

SCHEDULES

SCHEDULE 15

Article 13

Serious Organised Crime and Police Act 2005

1. Amend the Serious Organised Crime and Police Act 2005(1) as follows.
- 2.—(1) Amend section 6 (annual plans) as follows.
 - (2) In subsection (7) after paragraph (b) insert—

“(ba) the Department of Justice in Northern Ireland,”.
 - (3) In subsection (9)—
 - (a) omit the word “and” at the end of paragraph (a); and
 - (b) after paragraph (a) insert—

“(aa) consult the Department of Justice in Northern Ireland and agree with the Department what provision the plan is to make for Northern Ireland by virtue of subsection (2); and”.
- 3.—(1) Amend section 7 (annual reports) as follows.
 - (2) In subsection (4) after paragraph (b) insert—

“(ba) the Department of Justice in Northern Ireland,”.
 - (3) After subsection (7) insert—

“(8) The Department of Justice in Northern Ireland must lay a copy of the annual report before the Northern Ireland Assembly.

(9) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(2) applies for the purposes of subsection (8) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”
4. After section 8 insert—

“8A General duty of the Department of Justice in Northern Ireland

The Department of Justice in Northern Ireland must exercise the powers conferred on it under this Chapter in such manner and to such extent as appears to it to be best calculated to promote the efficiency and effectiveness of SOCA.”
5. In section 9(2) (strategic priorities for SOCA)—
 - (a) omit the word “and” at the end of paragraph (b); and
 - (b) after paragraph (b) insert—

“(ba) the Department of Justice in Northern Ireland, and”.
- 6.—(1) Amend section 10 (codes of practice for SOCA) as follows.

(1) 2005 c. 15; as amended by S.I. 2007/1098. There are other amendments to the Act, but none are relevant.

(2) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

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- (2) In subsection (3)—
 - (a) omit the word “and” at the end of paragraph (b); and
 - (b) after paragraph (b) insert—
 - “(ba) the Department of Justice in Northern Ireland, and”.
- (3) After subsection (7) insert—
 - “(8) The Secretary of State must provide the Department of Justice in Northern Ireland with a copy of anything laid before Parliament under subsection (4).”
7. In section 11 (reports to Secretary of State) after subsection (3) insert—
 - “(3A) The Secretary of State must consult the Department of Justice in Northern Ireland before imposing any requirement under that subsection relating to any functions or activities of SOCA—
 - (a) exercised or carried out in Northern Ireland, or
 - (b) exercised or carried out outside, but in relation to, Northern Ireland.”
8. In section 12 (power to direct submission of action plan) after subsection (6) insert—
 - “(6A) The Secretary of State must consult the Department of Justice in Northern Ireland before giving any direction under this section in connection with any functions or activities of SOCA—
 - (a) exercised or carried out in Northern Ireland, or
 - (b) exercised or carried out outside, but in relation to, Northern Ireland.”
9. In section 13 (revision of inadequate action plan) after subsection (3) insert—
 - “(3A) The Secretary of State must consult the Department of Justice in Northern Ireland before forming an opinion for the purposes of subsection (1) as to any remedial measures proposed in connection with any functions or activities of SOCA—
 - (a) exercised or carried out in Northern Ireland, or
 - (b) exercised or carried out outside, but in relation to, Northern Ireland.”
10. In section 15 (reports relating to directions under section 12)—
 - (a) in subsection (4)(b) after “Scottish Ministers” insert “and the Department of Justice in Northern Ireland”; and
 - (b) after subsection (5) insert—
 - “(6) The Department of Justice in Northern Ireland must lay before the Northern Ireland Assembly any copy of a report sent to it under subsection (4).
 - (7) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”
- 11.—(1) Amend section 16 (inspections of SOCA) as follows.
 - (2) After subsection (3) insert—
 - “(3A) Before requesting an inspection that would fall to be carried out wholly or partly in Northern Ireland, the Secretary of State must consult the Department of Justice in Northern Ireland.”
 - (3) In subsection (9) after paragraph (b) insert—

“and

(c) if the inspection was carried out wholly or partly in Northern Ireland, to the Department of Justice in Northern Ireland.”

(4) In subsection (11) after paragraph (b) insert—

“and

(c) if the inspection was carried out wholly or partly in Northern Ireland, to the Department of Justice in Northern Ireland.”

12. In section 23 (mutual assistance between SOCA and law enforcement agencies: voluntary arrangements) after subsection (10) insert—

“(10A) If the assistance mentioned in subsection (8) or (9) is provided for or (as the case may be) by—

(a) the Police Service of Northern Ireland, or

(b) the Police Service of Northern Ireland Reserve,

the Secretary of State must, before making a determination under the subsection in question, consult the Department of Justice in Northern Ireland.”

13.—(1) Amend section 24 (mutual assistance between SOCA and law enforcement agencies: directed arrangements) as follows.

(2) In subsection (2)(a) omit “or Northern Ireland”.

(3) In subsection (2)(c) after “Scottish Administration” insert “or a Northern Ireland department”.

14. After section 25 insert—

“25A Directed arrangements: Northern Ireland

(1) This section applies where it appears to the Department of Justice in Northern Ireland—

(a) that a body within subsection (2) has a special need for assistance from SOCA or SOCA has a special need for assistance from a body within subsection (2),

(b) that it is expedient for such assistance to be provided by SOCA or (as the case may be) the body, and

(c) that satisfactory arrangements cannot be made, or cannot be made in time, under section 23.

(2) The bodies within this subsection are—

(a) the Police Service of Northern Ireland, and

(b) the Police Service of Northern Ireland Reserve.

(3) In a case where this section applies the Department of Justice in Northern Ireland may (as appropriate)—

(a) direct the Chief Constable of the Police Service of Northern Ireland to provide such constables or other assistance for the purpose of meeting the need in question as may be specified in the direction;

(b) with the agreement of the Secretary of State, direct the Director General of SOCA to provide such members of the staff of SOCA or other assistance for the purpose of meeting the need in question as may be so specified.

(4) Subsections (6) to (9) and (10A) of section 23 apply in relation to assistance provided under this section—

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- (a) by SOCA to the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve, or
- (b) to SOCA by the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve,

as they apply in relation to assistance so provided under that section.”

15. In section 26 (use by SOCA of police premises etc.) after subsection (6) insert—

“(6A) In the application of this section in relation to arrangements with the Northern Ireland Policing Board, any reference in subsection (2), (3), (5) or (6) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.

(6B) But the Department may give a direction under subsection (2) to SOCA only with the agreement of the Secretary of State.”

16. In section 41 (directions) after “Scottish Ministers” insert “or the Department of Justice in Northern Ireland”.

17. In section 47(5)(a) (agreement about exercise of powers of constable in Northern Ireland) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

18. In section 52 (modification of enactments) after subsection (7) insert—

“(8) Before exercising the power conferred by subsection (1) in relation to an enactment which extends to Northern Ireland, the Secretary of State must consult the Department of Justice in Northern Ireland.

(9) The power conferred by subsection (1) is exercisable by the Department of Justice (rather than by the Secretary of State) where the provision to be made is within the legislative competence of the Northern Ireland Assembly.

(10) But the Department of Justice may make an order under subsection (1) only with the agreement of the Secretary of State.”

19.—(1) Amend section 74 (assistance by defendant: review of sentence) as follows.

(2) In subsection (12) for the words from “the Secretary of State” to the end substitute—

“(a) the Secretary of State may, in relation to proceedings in England and Wales, make an order containing provision corresponding to any provision in the Criminal Appeal Act 1968⁽³⁾ (subject to any specified modifications);

(b) the Department of Justice in Northern Ireland may, in relation to proceedings in Northern Ireland, make an order containing provision corresponding to any provision in the Criminal Appeal (Northern Ireland) Act 1980⁽⁴⁾ (subject to any specified modifications).”

20. In section 82(6) (protection of persons involved in investigations or proceedings) after “Scottish Ministers” insert “and the Department of Justice in Northern Ireland”.

21. In section 87 (defences to liability under section 86)—

(a) in subsection (5) omit “or in Northern Ireland”; and

(b) after subsection (6) insert—

“(6A) The Department of Justice in Northern Ireland may by order make provision prescribing circumstances in which a person who discloses information as mentioned in section 86(1) is not guilty in Northern Ireland of an offence under that section.”

⁽³⁾ 1968 c. 19.

⁽⁴⁾ 1980 c. 47.

- 22.** In section 89 (defences to liability under section 88)—
- (a) in subsection (5) omit “or in Northern Ireland”; and
 - (b) after subsection (6) insert—
 - “(6A) The Department of Justice in Northern Ireland may by order make provision prescribing circumstances in which a person who discloses information as mentioned in subsection (1) or (2) of section 88 is not guilty in Northern Ireland of an offence under that subsection.”
- 23.**—(1) Amend section 97 (confiscation orders) as follows.
- (2) In subsection (1) omit—
 - (a) the “or” after paragraph (a),
 - (b) paragraph (b), and
 - (c) the words “or Northern Ireland (as the case may be)”.
 - (3) After subsection (1) insert—
 - “(1A) The Department of Justice in Northern Ireland may by order make such provision as the Department considers appropriate for or in connection with enabling confiscation orders under Part 4 of the 2002 Act⁽⁵⁾ (confiscation: Northern Ireland) to be made by magistrates’ courts in Northern Ireland.”
 - (4) In subsections (2) and (3) after “(1)” insert “or (1A)”.
 - (5) In subsection (3)—
 - (a) after “2002 Act” insert “(as the case may be)”;
 - (b) for “either (or any provision) of those Parts” substitute “that Part (or any provision of that Part)”.
- 24.** In section 172 (orders and regulations) after subsection (8) insert—
- “(9) Any power of the Department of Justice in Northern Ireland to make an order under this Act is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽⁶⁾.
 - (10) Any such power—
 - (a) may be exercised so as to make different provision for different cases or descriptions of case or different purposes or areas, and
 - (b) includes power to make such incidental, supplementary, consequential, transitory, transitional or saving provision as the Department of Justice considers appropriate.
 - (11) Subject to subsections (12) and (13), orders made by the Department of Justice under this Act are to be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954⁽⁷⁾).
 - (12) Subsection (11) does not apply to any order under section 178.
 - (13) Subsection (11) also does not apply to—
 - (a) any order under section 52;
 - (b) any order under section 87(6A);
 - (c) any order under section 89(6A);

⁽⁵⁾ The “2002 Act” is the Proceeds of Crime Act 2002 (c. 29).

⁽⁶⁾ S.I. 1979/1573 (N.I. 12).

⁽⁷⁾ 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

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(d) any order under section 97(1A);

(e) any order under section 173 which amends or repeals any provision of an Act, and no such order may be made by the Department of Justice (whether alone or with other provisions) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(14) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽⁸⁾ applies for the purposes of subsection (13) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

25. In section 173 (supplementary, incidental, consequential etc. provision) after subsection (6) insert—

“(6A) Before exercising the power conferred by subsection (1) in relation to an enactment which extends to Northern Ireland, the Secretary of State must consult the Department of Justice in Northern Ireland.

(6B) The power conferred by subsection (1) is exercisable by the Department of Justice (rather than by the Secretary of State) where the provision to be made is for the general purposes of this Act and would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of the Assembly.

(6C) The power conferred by subsection (1) is also exercisable by the Department of Justice (rather than by the Secretary of State) where the provision to be made—

(a) is for the purposes of, in consequence of, or for giving full effect to—

(i) section 78, or

(ii) so far as extending to Northern Ireland, any provision mentioned in section 178(7A), and

(b) would be within the legislative competence of the Northern Ireland Assembly if it were included in an Act of the Assembly.

(6D) The Department of Justice shall not, without the consent of the Secretary of State, make an order by virtue of subsection (6B) or (6C) in relation to which, were the order a Bill of the Northern Ireland Assembly, the Secretary of State’s consent would be required under section 8 of the Northern Ireland Act 1998⁽⁹⁾.”

26.—(1) Amend section 178 (commencement) as follows.

(2) After subsection (7) insert—

“(7A) The following provisions, so far as they extend to Northern Ireland, come into force on such day as the Department of Justice in Northern Ireland may by order appoint—

(a) section 144 so far as it relates to Part 2 of Schedule 10,

(b) section 163(1),

(c) section 163(3) so far as it relates to paragraphs 4 and 10 of Schedule 14,

(d) Part 2 of Schedule 10, and

(e) paragraphs 4 and 10 of Schedule 14.”

(3) After subsection (11) insert—

“(12) The power conferred by subsection (10) is exercisable by the Department of Justice in Northern Ireland (rather than the Secretary of State) in connection with any provision of this Act which comes into force by order made by the Department of Justice.”

⁽⁸⁾ Section 41(3) was substituted by S.I. 1999/663.

⁽⁹⁾ 1998 c. 47.

27.—(1) Amend Schedule 1 (SOCA) as follows.

(2) In paragraph 1(4) after “Scottish Ministers” insert “and the Department of Justice in Northern Ireland”.

(3) In paragraph 9(3)—

(a) omit the word “and” at the end of paragraph (a); and

(b) after paragraph (b) insert—

“, and

(c) the Department of Justice in Northern Ireland.”

(4) In paragraph 10(6)—

(a) omit the word “and” at the end of paragraph (a); and

(b) after paragraph (b) insert—

“, and

(c) the Department of Justice in Northern Ireland.”