Draft Order laid before the Assembly under sections 195T(5) and 459(7B) of the Proceeds of Crime Act 2002 for approval

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2016 No. 0000

PROCEEDS OF CRIME

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

Made - - - -	*xx xxxx 2016*
Coming into operation -	*1st March 2016*

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) in accordance with section 195T(1) of the Act, made a code of practice in connection with the powers under the Act relating to the search, seizure and detention of property;

(b) in accordance with section 195T(3) of the Act, published a draft of the 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 code of practice before the Assembly.

In accordance with section 459(7B)(**b**) 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) 2016 and it comes into operation on 1st March 2016.

(**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**) 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).

Code of Practice

2. The 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 [xxxx 2016] comes into operation on 1st March 2016.

Sealed with the Official Seal of the Department of Justice on xx xxxx 2016.

L.S.

David Ford
Minister of Justice

EXPLANATORY NOTE

(This note is not part of the Order)

This Order brings into operation on 1st March 2016 a code of practice made under section 195T(1) of the Proceeds of Crime Act 2002 ("the 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 Act in Northern Ireland;

(b) the carrying out by senior officers (within the meaning of section 195T of the Act) of their functions under section 195G of the 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 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 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 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.

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

(a) the carrying out by officers of Revenue and Customs and immigration officers of the functions conferred by sections 195C to 195H of the Act in Northern Ireland;

(a) the carrying out by senior officers (within the meaning of section 195S of the Act) of their functions under section 195G of the Act in Northern Ireland; and

(b) the detention of property in Northern Ireland by officers of Revenue and Customs, immigration officers and National Crime Agency officers under or by virtue of sections 190A, 193A and 195J to 195P of the Act.

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 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.

© Crown copyright 2016

Printed in the UK by The Stationery Office Limited under the authority and superintendence of Carol Tullo, Controller of Her Majesty's Stationery Office being the Government Printer for Northern Ireland and the Officer appointed to print Acts of the Northern Ireland Assembly.

Draft Order laid before the Assembly under sections 195T(5) and 459(7B) of the Proceeds of Crime Act 2002 for approval

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2016 No. 0000

PROCEEDS OF CRIME

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

ISBN 978-0-337-99940-6

9 780337 999406

£4.25

N6872 1/2016 466872T 19585