
STATUTORY INSTRUMENTS

1998 No. 752 (S.42)

CRIMINAL LAW, SCOTLAND

**The Proceeds of Crime (Scotland) Act 1995
(Enforcement of Northern Ireland Orders) Order 1998**

<i>Made</i>	- - - -	<i>18th March 1998</i>
<i>Laid before Parliament</i>		<i>30th March 1998</i>
<i>Coming into force</i>	- -	<i>1st May 1998</i>

At the Court at Buckingham Palace, the 18th day of March 1998

Present,

The Queen's Most Excellent Majesty in Council

Her Majesty, in exercise of the powers conferred upon Her by section 39 of the Proceeds of Crime (Scotland) Act 1995(1), is pleased, by and with the advice of Her Privy Council to order, and it is hereby ordered, as follows:—

Citation, commencement and application

1.—(1) This Order may be cited as the Proceeds of Crime (Scotland) Act 1995 (Enforcement of Northern Ireland Orders) Order 1998.

(2) Subject to paragraph (3), this Order shall come into force on 1st May 1998.

(3) This Order shall not apply as respects the enforcement in Scotland of orders made before 1st May 1998 by the High Court in Northern Ireland under the Proceeds of Crime (Northern Ireland) Order 1996(2) in connection with drug trafficking offences.

Interpretation

2. In this Order—

“the Act” means the Proceeds of Crime (Scotland) Act 1995;

“the Northern Ireland Order” means the Proceeds of Crime (Northern Ireland) Order 1996.

(1) 1995 c. 43.

(2) S.I.1996/1299 (N.I. 9).

Enforcement of Northern Ireland Orders

3.—(1) For the purposes of Part III of and Schedules 1 and 2 to the Act (which make provision in connection with the enforcement of confiscation orders made in Scotland), the Act shall have effect as if—

- (a) references to confiscation orders included a reference to orders made by courts in Northern Ireland under article 8 of the Northern Ireland Order;
 - (b) references to—
 - (i) offences to which Part I of the Act applies; or
 - (ii) drug trafficking offences,
 included a reference to any offence to which the Northern Ireland Order applies (not being an offence to which that Part applies);
 - (c) references to proceedings in Scotland or to the institution or conclusion in Scotland of proceedings included a reference to proceedings in Northern Ireland or to the institution or conclusion in Northern Ireland of proceedings, as the case may be;
 - (d) references to “the court” were references to “the High Court”, or, as the case may be, “the Court of Session”;
 - (e) references to “the prosecutor” were references to “the Lord Advocate”;
 - (f) in section 29(3)(a) the words “whether by the making of a complaint or otherwise” were inserted at the beginning;
 - (g) in Schedule 1, paragraph 4(4) were omitted; and
 - (h) any sums in the hands of an administrator which are to be applied on a person’s behalf towards the satisfaction of the confiscation order were required to be paid to the proper officer as defined in article 35(11) of the Northern Ireland Order.
- (2) For the purposes of article 3(1)(c)—
- (a) proceedings for an offence in Northern Ireland shall be treated as instituted against a person—
 - (i) when a summons or warrant is issued under article 20 of the Magistrates' Courts (Northern Ireland) Order 1981(3) in respect of that offence;
 - (ii) when a person is charged with the offence after being taken into custody without a warrant;
 - (iii) when an indictment is presented under section 2(2)(c), (e) or (f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969(4);
 and where the application of this paragraph would result in there being more than one time for the institution of proceedings, they shall be taken to have been instituted at the earliest of these times;
 - (b) proceedings for an offence in Northern Ireland shall be treated as concluded—
 - (i) when the defendant is acquitted on all counts;
 - (ii) if he is convicted on one or more counts, but the court decides not to make a confiscation order against him, when it makes that decision; or
 - (iii) if a confiscation order is made against him in those proceedings, when the order is satisfied.

(3) S.I. 1981/1675 (N.I. 26).

(4) 1969 c. 15 (N.I.).

(3) Section 18 of the Civil Jurisdiction and Judgments Act 1982⁽⁵⁾ (enforcement of United Kingdom judgments in other parts of the United Kingdom) shall not apply as respects the enforcement in Scotland of orders made on or after 1st May 1998 by the High Court in Northern Ireland under the Northern Ireland Order in connection with drug trafficking offences.

4. A document purporting to be a copy of an order made by a court in Northern Ireland under or for the purposes of the Northern Ireland Order and to be certified as such by a proper officer of the court by which such order was made shall, in any proceedings in a court in Scotland under the Act, be sufficient evidence of the facts so stated.

N. H. Nicholls
Clerk of the Privy Council

⁽⁵⁾ 1982 c. 27.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order makes provision in connection with the enforcement in Scotland of Confiscation Orders made in Northern Ireland under article 8 of the Proceeds of Crime (Northern Ireland) Order 1996.

This Order comes into force on 1st May 1998 but does not apply as respects the enforcement in Scotland of certain orders made by the High Court in Northern Ireland before 1st May 1998 (article 1(2) and (3)). These orders will continue to be enforceable under the Civil Jurisdiction and Judgments Act 1982.