
STATUTORY INSTRUMENTS

1982 No. 1082 (N.I. 14)

NORTHERN IRELAND

The Forfeiture (Northern Ireland) Order 1982

Made 30th July 1982

Laid before Parliament 9th August 1982

Coming into operation in accordance with Article 1

ARRANGEMENT OF ORDER

Article

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At the Court at Buckingham Palace, the 30th day of July 1982

Present,

The Queen's Most Excellent Majesty in Council

Whereas this Order is made only for purposes corresponding to the purposes of the Forfeiture Act 1982 (a):

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 (b) (as modified by section 6 of the said Act of 1982) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Forfeiture (Northern Ireland) Order 1982.

(2) This Order, except Article 6 which shall come into operation on such day as the Head of the Department of Health and Social Services may by order appoint, shall come into operation on 13th October 1982.

(a) 1982 c. 34.

(b) 1974 c. 28.

(3) Subject to Article 4 (7), an order under Article 4 or an order referred to in Article 5 (1) and made in respect of a person who has unlawfully killed another may be made whether the unlawful killing occurred before or after the commencement of those Articles.

Interpretation

2. The Interpretation Act (Northern Ireland) 1954 (a) shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

The “forfeiture rule”

3.—(1) In this Order, the “forfeiture rule” means the rule of public policy which in certain circumstances precludes a person who has unlawfully killed another from acquiring a benefit in consequence of the killing.

(2) References in this Order to a person who has unlawfully killed another include a reference to a person who has unlawfully aided, abetted, counselled or procured the death of that other and references in this Order to unlawful killing shall be interpreted accordingly.

Power to modify the rule

4.—(1) Where a court determines that the forfeiture rule has precluded a person (in this Article referred to as “the offender”) who has unlawfully killed another from acquiring any interest in property mentioned in paragraph (4), the court may make an order under this Article modifying the effect of that rule.

(2) The court shall not make an order under this Article modifying the effect of the forfeiture rule in any case unless it is satisfied that, having regard to the conduct of the offender and of the deceased and to such other circumstances as appear to the court to be material, the justice of the case requires the effect of the rule to be so modified in that case.

(3) In any case where a person stands convicted of an offence of which unlawful killing is an element, the court shall not make an order under this Article modifying the effect of the forfeiture rule in that case unless proceedings for the purpose are brought before the expiry of the period of three months beginning with his conviction.

(4) The interests in property referred to in paragraph (1) are—

(a) any beneficial interest in property which (apart from the forfeiture rule) the offender would have acquired—

(i) under the deceased’s will or the law relating to intestacy;

(ii) on the nomination of the deceased in accordance with the provisions of any statutory provision; or

(iii) as a donatio mortis causa made by the deceased; or

(b) any beneficial interest in property which (apart from the forfeiture rule) the offender would have acquired in consequence of the death of the deceased, being property which, before the death, was held on trust for any person.

(5) An order under this Article may modify the effect of the forfeiture rule in respect of any interest in property to which the determination referred to in paragraph (1) relates and may do so in either or both of the following ways, that is—

(a) where there is more than one such interest, by excluding the application of the rule in respect of any (but not all) of those interests; and

(a) 1954 c. 33 (N.I.).

(b) in the case of any such interest in property, by excluding the application of the rule in respect of part of the property.

(6) On the making of an order under this Article, the forfeiture rule shall have effect for all purposes (including purposes relating to anything done before the order is made) subject to the modifications made by the order.

(7) The court shall not make an order under this Article modifying the effect of the forfeiture rule in respect of any interest in property which, in consequence of the rule, has been acquired before the commencement of this Article by a person other than the offender or a person claiming through him.

(8) In this Article—

“property” includes any chose in action; and

“will” includes codicil.

Application for financial provision not affected by the rule

5.—(1) The forfeiture rule shall not be taken to preclude any person from making any application under a provision mentioned in paragraph (2) or the making of any order on the application.

(2) The provisions referred to in paragraph (1) are—

(a) Articles 33 (6) (variation, etc., of periodical payments orders) and 38 (1) (variation of maintenance agreements) of the Matrimonial Causes (Northern Ireland) Order 1978 **(a)**; and

(b) any provision of the Inheritance (Provision for Family and Dependents) (Northern Ireland) Order 1979 **(b)**.

Social Security Commissioner to decide whether rule applies to social security benefits

6.—(1) Where a question arises as to whether, if a person were otherwise entitled to or eligible for any benefit or advantage under a relevant enactment, he would be precluded by virtue of the forfeiture rule from receiving the whole or part of the benefit or advantage, that question shall (notwithstanding anything in any relevant enactment) be determined by a Commissioner.

(2) Regulations under this Article may make such provision as appears to the Department of Health and Social Services to be necessary or expedient for carrying this Article into effect; and (without prejudice to the generality of that) the regulations may, in relation to the question mentioned in paragraph (1) or any determination under that paragraph—

(a) apply any provision of any relevant enactment, with or without modifications, or exclude or contain provision corresponding to any such provision; and

(b) make provision for purposes corresponding to those for which provision may be made by regulations under section 115 of the Social Security (Northern Ireland) Act 1975 **(c)** (matters relating to adjudication).

(3) Regulations under this Article shall be subject to negative resolution.

(4) Section 155 (2) and (3) of the Social Security (Northern Ireland) Act 1975 (provision about extent of power to make regulations) shall apply to the power to make regulations conferred by this Article as it applies to the power to make regulations conferred by that Act, but as if for references to that Act there were substituted references to this Article.

(a) S.I. 1978/1045 (N.I. 15).

(b) S.I. 1979/924 (N.I. 8).

(c) 1975 c. 15.

(5) In this Article—

“Commissioner” has the same meaning as in the Social Security (Northern Ireland) Act 1975; and

“relevant enactment” means any provision of the following and any instrument made by virtue of such a provision:

the Personal Injuries (Emergency Provisions) Act 1939 **(a)**,

the Pensions (Navy, Army, Air Force and Mercantile Marine) Act 1939 **(b)**,

the Polish Resettlement Act 1947 **(c)**,

the Family Income Supplements Act (Northern Ireland) 1971 **(d)**,

the Social Security (Northern Ireland) Act 1975,

Part III of the Social Security Pensions (Northern Ireland) Order 1975 **(e)**,

the Child Benefit (Northern Ireland) Order 1975 **(f)**,

Part II of the Supplementary Benefits (Northern Ireland) Order 1977 **(g)**,

section 12 of the Social Security (Miscellaneous Provisions) Act 1977 **(h)**,

section 14 of the Social Security Act 1980 **(i)**,

and any other statutory provision relating to pensions or social security prescribed by regulations under this Article.

Exclusion of murderers

7. Nothing in this Order or in any order made under Article 4 or referred to in Article 5 (1) shall affect the application of the forfeiture rule in case of a person who stands convicted of murder.

N. E. Leigh,
Clerk of the Privy Council.

(a) 1939 c. 82. **(b)** 1939 c. 83. **(c)** 1947 c. 19. **(d)** 1971 c. 8 (N.I.).
(e) S.I. 1975/1503 (N.I. 15). **(f)** S.I. 1975/1504 (N.I. 16). **(g)** S.I. 1977/2156 (N.I. 27).
 (h) 1977 c. 5. **(i)** 1980 c. 30.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order is made only for purposes corresponding to the purposes of the Forfeiture Act 1982.

This Order provides for relief for persons guilty of unlawful killing from forfeiture of inheritance and other rights. It enables such persons to apply for financial provision out of the deceased's estate and provides for the question whether pension and social security benefits have been forfeited to be determined by the Social Security Commissioners.

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