

SCHEDULES

SCHEDULE 14

Criminal Justice

Proceeds of Crime Act 2002

47. Amend the Proceeds of Crime Act 2002(1) as follows.

Commencement Information

11 Sch. 14 para. 47 in force at 12.4.2010, see [art. 1\(2\)](#)

48. In section 174 (confiscation: inadequacy of available amount: discharge of order)—

- (a) in subsection (4)(b) for “Secretary of State” substitute “Department of Justice in Northern Ireland”;
- (b) in subsection (5) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

Commencement Information

12 Sch. 14 para. 48 in force at 12.4.2010, see [art. 1\(2\)](#)

49. In section 175(3) (confiscation: small amount outstanding: discharge of order) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

Commencement Information

13 Sch. 14 para. 49 in force at 12.4.2010, see [art. 1\(2\)](#)

50. In section 215(7) (seized money) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

Commencement Information

14 Sch. 14 para. 50 in force at 12.4.2010, see [art. 1\(2\)](#)

51. In section 223 (criminal lifestyle)—

- (a) in subsection (7) for “Secretary of State” substitute “Department of Justice in Northern Ireland”;

(1) [2002 c. 29](#), as amended by the Serious Crime Act 2007, section 74 and Schedule 8, paragraphs 66, 91, 119, 138, 139, 141 and section 79 and Schedule 11, paragraph 2, 3, 4, 5, 11 and 15. There are other amendments to the Act, but none are relevant.

Changes to legislation: There are currently no known outstanding effects for the The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, Cross Heading: Proceeds of Crime Act 2002. (See end of Document for details)

- (b) in subsection (8) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

Commencement Information

I5 Sch. 14 para. 51 in force at 12.4.2010, see [art. 1\(2\)](#)

- 52.** In section 237(2) (procedure on appeal to Court of Appeal) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

Commencement Information

I6 Sch. 14 para. 52 in force at 12.4.2010, see [art. 1\(2\)](#)

- 53.—**(1) Amend section 238 (procedure on appeal to Supreme Court) as follows.

(2) Make the existing text subsection (1).

(3) After subsection (1) insert—

“(2) The power under subsection (1) is exercisable by the Department of Justice in Northern Ireland (and not the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998(2)).”

Commencement Information

I7 Sch. 14 para. 53 in force at 12.4.2010, see [art. 1\(2\)](#)

- 54.** In section 275(3) (recovery orders: pension schemes: supplementary) after “Scottish Ministers” insert “or, in relation to Northern Ireland, regulations made by the Department of Justice”.

Commencement Information

I8 Sch. 14 para. 54 in force at 12.4.2010, see [art. 1\(2\)](#)

- 55.** In section 282(1) (recovery orders: other exemptions) after “Scottish Ministers” insert “or, in relation to Northern Ireland, prescribed by an order made by the Department of Justice”.

Commencement Information

I9 Sch. 14 para. 55 in force at 12.4.2010, see [art. 1\(2\)](#)

- 56.** In section 287(2) (recovery orders: financial threshold) after “Scottish Ministers” insert “or, in relation to Northern Ireland, exercisable by the Department of Justice”.

Commencement Information

I10 Sch. 14 para. 56 in force at 12.4.2010, see [art. 1\(2\)](#)

57. In section 289(7) (recovery of cash in summary proceedings: searches) after “Scottish Ministers” insert “or, in relation to Northern Ireland, is specified by the Department of Justice by an order”.

Commencement Information

I11 Sch. 14 para. 57 in force at 12.4.2010, see [art. 1\(2\)](#)

58. In section 290(8) (recovery of cash in summary proceedings: appointed person)—

- (a) in paragraph (a) omit “and Northern Ireland”; and
- (b) after paragraph (b) insert—
 - “(c) in relation to Northern Ireland, a person appointed by the Department of Justice.”

Commencement Information

I12 Sch. 14 para. 58 in force at 12.4.2010, see [art. 1\(2\)](#)

59.—(1) Amend section 291 (recovery of cash in summary proceedings: report on exercise of powers) as follows.

- (2) In subsection (4) after “Scottish Ministers” insert “or the Department of Justice”.
- (3) In subsection (5) after “Scottish Parliament” insert “; and the Department of Justice must lay a copy of any report it receives under this section before the Northern Ireland Assembly”.
- (4) After subsection (5) insert—
 - “(6) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(3) applies for the purposes of subsection (5) 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.”

Commencement Information

I13 Sch. 14 para. 59 in force at 12.4.2010, see [art. 1\(2\)](#)

60.—(1) Amend section 292 (recovery of cash in summary proceedings: code of practice) as follows.

- (2) In subsection (1) omit “and Northern Ireland”.
- (3) In subsection (2)(b) after “Scottish Ministers” insert “, the Department of Justice”.

Commencement Information

I14 Sch. 14 para. 60 in force at 12.4.2010, see [art. 1\(2\)](#)

61. After section 293 insert—

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

Changes to legislation: There are currently no known outstanding effects for the The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, Cross Heading: Proceeds of Crime Act 2002. (See end of Document for details)

“293A Code of practice (Northern Ireland)

(1) The Department of Justice must make a code of practice in connection with the exercise by constables and accredited financial investigators, in relation to Northern Ireland, of the powers conferred by virtue of section 289.

(2) Where the Department of Justice proposes to issue a code of practice it must—

- (a) publish a draft,
- (b) consider any representations made to the Department of Justice about the draft,
- (c) if the Department of Justice thinks it appropriate, modify the draft in the light of any such representations.

(3) The Department of Justice must lay a draft of the code before the Northern Ireland Assembly.

(4) When the Department of Justice has laid a draft of the code before the Northern Ireland Assembly, the Department of Justice may bring it into operation by order.

(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsections (3) and (4) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(6) The Department of Justice may revise the whole or any part of the code issued by it and issue the code as revised; and subsections (2) to (5) apply to such a revised code as they apply to the original code.

(7) A failure by a constable or accredited financial investigator to comply with a provision of the code does not of itself make him liable to criminal or civil proceedings.

(8) The code is admissible in evidence in criminal or civil proceedings and is to be taken into account by a court or tribunal in any case in which it appears to the court or tribunal to be relevant.”

Commencement Information

I15 Sch. 14 para. 61 in force at 12.4.2010, see [art. 1\(2\)](#)

62.—(1) Amend section 302 (compensation) as follows.

(2) After subsection (8)—

“(9) The power in subsection (7B) is exercisable by the Department of Justice (and not by the Secretary of State) so far as it may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998).”

Commencement Information

I16 Sch. 14 para. 62 in force at 12.4.2010, see [art. 1\(2\)](#)

63. In section 303(1) (definition of “the minimum amount”) after “Scottish Ministers” insert “and the Department of Justice”.

Commencement Information

I17 Sch. 14 para. 63 in force at 12.4.2010, see [art. 1\(2\)](#)

64. In section 309(4) (exemptions) after “Scottish Ministers” insert “and the Department of Justice”.

Commencement Information

I18 Sch. 14 para. 64 in force at 12.4.2010, see [art. 1\(2\)](#)

65. In section 316(1) (interpretation of Part 5) after the definition of “dealing” insert—
““the Department of Justice” means the Department of Justice in Northern Ireland;”.

Commencement Information

I19 Sch. 14 para. 65 in force at 12.4.2010, see [art. 1\(2\)](#)

66.—(1) Amend section 355 (further provisions: confiscation and money laundering) as follows.
(2) In subsection (2)—
(a) after “applies” insert “, in relation to England and Wales,”;
(b) for “subsections (3) and (4) apply” substitute “subsection (3) applies”.
(3) After subsection (3) insert—
“(3A) In relation to such warrants and powers, the Department of Justice in Northern Ireland may make an order which applies, in relation to Northern Ireland, the provisions to which subsection (4) applies subject to any specified modifications.”

Commencement Information

I20 Sch. 14 para. 66 in force at 12.4.2010, see [art. 1\(2\)](#)

67.—(1) Amend section 377 (code of practice) as follows.
(2) In subsection (1) at the beginning of each of paragraphs (c) and (d) insert “in relation to England and Wales,”.
(3) Omit subsection (9).

Commencement Information

I21 Sch. 14 para. 67 in force at 12.4.2010, see [art. 1\(2\)](#)

68. After section 377 insert—

“377ZA Code of practice (Northern Ireland)

(1) The Department of Justice in Northern Ireland must prepare a code of practice as to the exercise, in relation to Northern Ireland, by constables and accredited financial investigators of functions they have under this Chapter.

(2) After preparing a draft of the code the Department of Justice—

(a) must publish the draft;

(b) must consider any representations made to the Department of Justice about the draft;

Changes to legislation: There are currently no known outstanding effects for the The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, Cross Heading: Proceeds of Crime Act 2002. (See end of Document for details)

(c) may amend the draft accordingly.

(3) After the Department of Justice has proceeded under subsection (2) it must lay the code before the Northern Ireland Assembly.

(4) When the Department of Justice has done so it may bring the code into operation on such day as the Department of Justice may appoint by order.

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

(6) A constable or accredited financial investigator must comply with a code of practice which is in operation under this section in the exercise of any function he has under this Chapter.

(7) If a constable or accredited financial investigator fails to comply with any provision of such a code of practice he is not by reason only of that failure liable in any criminal or civil proceedings.

(8) But the code of practice is admissible in evidence in such proceedings and a court may take account of any failure to comply with its provisions in determining any question in the proceedings.

(9) The Department of Justice may from time to time revise a code previously brought into operation under this section; and the preceding provisions of this section apply to a revised code as they apply to the code as first prepared.

377ZB Disapplication of PACE codes

377ZB The following provisions do not apply to an appropriate officer or the relevant authority in the exercise of any function either has under this Chapter—

- (a) section 67(9) of the Police and Criminal Evidence Act 1984(4) (application of codes of practice under that Act to persons other than police officers);
- (b) Article 66(8) of the Police and Criminal Evidence (Northern Ireland) Order 1989(5) (which makes similar provision for Northern Ireland)."

Commencement Information

I22 Sch. 14 para. 68 in force at 12.4.2010, see [art. 1\(2\)](#)

69. In section 436 (disclosure of information to Directors) after subsection (7) insert—

“(7A) In relation to persons exercising functions in Northern Ireland, any reference in subsection (6) to the Secretary of State must be read as a reference to the Department of Justice in Northern Ireland.”

Commencement Information

I23 Sch. 14 para. 69 in force at 12.4.2010, see [art. 1\(2\)](#)

70. In section 444(4) (external requests and orders) after paragraph (c) insert—

“(ca) the Department of Justice in Northern Ireland;”.

(4) 1984 c. 60.

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

Commencement Information

I24 Sch. 14 para. 70 in force at 12.4.2010, see [art. 1\(2\)](#)

71. In section 445(2)(b) (external investigations) after “Scottish Ministers,” insert “the Department of Justice in Northern Ireland.”

Commencement Information

I25 Sch. 14 para. 71 in force at 12.4.2010, see [art. 1\(2\)](#)

72. In section 452 (Crown servants) after subsection (2) insert—

“(3) In relation to Northern Ireland, the power to make regulations under subsection (1) is exercisable by the Department of Justice in Northern Ireland (and not by the Secretary of State) in relation to persons in the public service of the Crown in right of Her Majesty’s Government in Northern Ireland.”

Commencement Information

I26 Sch. 14 para. 72 in force at 12.4.2010, see [art. 1\(2\)](#)

73. In section 458 (commencement)—

- (a) in subsection (1) after “(3)” insert “or (4)”;
- (b) in subsection (2) after “made” insert “by the Secretary of State”;
- (c) after subsection (3) insert—

“(4) Any provision of this Act which provides for the repeal of any provision of the Proceeds of Crime (Northern Ireland) Order 1996(6) comes into force in accordance with provision made by the Department of Justice in Northern Ireland by order.”

Commencement Information

I27 Sch. 14 para. 73 in force at 12.4.2010, see [art. 1\(2\)](#)

74.—(1) Amend section 459 (orders and regulations) as follows.

(2) In subsection (3) for the words from “other than” to “which is” substitute “other than—

- (a) the power of the Advocate General for Northern Ireland to make an order under section 377A(5), and
- (b) any power of the Department of Justice in Northern Ireland to make subordinate legislation,

which are”.

- (3) In subsections (4)(a) and (6)(a) omit “223(7) or (8),”.
- (4) After subsection (7) insert—

(6) [S.I. 1996/1299 \(N.I. 9\)](#).

Changes to legislation: There are currently no known outstanding effects for the The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, Cross Heading: Proceeds of Crime Act 2002. (See end of Document for details)

“(7A) Subordinate legislation made by the Department of Justice in Northern Ireland is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(7)) other than an order under section 223(7) or (8), 282, 293A(4), 302(7B), 377ZA(4), 436(6) or 458.

(7B) No order shall be made by the Department of Justice under section 223(7) or (8), 282, 293A(4), 302(7B), 377ZA(4) or 436(6) unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(7C) The Department of Justice must lay before the Northern Ireland Assembly a copy of every statutory instrument containing an Order in Council under section 444 or 445.

(7D) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(8) applies for the purposes of subsections (7B) and (7C) in relation to the laying of a draft or copy as it applies in relation to the laying of a statutory document under an enactment.”

Commencement Information

I28 Sch. 14 para. 74 in force at 12.4.2010, see [art. 1\(2\)](#)

75. In section 460(3)(b) (sums received by the DPPNI) for “Secretary of State” substitute “Department of Justice in Northern Ireland”.

Commencement Information

I29 Sch. 14 para. 75 in force at 12.4.2010, see [art. 1\(2\)](#)

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

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

Changes to legislation:

There are currently no known outstanding effects for the The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010, Cross Heading: Proceeds of Crime Act 2002.