
STATUTORY INSTRUMENTS

2012 No. 2595

**The Northern Ireland Act 1998 (Devolution
of Policing and Justice Functions) Order 2012**

*Provision consequential on devolution to the Northern Ireland
Assembly of legislative power in relation to policing and justice matters*

Policing and Crime Act 2009

- 18.**—(1) Amend the Policing and Crime Act 2009(1) as follows.
- (2) In section 57(2) (which amends the Proceeds of Crime Act 2002(3))—
- (a) in subsection (4) of the inserted section 195H (exercise of powers without judicial approval) for “Secretary of State” substitute “Department of Justice”;
 - (b) in subsection (5) of the inserted section 195H for “Secretary of State” substitute “Department of Justice”;
 - (c) after subsection (5) of the inserted section 195H insert—
 “(5A) “Government department” includes a Northern Ireland department.”;
 - (d) in subsection (5) of the inserted section 195I (report by appointed person on exercise of powers) for “Secretary of State” substitute “Department of Justice”;
 - (e) in subsection (6) of the inserted section 195I for “Secretary of State” substitute “Department of Justice”;
 - (f) in subsection (6)(b) of the inserted section 195I for “Parliament” substitute “the Northern Ireland Assembly”;
 - (g) after subsection (6) of the inserted section 195I insert—
 “(6A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(4) applies for the purposes of subsection (6)(b) 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.”;
 - (h) in subsections (7) and (8) of the inserted section 195I for “Secretary of State” in each place substitute “Department of Justice”;
 - (i) in the title of the inserted section 195S (codes of practice), at the end insert “: **Secretary of State**”;
 - (j) in subsection (1)(a) of the inserted section 195S for “appropriate officers” substitute “officers of Revenue and Customs”;
 - (k) in subsection (1)(c) after “property” insert “by officers of Revenue and Customs and members of staff of SOCA”;
 - (l) after subsection (1) of the inserted section 195S insert—

(1) 2009 c. 26.

(2) Section 57 inserts new sections 195A-195S into the Proceeds of Crime Act 2002 (c. 29). Section 57 is not yet in force.

(3) 2002 c. 29

(4) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

“(1A) In subsection (1) senior officers means officers of Revenue and Customs of a rank designated by the Commissioners for Her Majesty’s Revenue and Customs as equivalent to that of a police officer of at least the rank of inspector.”;

(m) at the end of the inserted section 195S insert—

“195T Codes of practice: Department of Justice

(1) The Department of Justice must make a code of practice in connection with—

- (a) the carrying out by constables and accredited financial investigators of the functions conferred by sections 195C to 195H,
- (b) the carrying out by senior officers of their functions under section 195G, and
- (c) the detention of property by—

- (i) constables,

- (ii) accredited financial investigators, and

- (iii) members of staff of the relevant director (within the meaning of section 352(5A)(b)(5)),

under or by virtue of sections 190A, 193A and 195J to 195P.

(2) In subsection (1)(b) senior officers means—

- (a) police officers of at least the rank of inspector,
- (b) accredited financial investigators who fall within a description specified in an order made for this purpose by the Secretary of State under section 453(6).

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

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

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

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

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

(7) The Department of Justice may revise the whole or any part of the code and issue the code as revised; and subsections (3) to (6) apply to such a revised code as they apply to the original code.

(8) A failure by a person to comply with a provision of the code does not of itself make the person liable to criminal or civil proceedings.

(9) 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.”;

(n) after subsection (4) insert—

(5) Section 352(5A) was inserted by section 74(2)(d) of, and paragraphs 103 and 105 of Schedule 8 to, the Serious Crime Act 2007 (c. 27).

(6) Section 453 was amended by section 81 of the Serious Crime Act 2007 (c. 27).

- “(5) In section 459(7) (orders and regulations)—
- (a) in subsection (7A) after “section” (the second time it appears) insert “195T(5),”;
 - (b) in subsection (7B) after “section” insert “195T(5),”.
- (3) In section 116(8) (commencement)—
- (a) at the beginning of subsection (1A) insert “Subject to subsection (2A),”;
 - (b) after subsection (2) insert—
 - “(2A) The power to make an order under subsection (1) relating to section 57 is exercisable by the Secretary of State only with the consent of the Department of Justice in Northern Ireland.”

(7) Subsections (7A) and (7B) were inserted by [S.I. 2010/976](#). Other amendments have been made but they are not relevant to this Order.

(8) Section 116 was amended by [S.I. 2010/976](#).