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STATUTORY INSTRUMENTS

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**2003 No. 174**

**The Proceeds of Crime Act 2002 (Application of Police and Criminal Evidence Act 1984 and Police and Criminal Evidence (Northern Ireland) Order 1989) Order 2003**

**Citation and commencement**

1. This Order may be cited as the Proceeds of Crime Act 2002 (Application of Police and Criminal Evidence Act 1984 and Police and Criminal Evidence (Northern Ireland) Order 1989) Order 2003 and shall come into force on 24th February 2003.

**Application of section 15 of the Police and Criminal Evidence Act 1984**

2.—(1) Section 15 of the Police and Criminal Evidence Act 1984<sup>(1)</sup> (search warrants—safeguards) applies to search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(2) The modifications are that—

(a) for subsection (1), there is substituted—

“(1) This section and section 16 have effect in relation to the issue to an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002) of a search and seizure warrant under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation and an entry on or search of premises under such a warrant is unlawful unless the warrant complies with this section and is executed in accordance with section 16”;

(b) in subsection (2), for “a constable”, there is substituted “an appropriate officer”;

(c) in subsection (2), paragraph (b) is omitted;

(d) in subsection (2), paragraph (c) is omitted;

(e) in subsection (3), the words “and supported by an information in writing” are omitted;

(f) in subsection (4), for “constable”, there is substituted “appropriate officer”;

(g) in subsection (4), the words “justice of the peace or” are omitted;

(h) in subsection (6), for sub-paragraph (iii) of paragraph (a), there is substituted—

“(iii) the statutory power under which it is issued and, unless the judge orders otherwise, an indication of the nature of the investigation in respect of which it is issued; and”;

(i) in subsection (6), at the beginning of paragraph (b), there is inserted “in the case of a warrant which is issued because the judge is satisfied that the requirement in section 352(6) (a) of the Proceeds of Crime Act 2002 is satisfied (production order made and not complied with),”;

(j) in subsection (6)(b), for “articles or persons”, there is substituted “material”.

### **Application of section 16 of the Police and Criminal Evidence Act 1984**

3.—(1) Section 16(2) of the Police and Criminal Evidence Act 1984 (execution of warrants) applies to search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(2) The modifications are that—

- (a) subsection (1) is omitted;
- (b) in subsection (2), for “Such a warrant”, there is substituted “A search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002”;
- (c) in subsection (2), for “constable”, there is substituted “appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (d) for “the constable”, in each subsequent place where it occurs, there is substituted “the appropriate person”;
- (e) for “a constable”, in each subsequent place where it occurs, there is substituted “an appropriate person”;
- (f) at the beginning of subsection (9), there is inserted “In the case of a warrant which is issued because the judge is satisfied that the requirement in section 352(6)(a) of the Proceeds of Crime Act 2002 is satisfied (production order made and not complied with),”;
- (g) in subsection (9)(a), for “articles or persons sought were”, there is substituted “material sought was”;
- (h) in subsection (9)(b), for “articles were seized, other than articles which were”, there is substituted “material was seized, other than material which was”;
- (i) for sub-paragraphs (i) and (ii) of subsection (10), there is substituted “to an officer of the court at which it was issued.”;
- (j) for paragraphs (a) and (b) of subsection (11), there is substituted “by an officer of the court at which it was issued.”.

### **Application of section 21 of the Police and Criminal Evidence Act 1984**

4.—(1) Section 21 of the Police and Criminal Evidence Act 1984 (access and copying) applies to powers of seizure under search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(2) The modifications are that—

- (a) in subsection (1), for “A constable”, there is substituted, “An appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (b) in subsection (1), for “in the exercise of a power conferred by any enactment, including an enactment contained in an Act passed after this Act,”, there is substituted “under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation”;
- (c) in subsection (2), for “officer”, there is substituted “appropriate person”;
- (d) in subsection (3), for “a constable” where first occurring, there is substituted, “an appropriate person”;
- (e) in subsection (3)(b), for “the police”, there is substituted “the appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (f) in subsection (3)(b), the words “for the purpose of investigating an offence” are omitted;

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(2) Section 16 was amended by section 90 of and Schedule 13 to the Access to Justice Act 1999 (c. 22).

- (g) in subsection (3), before “officer in charge of the investigation”, there is inserted “appropriate”;
- (h) in subsection (3), for “a constable” in the second place where it occurs, there is substituted “an appropriate officer”;
- (i) in subsection (4), before “officer in charge of the investigation”, there is inserted “appropriate”;
- (j) in subsection (4)(a), for “a constable”, there is substituted “an appropriate officer”;
- (k) in subsection (5), for “A constable”, there is substituted “An appropriate person”;
- (l) in subsection (8), before “officer in charge of the investigation”, there is inserted “appropriate”;
- (m) in subsection (8)(b), the words “other than the offence for the purposes of investigating which the thing was seized” are omitted;
- (n) in subsection (8)(c), after “criminal proceedings”, there is inserted “(including proceedings related to the making of a confiscation order)”.

#### **Application of section 22 of the Police and Criminal Evidence Act 1984**

5.—(1) Section 22(3) of the Police and Criminal Evidence Act 1984 (retention) applies to powers of seizure under search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(2) The modifications are that—

- (a) in subsection (1), for “a constable” where first occurring, there is substituted “an appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (b) in subsection (1), for “a constable” in the second place where it occurs, there is substituted “an appropriate person”;
- (c) in subsection (1), for “following a requirement made by virtue of section 19 or 20 above”, there is substituted “under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation”;
- (d) in subsection (1), after “retained”, there is inserted “by the appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (e) in subsection (2), for “criminal investigation”, there is substituted “confiscation investigation or money laundering investigation”;
- (f) after subsection (2)(a)(i), the word “or” is omitted;
- (g) after subsection (2)(a)(ii), the word “and” is omitted;
- (h) after subsection (2)(a)(ii), there is inserted—
  - “(iii) for use as evidence in proceedings relating to the making of a confiscation order under the Drug Trafficking Offences Act 1986(4), Part VI of the Criminal Justice Act 1988(5), Part I of the Drug Trafficking Act 1994(6) or Part 2 of the Proceeds of Crime Act 2002; or
  - (iv) for forensic examination or for investigation in connection with a confiscation investigation or money laundering investigation; and”;

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(3) Section 22 was amended by section 169 of and Schedule 14 to the Immigration and Asylum Act 1999 (c. 33).

(4) 1986 c. 32.

(5) 1988 c. 33.

(6) 1994 c. 37.

- (i) subsections (3), (5) and (6) are omitted.

### **Application of article 17 of the Police and Criminal Evidence (Northern Ireland) Order 1989**

6.—(1) Article 17 of the Police and Criminal Evidence (Northern Ireland) Order 1989<sup>(7)</sup> (search warrants—safeguards) applies to search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(2) The modifications are that—

- (a) for paragraph (1), there is substituted—

“(1) This article and article 18 have effect in relation to the issue to an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002) of a search and seizure warrant under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation and an entry on or search of premises under such a warrant is unlawful unless the warrant complies with this article and is executed in accordance with article 18.”;

- (b) in paragraph (2), for “a constable”, there is substituted “an appropriate officer”;
- (c) in paragraph (2), sub-paragraph (b) is omitted;
- (d) in paragraph (2), sub-paragraph (c) is omitted;
- (e) in paragraph (3), the words “supported by a complaint in writing and” are omitted;
- (f) in paragraph (4), for “constable”, there is substituted “appropriate officer”;
- (g) in paragraph (4), the words “justice of the peace or” are omitted;
- (h) in paragraph (6), for sub-paragraph (iii) of sub-paragraph (a), there is substituted—
- “(iii) the statutory power under which it is issued and, unless the judge orders otherwise, an indication of the nature of the investigation in respect of which it is issued; and”;
- (i) in paragraph (6), at the beginning of sub-paragraph (b), there is inserted “in the case of a warrant which is issued because the judge is satisfied that the requirement in section 352(6) (a) of the Proceeds of Crime Act 2002 is satisfied (production order made and not complied with),”;
- (j) in paragraph (6)(b), for “articles or persons”, there is substituted “material”;
- (k) in paragraph (8), the words “justice of the peace or” are omitted.

### **Application of article 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989**

7.—(1) Article 18 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (execution of warrants) applies to search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(2) The modifications are that—

- (a) paragraph (1) is omitted;
- (b) in paragraph (2) for “Such a warrant”, there is substituted “A search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002”;
- (c) in paragraph (2), for “constable”, there is substituted “appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;

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(7) S.I.1989/1341 (N.I. 12).

- (d) for “the constable”, in each subsequent place where it occurs, there is substituted “the appropriate person”;
- (e) for “a constable”, in each subsequent place where it occurs, there is substituted “an appropriate person”;
- (f) at the beginning of paragraph (9), there is inserted “In the case of a warrant which is issued because the judge is satisfied that the requirement in section 352(6)(a) of the Proceeds of Crime Act 2002 is satisfied (production order made and not complied with),”;
- (g) in paragraph (9)(a), for “articles or persons sought were”, there is substituted “material sought was”;
- (h) in paragraph (9)(b), for “articles were seized, other than articles which were”, there is substituted “material was seized, other than material which was”;
- (i) in paragraph (10), for “clerk of petty sessions for the petty sessions district in which the premises are situated”, there is substituted “chief clerk for the county court division in which the property is situated”.

#### **Application of article 23 of the Police and Criminal Evidence (Northern Ireland) Order 1989**

8.—(1) Article 23 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (access and copying) applies to powers of seizure under search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(2) The modifications are that—

- (a) in paragraph (1) for “A constable”, there is substituted, “An appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (b) in paragraph (1), for “in the exercise of a power conferred by any statutory provision, including a statutory provision passed or made after the making of this Order,”, there is substituted “under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation”;
- (c) in paragraph (2), for “constable”, there is substituted “appropriate person”;
- (d) in paragraph (3), for “a constable” where first occurring, there is substituted, “an appropriate person”;
- (e) in paragraph (3)(b), for “the police”, there is substituted “the appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (f) in paragraph (3)(b), the words “for the purpose of investigating an offence” are omitted;
- (g) in paragraph (3), before “officer in charge of the investigation”, there is inserted “appropriate”;
- (h) in paragraph (3), for “a constable” in the second place where it occurs, there is substituted “an appropriate officer”;
- (i) in paragraph (4), before “officer in charge of the investigation”, there is inserted “appropriate”;
- (j) in paragraph (4)(a), for “a constable”, there is substituted “an appropriate officer”;
- (k) in paragraph (5), for “A constable”, there is substituted “An appropriate person”;
- (l) in paragraph (8), before “officer in charge of the investigation”, there is inserted “appropriate”;
- (m) in paragraph (8)(b), the words “other than the offence for the purposes of investigating which the thing was seized” are omitted;

- (n) in paragraph (8)(c), after “criminal proceedings”, there is inserted “(including proceedings related to the making of a confiscation order)”.

### **Application of article 24 of the Police and Criminal Evidence (Northern Ireland) Order 1989**

**9.—(1)** Article 24(8) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (retention) applies to powers of seizure under search and seizure warrants sought for the purposes of a confiscation investigation or a money laundering investigation, with the modifications in paragraph (2).

(2) The modifications are that—

- (a) in paragraph (1), for “a constable” where first occurring, there is substituted “an appropriate person (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (b) in paragraph (1), for “a constable” in the second place where it occurs, there is substituted “an appropriate person”;
- (c) in paragraph (1), for “following a requirement made by virtue of Article 21 or 22”, there is substituted “under a search and seizure warrant issued under section 352 of the Proceeds of Crime Act 2002 for the purposes of a confiscation investigation or a money laundering investigation”;
- (d) in paragraph (1), after “retained”, there is inserted “by the appropriate person or an appropriate officer (within the meaning of Part 8 of the Proceeds of Crime Act 2002)”;
- (e) in paragraph (2), for “criminal investigation”, there is substituted “confiscation investigation or money laundering investigation”;
- (f) after paragraph (2)(a)(i), the word “or” is omitted;
- (g) after paragraph (2)(a)(ii), the word “and” is omitted;
- (h) after paragraph (2)(a)(ii), there is inserted—
  - “(iii) for use as evidence in proceedings relating to the making of a confiscation order under the Criminal Justice (Confiscation) (Northern Ireland) Order 1990(9), the Proceeds of Crime (Northern Ireland) Order 1996(10) or Part 4 of the Proceeds of Crime Act 2002; or
  - (iv) for forensic examination or for investigation in connection with a confiscation investigation or money laundering investigation; and”;
- (i) paragraphs (3), (5) and (6) are omitted.

**10.** For ease of reference—

- (a) sections 15, 16, 21 and 22 of the Police and Criminal Evidence Act 1984, as modified by articles 2 to 5 of this Order, are set out in Schedule 1 to this Order; and
- (b) articles 17, 18, 23 and 24 of the Police and Criminal Evidence (Northern Ireland) Order 1989, as modified by articles 6 to 9 of this Order, are set out in Schedule 2 to this Order.

Home Office  
29th January 2003

*Bob Ainsworth*  
Parliamentary Under-Secretary of State

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(8) Article 24 was amended by section 74 of and Schedule 4 to the Police (Northern Ireland) Act 1998 (c. 32) and section 169 of and Schedule 14 to the Immigration and Asylum Act 1999 (c. 33).

(9) S.I. 1990/2588 (N.I. 17).

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