Changes to Legislation: as of 13 October 2026, this Act is up to date with all changes known to be in force.



Number 1 *of* 2005

PROCEEDS OF CRIME (AMENDMENT) ACT 2005

REVISED

Updated to 30 July 2018

This Revised Act is an administrative consolidation of the *Proceeds of Crime (Amendment) Act 2005*. It is prepared by the Law Reform Commission in accordance with its function under the *Law Reform Commission Act 1975* (3/1975) to keep the law under review and to undertake revision and consolidation of statute law.

All Acts up to and including *Companies (Statutory Audits) Act 2018* (22/2018), enacted 25 July 2018, and all statutory instruments up to and including *Criminal Justice (Corruption Offences) Act 2018 (Commencement) Order 2018* (S.I. No. 298 of 2018), made 26 July 2018, were considered in the preparation of this Revised Act.

Disclaimer: While every care has been taken in the preparation of this Revised Act, the Law Reform Commission can assume no responsibility for and give no guarantees, undertakings or warranties concerning the accuracy, completeness or up to date nature of the information provided and does not accept any liability whatsoever arising from any errors or omissions. Please notify any errors, omissions and comments by email to revisedacts@lawreform.ie.

Number 1 *of* 2005

PROCEEDS OF CRIME (AMENDMENT) ACT 2005

REVISED

Updated to 30 July 2018

ARRANGEMENT OF SECTIONS

PART 1

PRELIMINARY AND GENERAL

Section

1. Short title, collective citation and construction.
2. Interpretation.

PART 2

AMENDMENTS TO PRINCIPAL ACT

3. Amendment of section 1 (interpretation) of Principal Act.
4. Amendment of section 2 (interim order) of Principal Act.
5. Amendment of section 3 (interlocutory order) of Principal Act.
6. Amendment of section 4 (disposal order) of Principal Act.
7. New section 4A in Principal Act.
8. Amendment of section 6 (order in relation to property the subject of interim order or interlocutory order) of Principal Act.
9. Amendment of section 8 (evidence and proceedings under Act) of Principal Act.
10. Non-application to Principal Act of section 11(7) of Statute of Limitations 1957.
11. Amendment of section 9 (affidavit specifying property and income of respondent) of Principal Act.
12. New sections 16A and 16B in Principal Act.

PART 3

AMENDMENTS TO ACT OF 1996

13. Amendment of section 1 (interpretation) of Act of 1996.
14. Amendment of section 4 (objectives of Bureau) of Act of 1996.

15. Amendment of section 5 (functions of Bureau) of Act of 1996.
16. Amendment of section 14 (search warrants) of Act of 1996.
17. Amendment of maximum amount of certain fines in Act of 1996.
18. New sections 14A, 14B and 14C in Act of 1996.

PART 4

AMENDMENTS TO ACT OF 1994

19. Amendment of Title to Part VI of Act of 1994.
20. Amendment of section 38 (seizure and detention) of Act of 1994.
21. Amendment of section 39 (forfeiture of seized cash) of Act of 1994.
22. Amendment of section 43 (interpretation of Part VI) of Act of 1994.

PART 5

AMENDMENTS TO ACT OF 2001

23. New sections 2A, 2B and 2C in Act of 2001. *(Repealed)*

ACTS REFERRED TO

Criminal Assets Bureau Act 1996	1996, No. 31
Criminal Justice Act 1994	1994, No. 15
Ethics in Public Office Act 1995	1995, No. 22
Local Government Act 2001	2001, No. 37
Official Secrets Act 1963	1963, No. 1
Prevention of Corruption Act 1906	6 Edw. 7. c. 34
Prevention of Corruption Acts 1889 to 2001	
Prevention of Corruption (Amendment) Act 2001	2001, No. 27
Proceeds of Crime Act 1996	1996, No. 30
Statute of Limitations 1957	1957, No. 6
Taxes Consolidation Act 1997	1997, No. 39

Number 1 *of* 2005

PROCEEDS OF CRIME (AMENDMENT) ACT 2005

REVISED

Updated to 30 July 2018

AN ACT TO MAKE FURTHER PROVISION IN RELATION TO THE RECOVERY AND DISPOSAL OF PROCEEDS OF CRIME AND FOR THAT PURPOSE TO AMEND THE PROCEEDS OF CRIME ACT 1996, THE CRIMINAL ASSETS BUREAU ACT 1996, THE CRIMINAL JUSTICE ACT 1994 AND THE PREVENTION OF CORRUPTION (AMENDMENT) ACT 2001. [12*th February*, 2005]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

Short title, collective citation and construction.

1.—(1) This Act may be cited as the Proceeds of Crime (Amendment) Act 2005.

(2) The Principal Act and *Part 2* of this Act may be cited together as the Proceeds of Crime Acts 1996 and 2005.

(3) The Act of 1996 and *Part 3* of this Act may be cited together as the Criminal Assets Bureau Acts 1996 and 2005.

(4) The Prevention of Corruption Acts 1889 to 2001 and *Part 5* of this Act may be cited together as the Prevention of Corruption Acts 1889 to 2005.

Annotations

Modifications (not altering text):

C1 Application of *Prevention of Corruption Acts 1889-2001* extended (21.12.2009) by *National Asset Management Agency Act 2009* (34/2009), s. 16, S.I. No. 545 of 2009.

Prevention of corruption.

16.— (1) To avoid doubt, the provisions of the Prevention of Corruption Acts 1889 to 2001 apply to—

(*a*) every officer of NAMA,

(*b*) the Chief Executive Officer,

(*c*) the other members of the Board, and

(*d*) every director of a NAMA group entity.

(2) Where in any proceedings against a person who performs functions for or on or behalf of NAMA, or who performs functions connected to the valuation of eligible bank assets, for an offence under the Public Bodies Corrupt Practices Act 1889 or the Prevention of Corruption Act 1906 it is shown that—

(*a*) any gift, consideration or advantage has been given to or received by the person, and

(*b*) the person who gave the gift, consideration or advantage or on whose behalf the gift, consideration or advantage was given was—

(i) a person who is a debtor in relation to an eligible bank asset, or

(ii) an associated debtor of such a person,

the gift or consideration or advantage shall be taken, unless the contrary is proved, to have been given and received corruptly as an inducement to or reward for the person performing or omitting to perform any of those functions.

Interpretation.

2.—In this Act—

"Act of 1994" means the Criminal Justice Act 1994;

"Act of 1996" means the Criminal Assets Bureau Act 1996;

"Act of 2001" means the Prevention of Corruption (Amendment) Act 2001;

"Principal Act" means the Proceeds of Crime Act 1996.

PART 2

Amendments to Principal Act

Amendment of section 1 (interpretation) of Principal Act.

3.—Section 1 of the Principal Act is hereby amended—

(*a*) in subsection (1)—

(i) by the substitution of the following definitions for those of "the applicant", "proceeds of crime", "property" and "the respondent":

" 'the applicant' means a person, being a member, an authorised officer or the Criminal Assets Bureau, who has applied to the Court for the making of an interim order or an interlocutory order and, in relation to such an order that is in force, means, as appropriate, any member, any authorised officer or the Criminal Assets Bureau;

'proceeds of crime' means any property obtained or received at any time (whether before or after the passing of this Act) by or as a result of or in connection with criminal conduct;

'property', in relation to proceeds of crime, includes—

(*a*) money and all other property, real or personal, heritable or moveable,

(*b*) choses in action and other intangible or incorporeal property, and

(*c*) property situated outside the State where—

(i) the respondent is domiciled, resident or present in the State, and

(ii) all or any part of the criminal conduct concerned occurs therein,

and references to property shall be construed as including references to any interest in property;

'the respondent' means a person, wherever domiciled, resident or present, in respect of whom an interim order or interlocutory order, or an application for such an order, has been made and includes any person who, but for this Act, would become entitled, on the death of the first-mentioned person, to any property to which such an order relates (being an order that is in force and is in respect of that person);",

and

(ii) by the insertion of the following definitions:

" 'consent disposal order' means an order under section 3(1A) or 4A(1);

'criminal conduct' means any conduct—

(*a*) which constitutes an offence or more than one offence, or

(*b*) which occurs outside the State and which would constitute an offence or more than one offence—

(i) if it occurred within the State,

(ii) if it constituted an offence under the law of the state or territory concerned, and

(iii) if, at the time when an application is being made for an interim order or interlocutory order, any property obtained or received at any time (whether before or after the passing of this Act) by or as a result of or in connection with the conduct is situated within the State;",

and

(*b*) by the insertion, after subsection (1), of the following:

"(1A) (*a*) For the avoidance of doubt, a person shall be deemed for the purposes of this Act to be in possession or control of property notwithstanding that it (or any part of it)—

(i) is lawfully in the possession of any member of the Garda Síochána, any officer of the Revenue Commissioners or any other person, having been lawfully seized or otherwise taken by any such member, officer or person,

(ii) is subject to an interim order or interlocutory order or any other order of a court which—

(I) prohibits any person from disposing of or otherwise dealing with it or diminishing its value, or

(II) contains any conditions or restrictions in that regard,

or is to the like effect,

or

(iii) is subject to a letting agreement, the subject of a trust or otherwise occupied by another person or is inaccessible,

and references in this Act to the possession or control of property shall be construed accordingly.

(*b*) Paragraph (*a*)(ii) is without prejudice to sections 11(2) and 13(2).".

Amendment of section 2 (interim order) of Principal Act.

4.—Section 2 of the Principal Act is hereby amended—

(*a*) in subsection (1) by the substitution, for the opening words up to and including "officer", of the following:

"Where it is shown to the satisfaction of the Court on application to it *ex parte* in that behalf by a member, an authorised officer or the Criminal Assets Bureau",

(*b*) by the insertion, after subsection (3), of the following:

"(3A) Without prejudice to sections 3(7) and 6, where an interim order is in force, the Court may, on application to it in that behalf by the applicant or any other person, vary the order to such extent as may be necessary to permit—

(*a*) the enforcement of any order of a court for the payment by the respondent of any sum, including any sum in respect of costs,

(*b*) the recovery by a county registrar or sheriff of income tax due by the respondent pursuant to a certificate issued by the Collector-General under section 962 of the Taxes Consolidation Act 1997, together with the fees and expenses provided for in that section, or

(*c*) the institution of proceedings for, or relating to, the recovery of any other sum owed by the respondent.',

(*c*) in subsection (6) by the substitution of the following for paragraph (*b*):

"(*b*) in case the application is under subsection (3A) or (4), by the applicant or other person making the application to the respondent, unless the Court is satisfied that it is not reasonably possible to ascertain the respondent's whereabouts,",

and

(*d*) by the addition of the following subsection:

"(7) An application under subsection (1) may be made by originating motion.".

Amendment of section 3 (interlocutory order) of Principal Act.

5.—Section 3 of the Principal Act is hereby amended—

(*a*) in subsection (1)—

(i) by the substitution, for the opening words up to and including "section 8", of the following:

"Where, on application to it in that behalf by a member, an authorised officer or the Criminal Assets Bureau, it appears to the Court on evidence tendered by the applicant, which may consist of or include evidence admissible by virtue of section 8",

and

(ii) by the substitution, for "the Court shall make", of "the Court shall, subject to subsection (1A), make",

(*b*) by the insertion of the following subsection after subsection (1):

"(1A) On such an application the Court, with the consent of all the parties concerned, may make a consent disposal order, and section 4A shall apply and have effect accordingly.",

(*c*) by the insertion, after subsection (3), of the following:

"(3A) Without prejudice to subsection (7) and section 6, where an interlocutory order is in force, the Court may, on application to it in that behalf by the applicant or any other person, vary the order to such extent as may be necessary to permit—

(*a*) the enforcement of any order of a court for the payment by the respondent of any sum, including any sum in respect of costs,

(*b*) the recovery by a county registrar or sheriff of income tax due by the respondent pursuant to a certificate issued by the Collector-General under section 962 of the Taxes Consolidation Act 1997, together with the fees and expenses provided for in that section, or

(*c*) the institution of proceedings for, or relating to, the recovery of any other sum owed by the respondent.",

(*d*) in subsection (6) by the substitution of the following for paragraph (*a*):

"(*a*) in case the application is under subsection (1), (3A) or (4), by the applicant or other person making the application to the respondent, unless the Court is satisfied that it is not reasonably possible to ascertain the respondent's whereabouts,",

and

(*e*) by the addition of the following subsection:

"(8) An application under subsection (1) may be made by originating motion.".

Amendment of section 4 (disposal order) of Principal Act.

6.—Section 4 of the Principal Act is hereby amended by the addition of the following subsection:

"(9) An application under subsection (1) may be made by originating motion.".

New section 4A in Principal Act.

7.—The Principal Act is hereby amended by the insertion of the following section after section 4:

"Consent disposal order.

4A.—(1) Where in relation to any property—

(*a*) an interlocutory order has been in force for a period of less than 7 years, and

(*b*) an application is made to the Court with the consent of all the parties concerned,

the Court may make an order (a 'consent disposal order') directing that the whole or a specified part of the property be transferred to the Minister or to such other person as the Court may determine, subject to such terms and conditions as it may specify.

(2) A consent disposal order operates to deprive the respondent of his or her rights (if any) in or to the property to which the order relates and, on its being made, the property stands transferred to the Minister or that other person.

(3) The Minister—

(*a*) may sell or otherwise dispose of any property transferred to him or her under this section, and

(*b*) shall pay into or dispose of for the benefit of the Exchequer the proceeds of any such disposition as well as any moneys so transferred.

(4) Before deciding whether to make a consent disposal order, the Court shall give to any person claiming ownership of any of the property concerned an opportunity to show cause why such an order should not be made.

(5) The Court shall not make a consent disposal order if it is satisfied that there would be a serious risk of injustice if it did so.

(6) Sections 3(7) and 16 apply, with any necessary modifications, in relation to a consent disposal order as they apply in relation to an interlocutory order.

(7) This section is without prejudice to section 3(1A).".

Amendment of section 6 (order in relation to property the subject of interim order or interlocutory order) of Principal Act.

8.—Section 6 of the Principal Act is hereby amended by the substitution of the following for paragraph (*a*) of subsection (1):

"(*a*) the respondent or that other person to discharge the reasonable living and other necessary expenses (including legal expenses in or in relation to proceedings under this Act) incurred or to be incurred by or in respect of the respondent and his or her dependants or that other person, or".

Amendment of section 8 (evidence and proceedings under Act) of Principal Act.

9.—Section 8 of the Principal Act is hereby amended—

(*a*) in subsection (1) by the substitution of the following for paragraph (*b*):

"(*b*) in proceedings under section 3, on affidavit or, where the respondent requires the deponent to be produced for cross-examination or the court so directs, in oral evidence,",

and

(*b*) by the insertion, after subsection (5), of the following:

"(6) In any proceedings under this Act a document purporting to be a document issued by the Criminal Assets Bureau and to be signed on its behalf shall be deemed, unless the contrary is shown, to be such a document and to be so signed.".

Non-application to Principal Act of section 11(7) of Statute of Limitations 1957.

10.—For the avoidance of doubt, it is hereby declared that section 11(7) of the Statute of Limitations 1957 does not apply in relation to proceedings under the Principal Act.

Amendment of section 9 (affidavit specifying property and income of respondent) of Principal Act.

11.—Section 9 of the Principal Act is amended by renumbering it as subsection (1) and inserting the following subsection:

"(2) Such an affidavit is not admissible in evidence in any criminal proceedings against that person or his or her spouse, except any such proceedings for perjury arising from statements in the affidavit.".

New sections 16A and 16B in Principal Act.

12.—The Principal Act is hereby amended by the insertion of the following sections after section 16:

"Admissibility of certain documents.

16A.—(1) The following documents are admissible in any proceedings under this Act, without further proof, as evidence of any fact therein of which direct oral evidence would be admissible:

(*a*) a document constituting part of the records of a business or a copy of such a document;

(*b*) a deed;

(*c*) a document purporting to be signed by a person on behalf of a business and stating—

(i) either—

(I) that a designated document or documents constitutes or constitute part of the records of the business or is or are a copy or copies of such a document or documents, or

(II) that there is no entry or other reference in those records in relation to a specified matter, and

(ii) that the person has personal knowledge of the matters referred to in subparagraph (i).

(2) Evidence that is admissible by virtue of subsection (1) shall not be admitted if the Court is of the opinion that in the interests of justice it ought not to be admitted.

(3) This section is without prejudice to any other enactment or any rule of law authorising the admission of documentary evidence.

(4) In this section—

'business' includes—

(*a*) an undertaking not carried on for profit, and

(*b*) a public authority;

'deed' means any document by which an estate or interest in land is created, transferred, charged or otherwise affected and includes a contract for the sale of land;

'document' includes a reproduction in legible form of a record in non-legible form;

'public authority' has the meaning given to it by section 2(1) of the Local Government Act 2001 and includes a local authority within the meaning of that section;

'records' includes records in non-legible form and any reproduction thereof in legible form.

Corrupt enrichment order.

16B.—(1) For the purposes of this section—

(*a*) a person is corruptly enriched if he or she derives a pecuniary or other advantage or benefit as a result of or in connection with corrupt conduct, wherever the conduct occurred;

(*b*) 'corrupt conduct' is any conduct which at the time it occurred was an offence under the Prevention of Corruption Acts 1889 to 2001, the Official Secrets Act 1963 or the Ethics in Public Office Act 1995;

(*c*) 'property' includes—

(i) money and all other property, real or personal, heritable or moveable,

(ii) choses in action and other intangible or incorporeal property, and

(iii) property situated outside the State,

and references to property shall be construed as including references to any interest in property.

(2) Where, on application to it in that behalf by the applicant, it appears to the Court, on evidence tendered by the applicant, consisting of or including evidence admissible by virtue of subsection (5), that a person (a 'defendant') has been corruptly enriched, the Court may make an order (a 'corrupt enrichment order') directing the defendant to pay to the Minister or such other person as the Court may specify an amount equivalent to the amount by which it determines that the defendant has been so enriched.

(3) Where—

(*a*) the defendant is in a position to benefit others in the exercise of his or her official functions,

(*b*) another person has benefited from the exercise, and

(*c*) the defendant does not account satisfactorily for his or her property or for the resources, income or source of income from which it was acquired,

it shall be presumed, until the contrary is shown, that the defendant has engaged in corrupt conduct.

(4) In any proceedings under this section the Court may, on application to it *ex parte* in that behalf by the applicant, make an order prohibiting the defendant or any other person having notice of the order from disposing of or otherwise dealing with specified property of the defendant or diminishing its value during a period specified by the Court.

(5) Where in any such proceedings a member or an authorised officer states on affidavit or, where the respondent requires the deponent to be produced for cross-examination or the Court so directs, in oral evidence that he or she believes that the defendant—

(*a*) has derived a specified pecuniary or other advantage or benefit as a result of or in connection with corrupt conduct,

(*b*) is in possession or control of specified property and that the property or a part of it was acquired, directly or indirectly, as a result of or in connection with corrupt conduct, or

(*c*) is in possession or control of specified property and that the property or a part of it was acquired, directly or

indirectly, with or in connection with the property referred to in paragraph (*b*),

then, if the Court is satisfied that there are reasonable grounds for the belief aforesaid, the statement shall be evidence of the matters referred to in any or all of paragraphs (*a*) to (*c*), as may be appropriate.

(6) (*a*) In any such proceedings, on an application to it in that behalf by the applicant, the Court may make an order directing the defendant to file an affidavit specifying—

(i) the property owned by the defendant, or

(ii) the income and sources of income of the defendant, or

(iii) both such property and such income or sources.

(*b*) Such an affidavit is not admissible in evidence in any criminal proceedings against the defendant or his or her spouse, except any such proceedings for perjury arising from statements in the affidavit.

(7) Sections 14 to 14C shall apply, with the necessary modifications, in relation to assets or proceeds deriving from unjust enrichment as they apply to assets or proceeds deriving from criminal conduct.

(8) The standard of proof required to determine any question arising in proceedings under this section as to whether a person has been corruptly enriched and, if so, as to the amount of such enrichment shall be that applicable in civil proceedings.

(9) The rules of court applicable in civil proceedings shall apply in relation to proceedings under this section.".

PART 3

Amendments to Act of 1996

Amendment of section 1 (interpretation) of Act of 1996.

13.—Section 1(1) of the Act of 1996 is hereby amended by the addition of the following definitions:

" 'criminal conduct' means any conduct which—

(*a*) constitutes an offence or more than one offence, or

(*b*) where the conduct occurs outside the State, constitutes an offence under the law of the state or territory concerned and would constitute an offence or more than one offence if it occurred within the State;

'place' includes a dwelling;".

Amendment of section 4 (objectives of Bureau) of Act of 1996.

14.—Section 4 of the Act of 1996 is hereby amended by the substitution of references to "criminal conduct" for the references to "criminal activity".

Amendment of section 5 (functions of Bureau) of Act of 1996.

15.—Section 5(1) of the Act of 1996 is hereby amended—

(*a*) by the substitution of references to "criminal conduct" for the references to "criminal activity", and

(*b*) by the insertion of "an authority with functions related to the recovery of proceeds of crime," after "being".

Amendment of section 14 (search warrants) of Act of 1996.

16.—Section 14 of the Act of 1996 is hereby amended—

(*a*) in subsections (1), (2) and (4), by the substitution of references to "criminal conduct" for the references in those subsections to "criminal activities",

(*b*) in subsection (4)—

(i) by the deletion of "within one week of the date of issuing of the warrant" and the insertion of "within a period to be specified in the warrant", and

(ii) by the deletion of "any material found at that place, or any material" and the insertion of "any material (other than material subject to legal privilege) found at that place, or any such material",

(*c*) by the insertion of the following subsection after subsection (4):

"(4A) The period to be specified in the warrant shall be one week, unless it appears to the judge that another period, not exceeding 14 days, would be appropriate in the particular circumstances of the case.",

(*d*) in subsection (5), by substituting "subsection (2)" for "subsection (3)",

(*e*) by the insertion of the following subsection after subsection (5):

"(5A) The authority conferred by subsection (4) to seize and retain any material includes, in the case of a document or record, authority—

(*a*) to make and retain a copy of the document or record, and

(*b*) where necessary, to seize and retain any computer or other storage medium in which any record is kept.",

(*f*) by the insertion of the following subsection after subsection (6):

"(6A) A bureau officer who is a member of the Garda Síochána acting under the authority of a warrant under this section may—

(*a*) operate any computer at the place which is being searched or cause it to be operated by a person accompanying the member for that purpose, and

(*b*) require any person at that place who appears to the member to have lawful access to the information in the computer—

(i) to give to the member any password necessary to operate it,

(ii) otherwise to enable the member to examine the information accessible by the computer in a form in which it is visible and legible, or

(iii) to produce the information to the member in a form in which it can be removed and in which it is, or can be made, visible and legible,",

and

(*g*) by the substitution of the following subsection for subsection (9):

"(9) In this section—

'computer at the place which is being searched' includes any other computer, whether at that place or at any other place, which is lawfully accessible by means of that computer, and

'material' includes a copy of the material and a document or record.".

Amendment of maximum amount of certain fines in Act of 1996.

17.—Sections 11(2)(*a*), 12(2)(*a*), 13(2)(*a*), 14(7), 15(2)(*a*) and 16(2) of the Act of 1996 are hereby amended by the substitution of "€3,000" for "£1,500" in each case.

New sections 14A, 14B and 14C in Act of 1996.

18.—The Act of 1996 is hereby amended by the insertion of the following sections after section 14:

"Order to make material available.

14A.—(1) For the purposes of an investigation into whether a person has benefited from assets or proceeds deriving from criminal conduct or is in receipt of or controls such assets or proceeds a bureau officer who is a member of the Garda Síochána may apply to a judge of the District Court for an order under this section in relation to making available any particular material or material of a particular description.

(2) On such an application the judge, if satisfied—

(*a*) that there are reasonable grounds for suspecting that the person has benefited from such assets or proceeds or is in receipt of or controls such assets or proceeds, and

(*b*) that the material concerned is required for the purposes of such an investigation,

may order that any person who appears to him or her to be in possession of the material shall—

(*i*) produce the material to the member so that he or she may take it away, or

(*ii*) give the member access to it within a period to be specified in the order.

(3) The period to be so specified shall be one week, unless it appears to the judge that another period would be appropriate in the particular circumstances of the case.

(4) (*a*) An order under this section in relation to material in any place may, on the application of the member concerned, require any person who appears to the judge to be entitled to grant entry to the place to allow the member to enter it to obtain access to the material.

(*b*) Where a person required under paragraph (*a*) to allow the member to enter a place does not allow him or her to do so, section 14 shall have effect, with any necessary modifications, as if a warrant had been issued under that section authorising him or her to search the place and any person found there.

(5) Where such material consists of information contained in a computer, the order shall have effect as an order to produce the material, or to give access to it, in a form in which it is visible and legible and in which it can be taken away.

(6) The order—

(*a*) in so far as it may empower a member of the Garda Síochána to take away a document or to be given access to it, shall authorise him or her to make a copy of it and to take the copy away,

(*b*) shall not confer any right to production of, or access to, any material subject to legal privilege, and

(*c*) shall have effect notwithstanding any other obligation as to secrecy or other restriction on disclosure of information imposed by statute or otherwise.

(7) Any material taken away by a member of the Garda Síochána under this section may be retained by him or her for use as evidence in any proceedings.

(8) A judge of the District Court may vary or discharge an order under this section on the application of any person to whom an order under this section relates or a member of the Garda Síochána.

(9) A person who without reasonable excuse fails or refuses to comply with any requirement of an order under this section is guilty of an offence and liable—

(*a*) on summary conviction, to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months or to both, or

(*b*) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 5 years or to both.

Disclosure prejudicial to making available of material under section 14A.

14B.—(1) A person who, knowing or suspecting that an application is to be made, or has been made, under section 14A for an order in relation to making available any particular material or material of a particular description, makes any disclosure which is likely to prejudice the making available of the material in accordance with the order is guilty of an offence.

(2) In proceedings against a person for an offence under this section it is a defence to prove that the person—

(*a*) did not know or suspect that the disclosure to which the proceedings relate was likely to prejudice the making available of the material concerned, or

(*b*) had lawful authority or reasonable excuse for making the disclosure.

(3) A person guilty of an offence under this section is liable—

(*a*) on summary conviction, to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months or to both, or

(*b*) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 5 years or to both.

Property held in trust.

14C.—(1) For the purposes of an investigation into whether a person has benefited from assets or proceeds deriving from criminal conduct or is in receipt of or controls such assets or proceeds the Chief Bureau Officer or an authorised officer may apply to a judge of the High Court for an order under this section in relation to obtaining information regarding any trust

in which the person may have an interest or with which he or she may be otherwise connected.

(2) On such an application the judge, if satisfied—

(*a*) that there are reasonable grounds for suspecting that a person—

(i) has benefited from assets or proceeds deriving from criminal conduct or is in receipt of or controls such assets or proceeds, and

(ii) has some interest in or other connection with the trust,

(*b*) that the information concerned is required for the purposes of such an investigation, and

(*c*) that there are reasonable grounds for believing that it is in the public interest that the information should be disclosed for the purposes of the investigation, having regard to the benefit likely to accrue to the investigation and any other relevant circumstances,

may order the trustees of the trust and any other persons (including the suspected person) to disclose to the Chief Bureau Officer or an authorised officer such information as he or she may require in relation to the trust, including the identity of the settlor and any or all of the trustees and beneficiaries.

(3) An order under this section—

(*a*) shall not confer any right to production of, or access to, any information subject to legal privilege, and

(*b*) shall have effect notwithstanding any other obligation as to secrecy or other restriction on disclosure of information imposed by statute or otherwise.

(4) A judge of the High Court may vary or discharge an order under this section on the application of any person to whom it relates or a member of the Garda Síochána.

(5) A trustee or other person who without reasonable excuse fails or refuses to comply with an order under this section or gives information which is false or misleading is guilty of an offence and liable—

(*a*) on summary conviction, to a fine not exceeding €3,000 or to imprisonment for a term not exceeding 12 months or to both, or

(*b*) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 5 years or to both.

(6) Any information given by a person in compliance with an order under this section is not admissible in evidence in any criminal proceedings against the person or his or her spouse, except in any proceedings for an offence under subsection (5).

(7) In this section 'information' includes—

(*a*) a document or record, and

(*b*) information in non-legible form.".

PART 4

AMENDMENTS TO ACT OF 1994

Amendment of Title to Part VI of Act of 1994.

19.—The Title to Part VI of the Act of 1994 is hereby amended by the substitution of "SEARCH FOR, SEIZURE AND DISPOSAL OF MONEY GAINED FROM, OR FOR USE IN, CRIMINAL CONDUCT" for "DRUG TRAFFICKING MONEY IMPORTED OR EXPORTED IN CASH".

Amendment of section 38 (seizure and detention) of Act of 1994.

20.—Section 38 of the Act of 1994 is hereby amended—

(*a*) by the substitution of the following subsections for subsection (1):

"(1) A member of the Garda Síochána or an officer of customs and excise may search a person if the member or officer has reasonable grounds for suspecting that—

(*a*) the person is importing or exporting, or intends or is about to import or export, an amount of cash which is not less than the prescribed sum, and

(*b*) the cash directly or indirectly represents the proceeds of crime or is intended by any person for use in connection with any criminal conduct.

(1A) A member of the Garda Síochána or an officer of the Revenue Commissioners may seize and in accordance with this section detain any cash (including cash found during a search under subsection (1)) if—

(*a*) its amount is not less than the prescribed sum, and

(*b*) he or she has reasonable grounds for suspecting that it directly or indirectly represents the proceeds of crime or is intended by any person for use in any criminal conduct.",

and

(*b*) by the insertion of the following subsection after subsection (3):

"(3A) Where an application is made under section 39(1) for an order for the forfeiture of cash detained under this section, the cash shall, notwithstanding subsection (3), continue to be so detained until the application is finally determined.".

Amendment of section 39 (forfeiture of seized cash) of Act of 1994.

21.—Section 39(1) of Act 1994 is hereby amended by the substitution of "the proceeds of crime or is intended by any person for use in connection with any criminal conduct" for "any person's proceeds of, or is intended by any person for use in, drug trafficking".

Amendment of section 43 (interpretation of Part VI) of Act of 1994.

22.—Section 43 of the Act of 1994 is hereby amended by the substitution of the following subsection for subsection (1):

"(1) In this Part of the Act—

'cash' includes notes and coins in any currency, postal orders, cheques of any kind (including travellers' cheques), bank drafts, bearer bonds and bearer shares;

'criminal conduct' means any conduct which—

(*a*) constitutes an offence or more than one offence, or

(*b*) where the conduct occurs outside the State, constitutes an offence under the law of the state or territory concerned and would constitute an offence or more than one offence if it occurred within the State;

'exported', in relation to any cash, includes its being brought to any place in the State for the purpose of being exported;

'proceeds of crime' has the meaning given to that expression by section 1(1) (as amended by *section 3* of the *Proceeds of Crime (Amendment) Act 2005*) of the Proceeds of Crime Act 1996.".

PART 5

Amendments to Act of 2001

New sections 2A, 2B and 2C in Act of 2001.

23.—F1**[...]**

Annotations

Amendments:

F1 Repealed (30.07.2018) by *Criminal Justice (Corruption Offences) Act 2018* (9/2018), s. 4 and sch. 2, S.I. No. 298 of 2018.



Number 1 *of* 2005

PROCEEDS OF CRIME (AMENDMENT) ACT 2005

REVISED

Updated to 30 July 2018

About this Revised Act

This Revised Act presents the text of the Act as it has been amended since enactment, and preserves the format in which it was passed.

Related legislation

Criminal Assets Bureau Acts 1996 and 2005: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Proceeds of Crime (Amendment) Act 2005* (1/2005), s. 1(3)). The Acts in this group are:

- *Criminal Assets Bureau Act 1996* (31/1996)
- *Proceeds of Crime (Amendment) Act 2005* (1/2005), Part 3 (ss. 13-18)

Proceeds of Crime Acts 1996 to 2016: this Act is one of a group of Acts included in this collective citation, to be construed together as one (*Proceeds of Crime (Amendment) Act 2016* (8/2016), s. 7(2)). The Acts in this group are:

- *Proceeds of Crime Act 1996* (30/1996)
- *Proceeds of Crime (Amendment) Act 2005* (1/2005), Part 2 (ss. 3-12)
- *Proceeds of Crime (Amendment) Act 2016* (8/2016)

Annotations

This Revised Act is annotated and includes textual and non-textual amendments, statutory instruments made pursuant to the Act and previous affecting provisions.

An explanation of how to read annotations is available at www.lawreform.ie/annotations.

Material not updated in this revision

Where other legislation is amended by this Act, those amendments may have been superseded by other amendments in other legislation, or the amended legislation may have been repealed or revoked. This information is not represented in this revision but will be reflected in a revision of the amended legislation if one is available.

Where legislation or a fragment of legislation is referred to in annotations, changes to this legislation or fragment may not be reflected in this revision but will be reflected in a revision of the legislation referred to if one is available.

A list of legislative changes to any Act, and to statutory instruments from 1984, may be found linked from the page of the Act or statutory instrument at www.irishstatutebook.ie.

Acts which affect or previously affected this revision

• *Criminal Justice (Corruption Offences) Act 2018* (9/2018)

All Acts up to and including *Companies (Statutory Audits) Act 2018* (22/2018), enacted 25 July 2018, were considered in the preparation of this revision.

Statutory instruments which affect or previously affected this revision

• *None*

All statutory instruments up to and including *Criminal Justice (Corruption Offences) Act 2018 (Commencement) Order 2018* (S.I. No. 298 of 2018), made 26 July 2018, were considered in the preparation of this revision.