

2021 No. 168

PROCEEDS OF CRIME

The Proceeds of Crime Act 2002 (Search, Seizure and Detention of Property: Code of Practice) Order (Northern Ireland) 2021

Made - - - - *17th June 2021*

Coming into operation - *28th June 2021*

The Department of Justice makes the following Order in exercise of the powers conferred by section 195T(5) of the Proceeds of Crime Act 2002(a) (“the Act”).

The Department of Justice has—

- (a) under section 195T(7) of the Act, revised the code of practice made under section 195T(1) of the Act in connection with the powers under the Act relating to the search, seizure and detention of property(b);
- (b) in accordance with section 195T(3) of the Act, published a draft of the revised code of practice, considered any representations made about the draft and, as the Department thought appropriate, modified the draft in the light of any such representations; and
- (c) in accordance with section 195T(4) of the Act, laid a draft of the revised code of practice before the Assembly.

In accordance with section 459(7B)(c) of the Act, a draft of this Order was laid before, and approved by a resolution of, the Assembly.

Accordingly, the Department of Justice, in exercise of the powers conferred by section 459(2) of the Act, makes the following Order-

Citation and commencement

1. This Order may be cited as the Proceeds of Crime Act 2002 (Search, Seizure and Detention of Property: Code of Practice) Order (Northern Ireland) 2021 and it comes into operation on 28th June 2021.

(a) 2002 c. 29. Section 195T was inserted by Article 18(1) and (2)(m) and (n) of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2012 (S.I. 2012/2595).

(b) The revised code of practice brought into operation by this Order replaces the code of practice brought into operation on 1st March 2016 by S.R. 2016 No. 64.

(c) Section 459(7B) was inserted by paragraph 74(1) and (4) of Schedule 14 to the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976).

Revised Code of Practice

2. The revised code of practice entitled “Code of Practice issued under section 195T of the Proceeds of Crime Act 2002: Search, Seizure and Detention of Property (Northern Ireland)” laid in draft before the Assembly on 12th May 2021 comes into operation on 28th June 2021.

Revocation

3. The Proceeds of Crime Act 2002 (Search, Seizure and Detention of Property: Code of Practice) Order (Northern Ireland) 2016(a) is revoked.

Sealed with the Official Seal of the Department of Justice on 17th June 2021



Naomi Long
Minister of Justice

(a) S.R. 2016 No. 64.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation on 28th June 2021 a revised code of practice made under section 195T(1) of the Proceeds of Crime Act 2002 (c. 29) (“the 2002 Act”) in connection with—

- (a) the carrying out by constables and accredited financial investigators of the functions conferred by sections 195C to 195H of the 2002 Act in Northern Ireland;
- (b) the carrying out by senior officers (within the meaning of section 195T of the 2002 Act) of their functions under section 195G of the 2002 Act in Northern Ireland; and
- (c) the detention of property in Northern Ireland by constables, accredited financial investigators and a member of staff of a relevant director under or by virtue of sections 190A, 193A and 195J to 195P of the 2002 Act. A relevant director, in relation to Northern Ireland, is the Director of the Serious Fraud Office or the Director of Public Prosecutions for Northern Ireland.

These provisions are in Part 4 of the 2002 Act, which is concerned with the confiscation of the proceeds of crime in Northern Ireland. That Part permits the making of a confiscation order under section 156 of the 2002 Act after a defendant is convicted. A confiscation order can be made ancillary to conviction and sentence to deprive a criminal of the benefit of their criminal conduct. Part 4 also contains powers to search, seize and detain property before conviction. The revised code of practice is necessitated by the commencement in Northern Ireland of amendments made to the 2002 Act by the Criminal Finances Act 2017 (c. 22).

A separate code of practice is issued by the Secretary of State under section 195S of the 2002 Act in connection with—

- (a) the carrying out by officers of Revenue and Customs, immigration officers and officers of the Serious Fraud Office of the functions conferred by sections 195C to 195H of the 2002 Act in Northern Ireland;
- (a) the carrying out by senior officers (within the meaning of section 195S of the 2002 Act) of their functions under section 195G of the 2002 Act in Northern Ireland; and
- (b) the detention of property in Northern Ireland by officers of Revenue and Customs, immigration officers, officers of the Serious Fraud Office, and National Crime Agency officers under or by virtue of sections 190A, 193A and 195J to 195P of the 2002 Act.

The revised code of practice brought into operation by this Order replaces the code of practice that was brought into operation by the Proceeds of Crime Act 2002 (Search, Seizure and Detention of Property: Code of Practice) Order (Northern Ireland) 2016. This order revokes S.R. 2016 No. 64.

An impact assessment has not been produced for this Order as it has no direct impact on business, charities or voluntary bodies. The code of practice provides guidance on the use of powers under the 2002 Act by bodies in the public sector, and incorporates existing best practice, but it does not require any greater use of those powers which could result in an additional impact.

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