

2008 No. 574

PROCEEDS OF CRIME

**The Serious Organised Crime and Police Act 2005 and Serious
Crime Act 2007 (Consequential and Supplementary
Amendments to Secondary Legislation) Order 2008**

<i>Made</i> - - - -	<i>4th March 2008</i>
<i>Laid before Parliament</i>	<i>6th March 2008</i>
<i>Coming into force</i> - -	<i>1st April 2008</i>

The Secretary of State, in exercise of the powers conferred on her by section 173(1) of the Serious Organised Crime and Police Act 2005(a) and section 90(1) of the Serious Crime Act 2007(b), makes the following Order:

Citation and commencement

1. This Order may be cited as the Serious Organised Crime and Police Act 2005 and Serious Crime Act 2007 (Consequential and Supplementary Amendments to Secondary Legislation) Order 2008 and shall come into force on 1st April 2008.

Amendment Schedule

2. The Schedule to this Order (Amendment of statutory instruments and statutory rules of Northern Ireland relating to the Assets Recovery Agency (“ARA”), its Director (“the Director”) and the Serious Organised Crime Agency (“SOCA”)) shall have effect.

Home Office
4th March 2008

Vernon Coaker
Parliamentary Under Secretary of State

SCHEDULE

Article 2

**Amendment of statutory instruments and statutory rules of Northern
Ireland relating to ARA, its Director and SOCA**

1.—(1) The Crown Court Rules (Northern Ireland) 1979(c) are amended as follows.

(a) 2005 c. 15; the power in section 173(1) is extended by section 173(2).
(b) 2007 c. 27; the power in section 90(1) is extended by section 90(2).
(c) S.R. 1979/90. The rules to be amended were inserted by S.R. 2003/71.

- (2) Rule 75 is revoked.
- (3) In Rule 76(2)(a) omit the words “or, if the Director was appointed as the enforcement authority under section 184, the Director”.
- (4) In Rule 78—
- (a) in paragraph 1 omit the words “or the Director”; and
 - (b) in paragraph 2 omit the words “or the Director”.
- (5) In Rule 79 omit the words “or the Director,”.
- (6) In Rule 82—
- (a) in paragraph 3(b) omit the words “or the Director”; and
 - (b) in paragraph 3(c) omit sub-paragraph (ii).
- (7) In Rule 83(2)(a) omit the words “or if the Director is appointed under section 184, the Director”.
- (8) In Rule 86(3)(a) omit the words “or if the Director is appointed under section 184, on the Director”.
- (9) In Rule 87(3)(a) omit the words “or if the Director is appointed under section 184, the Director”.
- (10) In Rule 90(3)(a) omit the words “or if the Director is appointed under section 184, the Director”.
- (11) In Rule 91(2)(d) omit the words “the Assets Recovery Agency,”.
- (12) In Rule 96(1) omit the words “or 200” and “the Assets Recovery Agency,”.
- (13) In Rule 97(1) omit the words “or 200” and “the Assets Recovery Agency,”.
- (14) In Rule 101(b) for the word “Director” substitute “prosecutor”.

2.—(1) Order 116(a) (Terrorism Act 2000 and confiscation and forfeiture in connection with criminal proceedings) of the Rules of the Supreme Court (Northern Ireland) 1980(b) is amended as follows.

- (2) In Rule 50(2)(e) omit the words “the Agency”.
- (3) In Rule 51(2) omit the words “the Agency”.
- (4) Rule 60 is revoked.

3.—(1) Order 123(c) (civil recovery) of the Rules of the Supreme Court (Northern Ireland) 1980 is amended as follows.

- (2) For Rule 3 substitute—

“Pseudonyms

3. Where a member of staff—

- (i) of the Serious Organised Crime Agency in relation to whom a direction under section 449 has effect, or
- (ii) of the relevant Director in relation to whom a direction under section 449A has effect,

gives written or oral evidence under this Order, a copy of the certificate issued under section 449(3) or 449A(3) shall be filed in the appropriate office.”.

- (3) In Rule 5—

- (a) in paragraph (1) for the word “Director” substitute “enforcement authority”; and

(a) The rules to be amended in Order 116 were inserted by S.R. 2003/54.
 (b) S.R. 1980/346.
 (c) Order 123 was amended by S.R. 2006/10.

- (b) in paragraph (3)(e) for the word “Director” substitute “enforcement authority”.
- (4) In Rule 7—
 - (a) in paragraph (1) for the word “Director” substitute “enforcement authority”;
 - (b) in paragraph (2)(d) for the word “Director” substitute “enforcement authority”;
 - (c) in paragraph (3)(b) for the word “Director” in each place where it occurs substitute “enforcement authority”; and
 - (d) in paragraph (4) for the word “Director” in each place where it occurs substitute “enforcement authority”.
- (5) In Rule 10(3)(e) for the word “Director” substitute “enforcement authority”.
- (6) In Rule 12 for the word “Director” substitute “enforcement authority”.
- (7) In Rule 19—
 - (a) in paragraph (2)(d) for the words “member of staff of the Agency” substitute “ member of staff of the Serious Organised Crime Agency or of the staff of the relevant Director”;
 - (b) in paragraph (2)(e) for the words “member of staff of the Agency” substitute “ member of staff of the Serious Organised Crime Agency or of the staff of the relevant Director”; and
 - (c) in paragraph (2)(e) for the words “the Director” substitute “a senior member of staff of the Serious Organised Crime Agency or of the staff of the relevant Director”.
- (8) In Rule 20—
 - (a) in paragraph (1) for the word “Director” substitute “relevant authority”; and
 - (b) in paragraph(1)(a) for the words “the Director” substitute “an appropriate officer”.
- (9) In Rule 21 for the words “the Director” substitute “an appropriate officer”.
- (10) In Rule 22—
 - (a) in paragraph (1) for the words “the Director” substitute “an appropriate officer”; and
 - (b) in paragraph (2)(b) for the words “the member of staff of the Agency” substitute “ an appropriate officer”.
- (11) In Rule 23 for the words “the Director” substitute “an appropriate officer”.
- (12) In Rule 24(1) for the words “the Director” substitute “an appropriate officer”.
- (13) In Rule 25 for the words “the Director” substitute “an appropriate officer”.
- (14) In Rule 26—
 - (a) in paragraph (2) for the words “the Director” substitute “the appropriate officer”; and
 - (b) in paragraph (3) for the words “the Director” substitute “an appropriate officer”.
- (15) In Appendix A, Form 72—
 - (a) in the heading, after “Applicant” for the words “Director of the Assets Recovery Agency” substitute “[*insert appropriate officer*]”;
 - (b) in paragraph 1 for the words “Director of the Assets Recovery Agency (“the Agency”)” substitute “[*insert appropriate officer*]”;
 - (c) in paragraph 2 for the words “Assets Recovery Agency” substitute “[*insert appropriate officer*]”; and
 - (d) in paragraph 3 for the words “(“the named officer”) who is an officer of the Agency [and [*insert name*], who is an officer of the Agency authorised by the Director of the Agency to accompany the named officer,]” substitute “[who is a member of staff of the Director of Public Prosecutions for Northern Ireland] [who is a member of staff of the Serious Fraud Office] [who is a member of staff of the Serious Organised Crime Agency]. (*delete as appropriate*)”.

4. In paragraph (a) of the definition of “respondent” in regulation 2 of the Special Commissioners (Jurisdiction and Procedure) Regulations 1994(a) (interpretation) for the words “the Director of the Assets Recovery Agency” substitute “the Serious Organised Crime Agency”.

5.—(1) The Proceeds of Crime (Northern Ireland) Order 1996(b) is amended as follows.

(2) In Article 49(1A) (additional investigation powers)(c)—

- (a) for the words “the Director of the Assets Recovery Agency” substitute “a senior member of staff of the Serious Organised Crime Agency”; and
- (b) for the words “the Director” each time they occur substitute “a member of staff of the Agency”.

(3) In Article 49(1B)(d)—

- (a) for the words “the Director of the Assets Recovery Agency” substitute “a member of staff of the Serious Organised Crime Agency or a relevant Director”; and
- (b) before the words “the Director” each time they occur insert “a member of staff of the Agency or”.

(4) In Article 49(5)(e) in the appropriate places insert—

““relevant Director” means the Director of the Serious Fraud Office or the Director of Public Prosecutions for Northern Ireland;”

““senior member of staff of the Serious Organised Crime Agency” means—

- (a) the Director General of the Serious Organised Crime Agency; or
- (b) any member of staff of the Agency authorised by the Director General (whether generally or specifically) for the purpose of this Article;”.

(5) In paragraph 3A(4) of Schedule 2 (financial investigations)(f) for the words “the Director of the Assets Recovery Agency” substitute “a member of staff of the Serious Organised Crime Agency or a relevant Director (within the meaning of Article 49(5))”.

6.—(1) The Land Registration Rules 2003(g) are amended as follows.

(2) In Form CIT in Schedule 1—

- (a) in Certificate H for the words “the Director of the Assets Recovery Agency or a member of the Assets Recovery Agency authorised to apply on behalf of the Director” substitute “the Director General of the Serious Organised Crime Agency or a member of staff of the Serious Organised Crime Agency authorised to apply on behalf of the Director General”;
- (b) in Certificate I—
 - (i) for the words “the Director of the Assets Recovery Agency or a member of the Assets Recovery Agency authorised to apply on behalf of the Director” substitute “the Director General of the Serious Organised Crime Agency or a member of staff of the Serious Organised Crime Agency authorised to apply on behalf of the Director General”;
 - (ii) after those words insert—

(a) S.I. 1994/1811. The definition of respondent was inserted into regulation 2 by S.I. 2003/968.

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

(c) Paragraph (1A) was inserted by Article 3(3) of S.I. 2001/1866 (N.I. 1) and was amended by section 456 of, and paragraph 31 of Schedule 11 to, the Proceeds of Crime Act 2002 (c. 29).

(d) Paragraph (1B) was inserted by Article 15(2) of S.I. 2005/1965 (N.I. 15).

(e) Paragraph (5) was substituted by Article 3(5) of S.I. 2001/1866 (N.I. 1) and was amended by section 456 of, and paragraph 31 of Schedule 11 to, the Proceeds of Crime Act 2002.

(f) Paragraph 3A was inserted by Article 6 of S.I. 2001/1866 (N.I. 1).

(g) S.I. 2003/1417 as amended by S.I. 2005/1766 and S.I. 2006/594.

“

- The Director of Public Prosecutions or a member of the Crown Prosecution Service authorised to apply on behalf of the Director
- The Director of Revenue and Customs Prosecutions or a member of the Revenue and Customs Prosecutions Office authorised to apply on behalf of the Director
- The Director of the Serious Fraud Office or a member of the Serious Fraud Office authorised to apply on behalf of the Director.

”

(c) in Certificate M—

- (i) for the words “Director of the Assets Recovery Agency” on the first two occasions on which they occur substitute “Serious Organised Crime Agency”;
- (ii) for the words “the Director of the Assets Recovery Agency or a member of the Assets Recovery Agency authorised to apply on behalf of the Director” substitute “the Director General of the Serious Organised Crime Agency or a member of staff of the Serious Organised Crime Agency authorised to apply on behalf of the Director General”; and

(d) in Certificate O after the words “a member of” insert “staff of”.

(3) In the table in Schedule 5 (applications in connection with court proceedings, insolvency and tax liability – qualifying applicants and appropriate certificates)—

- (a) the entry in relation to the Director of the Assets Recovery Agency is revoked;
- (b) in relation to the entry for the Director of Public Prosecutions, in column 2 (certificate in Form CIT) after the words “Certificate E” insert “Certificate I”;
- (c) in relation to the entry for the Director of Revenue and Customs Prosecutions, in column 2 after the words “Certificate H” insert “Certificate I”;
- (d) in relation to the entry for the Director of the Serious Fraud Office, in column 2 after the words “Certificate E” insert “Certificate I”; and
- (e) in relation to the entry for the Director General of the Serious Organised Crime Agency—
 - (i) in column 1 (status of applicant) omit the word “the” before “staff”; and
 - (ii) in column 2 before the words “Certificate O” insert—

“Certificate H
Certificate I
Certificate M”.

7. In the Schedule to the Magistrates’ Courts (Proceeds of Crime Act 2002) (Confiscation) Rules (Northern Ireland) 2003(a) paragraph (d) of Form 1 is revoked.

8.—(1) The Lay Magistrates (Eligibility) (Northern Ireland) Order 2004(b) is amended as follows.

(2) In Article 2(e)—

- (a) sub-paragraphs (vii) and (viii) are revoked; and
- (b) after sub-paragraph (xv), insert—
 - “(xvi) a member of the Board of the Serious Organised Crime Agency,
 - (xvii) the Director General of the Serious Organised Crime Agency,
 - (xviii) a member of staff of the Serious Organised Crime Agency.”

(3) In Article 2(f)—

(a) S.R. 2003/122.
(b) S.R. 2004/246.

- (a) sub-paragraphs (vii) and (viii) are revoked; and
- (b) after sub-paragraph (xv), insert—
 - “(xvi) a member of the Board of the Serious Organised Crime Agency,
 - (xvii) the Director General of the Serious Organised Crime Agency,
 - (xviii) a member of staff of the Serious Organised Crime Agency.”

(4) In Article 2(g)—

- (a) sub-paragraph (ii) is revoked; and
- (b) after sub-paragraph (iii), insert—
 - “(iv) a member of the Board of the Serious Organised Crime Agency,
 - (v) the Director General of the Serious Organised Crime Agency,
 - (vi) a member of staff of the Serious Organised Crime Agency appointed under paragraph 8(1A) of Schedule 1 to the Serious Organised Crime and Police Act 2005.”(a)

(5) In Article 2(h) after sub-paragraph (x), insert—

- “(xi) a member of the Board of the Serious Organised Crime Agency,
- (xii) the Director General of the Serious Organised Crime Agency,
- (xiii) a member of staff of the Serious Organised Crime Agency.”

9.—(1) Part 1 of the Schedule to the Legislative and Regulatory Reform (Regulatory Functions) Order 2007(b) (list of regulatory functions) is amended as follows.

(2) The entry and footnote (i) for the Director of the Assets Recovery Agency are revoked.

(3) After the entry for the Information Commissioner insert “National Policing Improvement Agency”.

(4) As a footnote to the entry for the National Policing Improvement Agency insert “See section 1 Police and Justice Act 2006 (c. 48)”.

(a) Paragraph 8(1A) is inserted by paragraph 174 of Schedule 8 to the Serious Crime Act 2007, that amendment is not yet in force.
(b) S.I. 2007/3544.

EXPLANATORY NOTE

(This note is not part of the Order)

The Schedule to this Order revokes and amends references in the secondary legislation listed in that Schedule to the Assets Recovery Agency and its Director consequential on the abolition of those persons by the Serious Crime Act 2007. Where the functions of those persons are to be taken on by another person references to that person are substituted. In particular, functions of those persons are to be taken on by the Serious Organised Crime Agency, the Director of Public Prosecutions, the Director of Revenue and Customs Prosecutions, the Director of the Serious Fraud Office, the Director of Public Prosecutions for Northern Ireland and the National Policing Improvement Agency.

Sub-paragraphs 6(2)(d), 6(3)(e)(i), 8(2)(b), 8(3)(b), 8(4)(b) and 8(5) of the Schedule to this Order also make minor amendments in relation to the creation of the Serious Organised Crime Agency by the Serious Organised Crime and Police Act 2005.

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Crime Act 2007 (Consequential and Supplementary
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