with art. 3)

*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**

- I97** 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)
- I98** Sch. 11 para. 11 in force at 24.3.2003 in so far as not already in force by [S.S.I. 2003/210](#), art. 2(1)(b)(2), [sch.](#) (with art. 7)

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

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

**Commencement Information**

**I99** 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)

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Criminal Justice 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**

**I100** Sch. 11 para. 13 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

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

- 14 (1) The Police and Criminal Evidence Act 1984 is amended as follows.
- (2) In section 56 (right to have someone informed when arrested) for subsection (5A) substitute—
- “(5A) An officer may also authorise delay where he has reasonable grounds for believing that—
- (a) the person detained for the serious arrestable offence has benefited from his criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit will be hindered by telling the named person of the arrest.
- (5B) For the purposes of subsection (5A) above the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 2 of the Proceeds of Crime Act 2002.”
- (3) In section 58 (access to legal advice) for subsection (8A) substitute—
- “(8A) An officer may also authorise delay where he has reasonable grounds for believing that—
- (a) the person detained for the serious arrestable offence has benefited from his criminal conduct, and
  - (b) the recovery of the value of the property constituting the benefit will be hindered by the exercise of the right conferred by subsection (1) above.
- (8B) For the purposes of subsection (8A) above the question whether a person has benefited from his criminal conduct is to be decided in accordance with Part 2 of the Proceeds of Crime Act 2002.”

<sup>F119</sup>(4) .....

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F119** 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

**I101** 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)

**I102** 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)*

<sup>F120</sup>15 .....

#### Textual Amendments

**F120** Sch. 11 para. 15 repealed (30.11.2016) by [The Bankruptcy \(Scotland\) Act 2016 \(Consequential Provisions and Modifications\) Order 2016 \(S.I. 2016/1034\)](#), art. 1, [Sch. 2 Pt. 1](#)

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

16 (1) The Insolvency Act 1986 is amended as follows.

(2) In section 281 (effect of discharge) after subsection (4) insert—

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

(3) After section 306 insert—

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

(1) This section applies where—

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

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

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

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

(1) This section applies where—

- (a) property is excluded from the bankrupt’s estate by virtue of section 417(2)(b), (c) or (d) of the Proceeds of Crime Act 2002



*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

(property in respect of which an order for the appointment of a receiver or administrator under certain provisions of that Act is in force),

- (b) a confiscation order is made under section 6, 92 or 156 of that Act,
- (c) the amount payable under the confiscation order is fully paid, and
- (d) any of the property remains in the hands of the receiver or administrator (as the case may be).

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

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

(1) This section applies where—

- (a) property is excluded from the bankrupt's estate by virtue of section 417(2)(a), (b), (c) or (d) of the Proceeds of Crime Act 2002 (property in respect of which a restraint order or an order for the appointment of a receiver or administrator under that Act is in force),
- (b) a confiscation order is made under section 6, 92 or 156 of that Act, and
- (c) the confiscation order is discharged under section 30, 114 or 180 of that Act (as the case may be) or quashed under that Act or in pursuance of any enactment relating to appeals against conviction or sentence.

(2) Any such property in the hands of a receiver appointed under Part 2 or 4 of that Act or an administrator appointed under Part 3 of that Act vests in the trustee as part of the bankrupt's estate.

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

#### **Commencement Information**

**I103** 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](#))

**I104** 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;"

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (4) In section 151(5) for the words after “means” substitute “any offence which is specified in—
  - (a) paragraph 1 of Schedule 2 to the Proceeds of Crime Act 2002 (drug trafficking offences), or
  - (b) so far as it relates to that paragraph, paragraph 10 of that Schedule.”
- (5) In section 151 after subsection (5) insert—
 

“(6) In this section “money laundering offence” means any offence which by virtue of section 415 of the Proceeds of Crime Act 2002 is a money laundering offence for the purposes of Part 8 of that Act.”
- (6) In section 152(4) (remands of suspected drugs offenders to customs detention) for the words after “means” substitute “any offence which is specified in—
  - (a) paragraph 1 of Schedule 5 to the Proceeds of Crime Act 2002 (drug trafficking offences), or
  - (b) so far as it relates to that paragraph, paragraph 10 of that Schedule.”

**Commencement Information**

- I105** 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)
- I106** 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)
- I107** 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)
- I108** 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)*

F121 18 .....

**Textual Amendments**

- F121** 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**

- I109** 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—

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

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

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

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

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

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

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

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

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

#### **Commencement Information**

**I110** 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](#))

**I111** 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—

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) property is excluded from the bankrupt's estate by virtue of section 423(2)(a) of the Proceeds of Crime Act 2002 (property subject to a restraint order),
  - (b) an order under section 50, 52, 128, 198 or 200 of that Act has not been made in respect of the property, and
  - (c) the restraint order is discharged.
- (2) On the discharge of the restraint order the property vests in the trustee as part of the bankrupt's estate.
- (3) But paragraph (2) does not apply to the proceeds of property realised by a management receiver under section 49(2)(d) or 197(2)(d) of that Act (realisation of property to meet receiver's remuneration and expenses).

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

279(B) 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**

279(C) 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)."

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

**Commencement Information**

- I112** 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)
- I113** Sch. 11 para. 20 in force at 24.3.2003 in so far as not already in force by S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7)

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

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

**Commencement Information**

- I114** 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)
- I115** Sch. 11 para. 21 in force at 24.3.2003 in so far as not already in force by S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7)

*Pension Schemes Act 1993 (c. 48)*

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

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

“(2A) Where any liability of a scheme in respect of an earner’s guaranteed minimum pension ceases by virtue of a civil recovery order, his guaranteed minimum in relation to the scheme is extinguished or reduced accordingly.”
  - (4) In section 47 (further provisions relating to guaranteed minimum pensions), in subsection (6), after “but for” insert “ section 14(2A) and ”.
  - <sup>F122</sup>(5) .....
  - (6) In section 181(1) (general interpretation), after the definition of “Category A retirement pension” insert—

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

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Textual Amendments

**F122** 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

**I116** Sch. 11 para. 22 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

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

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

<sup>F123</sup>(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”.

<sup>F124</sup>(5) .....

(6) In section 176(1) (general interpretation), after the definition of “Category A retirement pension” insert—

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

#### Textual Amendments

**F123** 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)

**F124** 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

**I117** 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”.

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**II18** Sch. 11 para. 24 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, **Sch.** (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

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

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

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

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

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- (c) importing or exporting a controlled drug where the importation or exportation is prohibited by section 3(1) of that Act or a corresponding law;
- (d) manufacturing or supplying a scheduled substance within the meaning of section 12 of the Criminal Justice (International Co-operation) Act 1990 where the manufacture or supply is an offence under that section or would be such an offence if it took place in England and Wales;
- (e) using any ship for illicit traffic in controlled drugs in circumstances which amount to the commission of an offence under section 19 of that Act.

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

(5) In section 60 after subsection (6) insert—

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

- (a) when a justice of the peace issues a summons or warrant under section 1 of the Magistrates’ Courts Act 1980 (issue of summons to, or warrant for arrest of, accused) in respect of the offence;
- (b) when a person is charged with the offence after being taken into custody without a warrant;
- (c) when a bill of indictment is preferred under section 2 of the Administration of Justice (Miscellaneous Provisions) Act 1933 in a case falling within paragraph (b) of subsection (2) of that section (preferment by direction of the criminal division of the Court of Appeal or by direction, or with the consent, of a High Court judge).

(6B) Where the application of subsection (6A) would result in there being more than one time for the institution of proceedings they must be taken to have been instituted at the earliest of those times.”

(6) In section 61(1) for “sections 49(2), 50 to 53 and 58” substitute “ section 58 ”.

(7) In section 68(2)(d), for “59(10)” substitute “ 59(11) ”.

#### Commencement Information

- I119** Sch. 11 para. 25(1) in force for specified purposes at 30.12.2002 by [S.I. 2002/3015](#), [art. 2](#), [Sch.](#)
- I120** 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](#))
- I121** 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](#))
- I122** 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](#))
- I123** 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](#))



*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

*Criminal Justice (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**

**I124** Sch. 11 para. 26 in force at 24.3.2003 by [S.I. 2003/333](#), [art. 2](#), [Sch.](#) (with [arts. 10-13](#))

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

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

**Commencement Information**

**I125** 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](#))

**I126** 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”;

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*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

#### Commencement Information

- I127** 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](#))
- I128** 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](#))
- I129** 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](#))
- I130** 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 ”.

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

#### Commencement Information

**I131** Sch. 11 para. 29 in force for specified purposes at 24.3.2003 by [S.S.I. 2003/210](#), [art. 2\(1\)\(b\)\(2\)](#), [sch.](#) (with [art. 7](#))

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

- 30 <sup>F125</sup>(1) . . . . .
- <sup>F126</sup>(2) . . . . .
- <sup>F127</sup>(3) . . . . .
- <sup>F127</sup>(4) . . . . .

#### Textual Amendments

- F125** 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](#))
- F126** 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](#))
- F127** 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

**I132** 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,”;

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (f) in Article 55 (Customs and Excise prosecution powers), in paragraph (6) in the definition of “specified offence” in paragraph (a) the words “Part III or” and paragraph (c) and the word “or” immediately preceding it, and paragraph (7);
  - (g) Article 56(2) to (4) (extension of certain offences to the Crown);
  - (h) in Schedule 2 paragraph 3.
- (4) In Article 49(1) (additional investigation powers)—
- (a) for “county court” substitute “ Crown Court ”;
  - (b) in sub-paragraph (a) for the words from “an investigation” to the end of head (ii) substitute “ a confiscation investigation ”;
  - (c) in sub-paragraph (b) after “and who is” insert “ an accredited financial investigator ”.
- (5) In Article 49(1A)—
- (a) after “application made by” insert “ the Director of the Assets Recovery Agency or ”;
  - (b) for “county court” substitute “ Crown Court ”;
  - (c) in sub-paragraph (a) for the words from “an investigation” to the end of head (ii) substitute “ a confiscation investigation ”;
  - (d) in sub-paragraph (b) after “if” insert “ the Director or ”;
  - (e) after “authorise” insert “ the Director or ”;
  - (f) for “paragraphs 3 and 3A” where it twice occurs substitute “ paragraph 3A ”.
- (6) In Article 49(5) insert at the appropriate place in alphabetical order—
- “accredited financial investigator” has the meaning given by section 3(5) of the Proceeds of Crime Act 2002;
- “confiscation investigation” has the same meaning as it has for the purposes of Part 8 of that Act by virtue of section 341(1);”.
- (7) In Article 50(1) (order to make material available)—
- (a) for sub-paragraphs (a) and (b) substitute “drug trafficking”;
  - (b) for “county court” substitute “ Crown Court ”.
- (8) In Article 50(4)(a), for heads (i) to (iii) substitute “has carried on drug trafficking”.
- (9) In Article 50(8) for “county court” substitute “ Crown Court ”.
- (10) In Article 51(1) (authority for search)—
- (a) for sub-paragraphs (a) and (b) substitute “drug trafficking”;
  - (b) for “county court” substitute “ Crown Court ”.
- (11) In Article 51(3)(a) for heads (i) to (iii) substitute “has carried on drug trafficking”.
- (12) In Article 51(4)—
- (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”.

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- (14) In Article 54 (disclosure of information held by government departments) in paragraph (12)(b) for “referred to in paragraph (1)” substitute “specified in an order under Article 50(2)”.
- (15) After Article 54 insert the following Article—

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

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

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

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

- “(6A) Proceedings for an offence are instituted—
- (a) when a summons or warrant is issued under Article 20 of the Magistrates’ Courts (Northern Ireland) Order 1981 in respect of the offence;
  - (b) when a person is charged with the offence after being taken into custody without a warrant;
  - (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.”

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- (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

- I133** 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](#))
- I134** 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](#))
- I135** 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](#))
- I136** 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

- I137** 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

- I138** 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](#))

*Status: Point in time view as at 31/10/2017.*

*Changes to legislation: Proceeds of Crime Act 2002 is up to date with all changes known to be in force on or before 24 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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

- 34 <sup>F128</sup>(1) . . . . .  
    <sup>F129</sup>(2) . . . . .  
    <sup>F130</sup>(3) . . . . .  
    <sup>F130</sup>(4) . . . . .

**Textual Amendments**

- F128** 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)
- F129** 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)
- F130** Sch. 11 para. 34(3)(4) repealed (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 17 Pt. 2**; S.I. 2006/378, art. 4(1), Sch. para. 13(nn)

**Commencement Information**

- I139** 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**

- I140** 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)*

- <sup>F131</sup>36 . . . . .

**Textual Amendments**

- F131** 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—

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- (a) paragraph 1 of Schedule 2 to the Proceeds of Crime Act 2002 (drug trafficking offences), or
- (b) so far as it relates to that paragraph, paragraph 10 of that Schedule.”

F132(3) .....

#### Textual Amendments

**F132** Sch. 11 para. 37(3) omitted (31.7.2015) by virtue of [Modern Slavery Act 2015 \(c. 30\)](#), s. 61(1), [Sch. 5 para. 22](#); [S.I. 2015/1476](#), reg. 2(j)

#### Commencement Information

**I141** Sch. 11 para. 37 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, [Sch.](#) (with arts. 10-13)

F133 ...

F133 38 .....

#### Textual Amendments

**F133** 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 ”.



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(4) For paragraph 17(4) (further grounds for authorising delay in exercise of detained person’s rights) substitute—

“(4) This sub-paragraph applies where an officer mentioned in paragraph 16(4) or (7) has reasonable grounds for believing that—

- (a) the detained person has benefited from his criminal conduct, and
- (b) the recovery of the value of the property constituting the benefit will be hindered by—

- (i) informing the named person of the detained person’s detention (in the case of an authorisation under paragraph 16(4)), or
- (ii) the exercise of the entitlement under paragraph 16(6) (in the case of an authorisation under paragraph 16(7)).

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

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

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

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

(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**

**I142** 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](#))

**I143** 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,”.

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

“or

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

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

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

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

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

(b) after subsection (3) insert—

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

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

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

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

- (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**

**I144** 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)

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## SCHEDULE 12

Section 457

### REPEALS AND REVOCATIONS

#### Commencement Information

- I145** Sch. 12 in force at 30.12.2002 for specified purposes by [S.I. 2002/3015](#), [art. 2](#), [Sch.](#)
- I146** 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](#))
- I147** 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](#))
- I148** Sch. 12 in force at 24.3.2003 for specified purposes by [S.I. 2003/333](#), [art. 2](#), [Sch.](#) (with [arts. 10-13](#))

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

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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 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.

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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 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”

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

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	<p>immediately preceding it, paragraph (4) and in paragraph (5) the definitions of “customs officer” and “relevant property”.</p> <p>In Article 52 in paragraph (2) subparagraph (b) and the word “and” immediately preceding it, and paragraph (3).</p> <p>In Article 54 paragraphs (1) to (10) and (13) and in paragraph (11) the words “An order under paragraph (1) and,”.</p> <p>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).</p> <p>Article 56(2) to (4).</p> <p>In Schedule 2—</p> <p>(a) in paragraph 1(3) “3 or”;</p> <p>(b) paragraph 3;</p> <p>(c) in paragraphs 4(2), 5(1) and 6(1) “3”.</p> <p>In Schedule 3, paragraphs 1 to 3 and 18.</p>
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—
	<p>(a) in paragraph 2(2) the word “or” at the end of paragraph (c);</p> <p>(b) in paragraph 2(3) the word “or” at the end of paragraph (j).</p> <p>In Schedule 13, paragraphs 139 and 172.</p>
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)	<p>In section 55(5) paragraph (a) and the word “and” after paragraph (b).</p> <p>In section 60(4) paragraph (a) and the word “or” after paragraph (b).</p> <p>In section 64(3) the word “and” after paragraph (a).</p> <p>In Schedule 1, paragraphs 47 and 105.</p>
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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