



Number 8 of 2016

Proceeds of Crime (Amendment) Act 2016



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PROCEEDS OF CRIME (AMENDMENT) ACT 2016

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[No. 8.]

Proceeds of Crime (Amendment) Act 2016.

[2016.]

ACTS REFERRED TO

Criminal Assets Bureau Act 1996 (No. 31)

Proceeds of Crime Act 1996 (No. 30)



Number 8 of 2016

PROCEEDS OF CRIME (AMENDMENT) ACT 2016

An Act to amend the Proceeds of Crime Act 1996 and to provide for related matters.

[27th July, 2016]

Be it enacted by the Oireachtas as follows:

Definition

1. In this Act the “Principal Act” means the Proceeds of Crime Act 1996.

Amendment of section 1 of Principal Act

2. Section 1 of the Principal Act is amended in subsection (1), by the insertion of the following definitions:

“ ‘authorisation’ means an authorisation for the detention of property granted under section 1A;

‘bureau officer’ has the same meaning as it has in the Criminal Assets Bureau Act 1996;”.

Seizure and detention of property, etc.

3. The Principal Act is amended by the insertion of the following sections after section 1:

“Seizure and detention of property

1A. (1) Where a bureau officer who is—

- (a) in a public place,
- (b) in any other place under a power of entry authorised by law or to which he or she was expressly or impliedly invited or permitted to be, or
- (c) carrying out a search authorised by law,
finds or comes into possession of any property and he or she has reasonable grounds for suspecting that the property—
 - (i) in whole or in part, directly or indirectly, constitutes proceeds of crime, and
 - (ii) is of a total value of not less than €5,000,

he or she may seize and detain the property for a period not exceeding 24 hours.

- (2) Where a bureau officer has seized and detained property in accordance with subsection (1), the Chief Bureau Officer may, before the expiration of the relevant period of 24 hours, if he or she—
 - (a) is satisfied that there are reasonable grounds for suspecting that the property, in whole or in part, directly or indirectly, constitutes proceeds of crime,
 - (b) is satisfied that there are reasonable grounds for suspecting that the total value of the property is not less than €5,000,
 - (c) is satisfied that the Criminal Assets Bureau is carrying out an investigation into whether there are sufficient grounds to make an application to the Court for an interim order or an interlocutory order in respect of the property, and
 - (d) has reasonable grounds for believing that the property, in whole or in part, may in the absence of an authorisation, be disposed of or otherwise dealt with, or have its value diminished, before such an application may be made,

authorise the detention of the property by the Criminal Assets Bureau for a further period not exceeding 21 days.

- (3) The Chief Bureau Officer shall give notice in writing of an authorisation to any person having possession or control of the property and any other person who appears to be or is affected by it, unless the Chief Bureau Officer is satisfied that it is not reasonably possible to ascertain his, her or their whereabouts.
- (4) A notice given under this section shall include the reasons for the authorisation and inform the person to whom the notice is given of his or her right to make an application under section 1B.
- (5) The reasons given in a notice under this section need not include details the disclosure of which there are reasonable grounds for believing would prejudice the investigation in respect of which the authorisation is given.
- (6) The Chief Bureau Officer may vary or revoke an authorisation and shall revoke an authorisation if any of the grounds on which it was issued no longer exists.
- (7) In this section, ‘property’ does not include land.

Application to Court

- 1B.** (1) A person who has possession or control of property which is the subject of an authorisation, or who is affected by an authorisation, may at any time while the authorisation is in force apply to the Court to

have the authorisation varied or revoked, and the Court may, if it is satisfied that—

- (a) there are no reasonable grounds for suspecting that the property the subject of the authorisation may, in whole or in part, directly or indirectly, constitute proceeds of crime,
- (b) there are no reasonable grounds for suspecting that the total value of the property is not less than €5,000,
- (c) there is no reasonable prospect that an application to the Court for an interim order or an interlocutory order in respect of the property, in whole or in part, will be made before or upon the expiration of the authorisation, or
- (d) there are no reasonable grounds for believing that the property, in whole or in part, would in the absence of the authorisation, be disposed of or otherwise dealt with, or have its value diminished, before an application for an interim order or an interlocutory order may be made in respect of it,

vary or revoke the authorisation.

- (2) Without prejudice to the generality of subsection (1), the Court in dealing with an application under that subsection may make such order that it considers appropriate if satisfied that it is necessary to do so for the purpose of enabling the person—
 - (a) to discharge the reasonable living and other necessary expenses, including legal expenses in or in relation to legal proceedings, incurred or to be incurred in respect of the person or the person's dependants, or
 - (b) to carry on a business, trade, profession or other occupation to which any of the property relates.
- (3) An application under subsection (1) may be made only if notice has been given to the Criminal Assets Bureau.
- (4) Proceedings under this section shall be heard otherwise than in public.

Compensation

1C. (1) Where property is detained under an authorisation and—

- (a) an application to the Court for an interim order or an interlocutory order in respect of the property, in whole or in part, is not made before the expiration of the authorisation, or
- (b) such an application is made but the Court does not make an interim order, or an interlocutory order, as the case may be, in respect of the property,

the Court may, on application to it in that behalf by a person who shows to the satisfaction of the Court that he or she is the owner of the

property, award to the person such (if any) compensation payable by the Minister as it considers just in the circumstances in respect of any loss incurred by the person by reason of the authorisation concerned.

- (2) An application under subsection (1) may be made only if notice has been given to the Criminal Assets Bureau.”.

Amendment of section 2 of Principal Act

4. Section 2 of the Principal Act is amended—

- (a) in paragraph (b) of subsection (1), by the substitution of “€5,000” for “€13,000”, and
- (b) in paragraph (b) of subsection (3), by the substitution of “€5,000” for “€13,000”.

Amendment of section 3 of Principal Act

5. Section 3 of the Principal Act is amended—

- (a) in paragraph (b) of subsection (1), by the substitution of “€5,000” for “€13,000”, and
- (b) in paragraph (II) of subsection (1), by the substitution of “€5,000” for “€13,000”.

Amendment of section 8 of Principal Act

6. Section 8 of the Principal Act is amended in subsection (1) by the substitution of “€5,000” for “€13,000”.

Short title, collective citation and commencement

7. (1) This Act may be cited as the Proceeds of Crime (Amendment) Act 2016.
- (2) The Proceeds of Crime Acts 1996 and 2005 and this Act may be cited as the Proceeds of Crime Acts 1996 to 2016.
- (3) This Act shall come into operation on such day or days as the Minister for Justice and Equality may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.