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from: Mr Alan Shatter, T.D., Minister for Justice, Equality and Defence of Ireland
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to: Council

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Subject: Tackling the proceeds of crime through non-conviction based regimes
- Fundamental rights and protections
- The Irish Experience

Delegations find attached in Annex letter of the Irish Minister for Justice, Equality and Defence concerning the tackling the proceeds of crime through non-conviction based regimes.



OIFIG AN AIRE DLÍ AGUS CIRT AGUS COMHIONANNAIS
OFFICE OF THE MINISTER FOR JUSTICE AND EQUALITY

Mr Morten BØDSKOV
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31 May 2012

Dear Morten,

As you will recall, I wrote to you in April, in advance of the meeting of the Justice and Home Affairs Council, with regard to the current Commission Proposal for a Directive on the confiscation of Proceeds of Crime and also forthcoming initiatives on mutual recognition in this area.

In that correspondence, I indicated that I would write again around the time of the June Justice and Home Affairs Council so as to provide you with a more detailed background note to the current non-conviction based regime that operates in Ireland.

Attached for your consideration is that background note, which I hope will be of assistance in providing a fuller picture of our non-conviction based regime.

The document is intended to provide a guide to the regime in operation in Ireland and the constitutional challenges that the Irish Courts have addressed since it was first introduced in 1996. In general terms, these challenges are representative of the type of challenges that have been addressed by the European Court of Human Rights and courts elsewhere. Arising from the judgements referred to in the document, I believe that there is a growing body of jurisprudence that supports the operation of non-conviction based systems and which provides good guidance for the development at EU level of similar systems.

As I have previously indicated, in bringing forward this document it is my intention to further inform and assist thinking at European level with regard to the non-conviction based regime. I believe it should be possible to be more aspiring in our efforts to ensure effective cooperation on the confiscation of assets within the Union.

I hope that my efforts in this regard will be of assistance to my colleagues, both in discussions on the current draft directive and the forthcoming initiatives on mutual recognition.

I look forward to our future discussions on this matter.

Yours sincerely,



Alan Shatter, T.D.,
Minister for Justice, Equality and Defence

Tackling the proceeds of crime through non-conviction based regimes

Fundamental rights and protections

The Irish Experience

Background

Non-conviction based models for the forfeiture of property that constitutes the proceeds of crime have been in existence for some time, primarily, but not exclusively, within the common law legal systems.

In Ireland, the non-conviction based model for the confiscation of proceeds of crime was introduced into the Irish legal system through the provisions of the Proceeds of Crime Act 1996¹. The Proceeds of Crime legislation (POC legislation) was introduced by the Irish State as a proportional and legitimate response, in the interests of the common good, to the serious organised crime situation that had developed at that time. In particular, the growth of organised crime gangs and the emergence of gang leaders and associates who ensured that they remained at a distance from the actual commission of offences, but who had most to gain from those activities.

The provisions of the 1996 Act were considered very novel at the time of their introduction, therefore particular attention was paid to ensuring that the provisions met with the rigorous standards of the Constitution of Ireland.

In setting the background to the jurisprudence that has developed in the Irish Courts, it is worth recalling a number of the key concepts and features of the Irish non-conviction based model. While traditional conviction based models act *in personam* against a convicted person, the Irish non-conviction based model acts *in rem* on the property that constitutes the proceeds of crime. It applies civil law rather than criminal law concepts. Therefore with regard to matters of evidence it is the civil law standard that applies, that is, 'on the balance of probabilities' rather than the criminal standard of 'beyond reasonable doubt'.

Ireland's Asset Recovery Office (the Criminal Assets Bureau) must satisfy the High Court (exercising civil jurisdiction)² that, on the balance of probabilities, the specified property constitutes directly or indirectly the proceeds of crime. The High Court must be satisfied that there are reasonable grounds for the belief that the property in question is the proceeds of crime before the burden shifts to the respondent to show that the property was obtained legitimately. The Court may, when so satisfied, make an interim order over the property preventing anybody from dealing with it. The property is thereafter dealt with in accordance with the provisions of the POC legislation. For ease of reference, an outline of the non-conviction based model is contained in the appendix to this paper.

¹ www.irishstatutebook.ie

² The High Court has full jurisdiction in and power to determine all matters and questions whether of law or fact, civil or criminal. Its jurisdiction also extends to the question of the validity of any law having regard to the Constitution. The High Court acts as an appeal court from the Circuit Court in civil matters. See www.courts.ie

The sanction provided by the POC legislation is not considered punitive or criminal in nature. The respondent is not necessarily a suspect in relation to the crime from which the proceeds have derived, and the State does not need to show a link between the person in whose possession the assets are seized, and the crime. The effect of the order is solely to deprive the holder of the beneficial enjoyment of the property in question which has been shown to the satisfaction of the High Court to be property that constitutes, directly or indirectly, proceeds of crime, or that was acquired, in whole or in part, with or in connection with property that, directly or indirectly, constitutes proceeds of crime. The only provision for compensation being where the relevant order is discharged or lapses or is varied, the compensation then being payable solely to the owner of the property.

The POC legislation does not operate as an alternative to criminal prosecution. In any case, where there is sufficient evidence to pursue criminal proceedings, criminal prosecution will be prioritised. In circumstances where property may be subject to confiscation under both criminal justice legislation and POC legislation, the application of the relevant orders under the criminal justice legislation takes precedence.

In considering the legislative model, it is important to note that the POC legislation provides for a number of very important safeguards such as notice provisions, the opportunity for a respondent to seek to vary an order, the opportunity for any persons claiming ownership to be heard, provision for legal aid, provision for compensation etc. These safeguards are vital in ensuring that the system is fair and that the model is not unduly oppressive in effect.

Since its introduction, the POC legislation has been the subject of a number of challenges with regard to the question of whether it meets the standards of fundamental rights and protections enshrined in the Constitution of Ireland and the European Convention on Human Rights. While the European Convention on Human Rights (ECHR) had not, at the time of a number of the seminal cases being decided in this jurisdiction, been incorporated into domestic law, many of the same rights have long been recognised and protected by Irish courts in accordance with the common law and Irish constitutional law. The arguments raised in these cases reflect arguments that could have been raised under the European Convention for the Protection of Human Rights and Fundamental Freedoms had the Convention been part of Irish domestic legislation. It was in 2004 that the provisions of the European Convention on Human Rights Act 2003 came into effect in Ireland.³ In Ireland, in domestic proceedings the ECHR is subject to the supremacy of the Irish Constitution.

During the period since its introduction there have been a number of challenges to the constitutionality of the POC legislation. There is therefore a significant body of jurisprudence in Ireland concerning the POC legislation and its compatibility with fundamental rights enshrined in the Irish Constitution, reflecting those in the ECHR.

³ In general terms, the 2003 requires that a court in interpreting and applying any statutory provision or rule of law shall do so in a manner compatible with the States' obligations under the Convention and that every organ of the State shall perform its functions in a manner compatible with the States' obligations. Provision is made for damages in circumstances where a person suffers injury, loss or damage as a result of a contravention under the Act and for compensation in circumstances where a statutory provision or rule of law is declared by the courts to be incompatible with the States obligations under the Convention.

So what are these fundamental rights and protections and to what extent have they been examined in Ireland, so as to satisfy Ireland's constitutional requirements and those of the European Convention on Human Rights?

Irish Jurisprudence

Since the POC legislation was introduced in Ireland respondents in a number of cases have challenged the constitutional validity of the legislation. Nearly all of the issues raised were addressed by the Irish Supreme Court⁴ in the cases of *Gilligan v. Ireland, Attorney General, Criminal Assets Bureau and Others* and *Murphy v. GM, PB, PC Ltd., and GH* which were heard together.⁵ The following are some of the key arguments that were addressed in these cases and in related judgments in the Irish Courts.

▪ ***Ersatz Civil Law (A right to a fair trial under article 6 of the ECHR)***

Argument: The Act is in breach of Article 38 of the Irish Constitution (Trial of Offences) as the provisions of the POC legislation constitute criminal law and not civil law, and therefore persons who are affected by the provisions are deprived of the protections which apply in criminal procedures. Article 38.1 provides that 'No person shall be tried on any criminal charge save in due course of law.'

The protections referred to in this argument are those required to meet the 'due course of law' standard provided for under Article 38 of the Constitution. These protections are similar to the protections to be provided in accordance with Article 6 of the European Convention on Human Rights in circumstances where proceedings involve a criminal charge and include the presumption of innocence, the criminal standard of proof i.e. beyond reasonable doubt and a right to trial by jury.

In the case *Gilligan .v. C.A.B.*⁶ the Supreme Court in its consideration of this argument had regard to the indicia developed by the Irish Courts⁷ which might, if present, render such proceedings criminal in nature. The Court held that the forfeiture proceedings under the POC legislation are civil, and not criminal, in nature. The Court held that in contrast to criminal proceedings which may include a number of the identified indicia 'the proceedings under sections 3 and 4 of the 1996 did not include 'provision for the arrest or detention of any person, for the admission of persons to bail, for the imprisonment of a person in default of payment of a penalty, for a form of Criminal Trial, for the recording of a conviction in any form or for the entering of a nolle prosequi at any stage. '.

It has also been held by the High Court⁸ that there is no bar under the Constitution on the determination in the course of civil or other proceedings of matters which may constitute elements of a criminal offence. Accordingly protections under Article 38(1) are not applicable.

⁴ The Supreme Court, established pursuant to Article 34 of the Constitution of Ireland, is the court of final appeal in all constitutional and civil matters.

⁵ *Gilligan .v. C.A.B.* [2001] IESC 82

⁶ *Gilligan .v. C.A.B.* [2001] IESC 82, applying *Attorney General .v. Southern Industrial Trust Limited* (1957) 94 I.L.T.R. 161, *McLoughling .v. Tuite* (1989) IR 82 and *O'Keeffe .v. Ferris* [1993] 3IR165

⁷ *Melling .v. ÓMathghamhna and the Attorney General* [1962] I.R.1.

⁸ *Gilligan .v. Criminal Assets Bureau* [1998] 3.I.R.,

More recently, in 2011 the High Court returned to the question of whether proceedings taken under the Proceeds of Crime legislation were civil or criminal nature in the case *Gilligan & Anor –v- Murphy & Ors*⁹. In this case, the High Court held that the plaintiffs could not rely on the provisions of the European Convention on Human Rights Act 2003 since the Act does not extend to past events or pending litigation. However, all parties to the proceedings requested that even if the Court were to make a determination that the plaintiffs cannot rely on the Act of 2003, that the Courts should, notwithstanding that finding, address the alleged breaches of the Convention as claimed by both plaintiffs.

The Plaintiffs in the case had alleged breaches of Articles 6 and 7 of the Convention on the basis that the proceedings were of a criminal nature rather than a civil nature. The High Court however held that it was 'satisfied that the provisions contained in the Act of 1996 and the scheme of the Act for the preservation and, where appropriate, the disposal of the proceeds of crime are not penal in character and do not engage either article 6 or article 7 of the Convention as they are clearly civil proceedings.' A number of well known cases which addressed this same issue were cited in this judgment including *Walsh v. Director of Assets Recovery Agency*¹⁰ (Unreported, Northern Ireland Court of Appeal) which held that applying the Engel criteria¹¹ to the United Kingdom Proceeds of Crime Act, the Act is civil not criminal, and *Walsh v. United Kingdom*¹² in which the ECtHR held that proceeds of crime proceedings in the United Kingdom do not involve a criminal charge.

- ***The Act constitutes a reversal of the onus of proof (A right to a fair trial under article 6 of the ECHR)***

Argument: The Act provides for a complete reversal of the onus of proof in favour of the plaintiff and is therefore an unfair procedure.

The Irish Courts¹³ have held that given the fact that proceedings under the Act of 1996 were civil in nature there is no constitutional infirmity in the procedure whereby the onus is placed on a person seeking the property to negative the inference from evidence adduced that a criminal offence has been committed.

In the case *Gilligan .v. C.A.B.*¹⁴, the Supreme Court considered the extent to which the onus of proof was reversed and held that 'the court is satisfied that, having regard to its conclusion that these are civil proceedings this did not, of itself, render the provisions unconstitutional.'

It is of note in this regard that the POC legislation provides that the reversal of the onus of proof only operates after the establishment to the Court's satisfaction of certain issues and, of course, the respondent has the right to cross-examine the deponents who have given evidence.

⁹ *Gilligan & Anor .v. Murphy & Ors* [2011]IEHC465

¹⁰ *Walsh v. Director of Assets Recovery Agency* [2005] NICA 6 (Unreported, Northern Ireland Court of Appeal)

¹¹ *Engel .v. Netherlands* [1976] 1 EHRR 706

¹² *Walsh v. United Kingdom* [2006] ECHR 43384/05

¹³ *Gilligan .v. Criminal Assets Bureau* [1998] 3.I.R.

¹⁴ *Gilligan .v. C.A.B.* [2001] IESC 82

- ***The Act infringes a right against self incrimination ¹⁵ (A right to a fair trial under article 6 of the ECHR)***

Argument: The Act infringes a right against self incrimination under Article 38 of the Constitution.

This argument is to the effect that should the respondent challenge an order made he or she may be obliged to disclose information that may then be used to incriminate him or her.

In Gilligan .v. C.A.B.¹⁶ the Supreme Court held that 'A further argument that the Act necessarily involves the contravention of the privilege against self-incrimination rests on the assumption that a respondent wishing to challenge an order sought under s. 3 might be obliged to disclose information that could then be used to incriminate him. Parties to civil proceedings, whatever their nature, may find themselves in a position where they are reluctant to adduce evidence beneficial to them because it might also expose them to the risk of a criminal prosecution. That factual position, however, cannot be equated to a statutory provision obliging a person to give evidence even in circumstances where his or her evidence might be incriminating.The court is satisfied that these grounds of challenge are also without foundation.'

It is also of note that the provision of the POC legislation under which the respondent may be required to file an affidavit specifying his or her property, has been supplemented with a provision¹⁷ which provides that disclosures resulting from such an order will not be used in the course of a criminal trial.

- ***The Act by operation of section 6 restricts a Defendant's right of access to the Court.***

Argument: The Act restricts a Defendant's right of access to the Court under Article 38 of the Constitution. (Article 6 Right to a fair trial, Article 13 Right to an effective remedy)

Under section 6 of the Act the Court is empowered to vary an interim or interlocutory order for the purpose of releasing property for any necessary legal, business and living expenses.

It has been held that the structure of section 6 of the Proceeds of Crime Act is no different from any application for legal aid, no one is automatically entitled to legal aid, they having to show both necessity and lack of means.

In Gilligan .v. Criminal Assets Bureau¹⁸ . Mc Guinness J. held that section 6 of the Act, in conferring a discretion on a court whether to provide payments for the purpose of defraying of a person's legal expenses, did not encroach on a person's right under the Constitution to access to the courts or to legal aid.'

¹⁵ A similar argument has been raised in the context of a right to a fair trial under Article 6 of the ECHR in *Saunders .v. United Kingdom* [1996]23 EHRR 313

¹⁶ Gilligan .v. C.A.B. [2001] IESC 82

¹⁷ Proceeds of Crime (Amendment) Act 2005

¹⁸ Gilligan .v. Criminal Assets Bureau [1998] 3.I.R.

- ***The Act breaches rights to private property*¹⁹ (Protection of property under Article 1 of Protocol 1 to the ECHR)**

Argument: The Act breaches rights to private property under Article 40.3.2 of the Constitution. Article 40.3.2 states that 'The State guarantees in its laws to respect, and, as far as practicable, by its laws to defend and vindicate the personal rights of the citizen.'

In *Gilligan .v. C.A.B.*²⁰ the Supreme Court held that 'The issue in the present case does not raise a challenge to a valid constitutional right of property. It concerns the right of the State to take, or the right of a citizen to resist the State in taking, property which is provided on the balance of probabilities to represent the proceeds of crime. In general such a forfeiture is not a punishment and its operation does not require criminal procedures. Application of such legislation must be sensitive to the actual property and other rights of citizens but in principle and subject, no doubt, to special problems which may arise in particular cases, a person in possession of the proceeds of crime can have no constitutional grievance if deprived of their use.'

A further Judgment that is worthy of note is that of McGuinness J. in *Gilligan .v. Criminal Assets Bureau*²¹. Mc Guinness J. held that 'While the provisions of the Act may, indeed, affect the property rights of a respondent it does not appear to this court that they constitute an 'unjust attack' under Article 40.3.2^o, given the fact that the State must in the first place show to the satisfaction of the court that the property in question is the proceeds of crime and that thus, prima facie, the respondent has no good title to it, and also given the balancing provisions built into ss.3 and 4...'

McGuinness J. also held that 'This court would also accept that the exigencies of the common good would certainly include measures designed to prevent the accumulation and use of assets which directly or indirectly derive from criminal activities. The right to private ownership cannot hold a place so high in the hierarchy of rights that it protects the position of assets illegally acquired and held.'

- ***The Act is in breach of Article 15(5) of the Constitution in that it is retrospective in its effect. (No punishment without law under Article 7 of the ECHR)***

Argument: The POC legislation is in breach of Article 15.5 of the Constitution which provides that the Oireachtas (the Irish Parliament) shall not declare acts to be infringements of the law which were not so at the date of their commission

It has been held by the Irish Courts that the provisions of the POC legislation do not breach Article 15.5 of the Constitution. In *Gilligan .v. Criminal Assets Bureau*²², Mc Guinness J held that 'The Oireachtas has not, by this definition, declared any act to be an infringement of the law which was not so at the time of its commission. The acquisition of assets which derive from crime was not a legal activity before the passing of the Act of 1996 and did not become an

¹⁹ A similar argument has been raised in the context of property rights under Protocol I of the ECHR in *Phillips .v. United Kingdom* [2001]11BHRC 280.

²⁰ *Gilligan .v. C.A.B.* [2001] IESC 82

²¹ *Gilligan .v. Criminal Assets Bureau* [1998] 3.I.R.

²² *Gilligan .v. Criminal Assets Bureau* [1998] 3.I.R.

illegal activity because of the Act of 1996.²³ It should also be said that before the Act of 1996 came into law, a person holding the proceeds of crime was always at risk of finding that their title to them was no good, as a result of their criminal origin.

▪ *Extraterritoriality*

Argument: A worldwide freezing order breaches the 'comity of esteem' between states, namely that one state will not act in a manner clearly in violation of the sovereignty of another.

There does, of course, exist between sovereign States a recognised 'comity of esteem'. That one State will not act in a manner clearly in violation of the sovereignty of another. However, this is not a matter for Constitutional limitations.

It is also of note that in the case *Darby .v. Weldon* it was held that there is no breach on the concept of comity of esteem for the issue of a world wide injunction, which operates '*in personam*'.²³

Summary

There are now well developed legal remedies aimed at the forfeiture of proceeds of crime in a number of jurisdictions within Europe and further afield.

This Paper is intended to provide a guide to the non-conviction based system in operation in Ireland and the legal challenges that the Irish Courts have addressed. In general terms, those challenges are representative of the challenges that have similarly been addressed by the European Court on Human Rights and courts elsewhere.²⁴

Arising from these judgments there is a growing body of jurisprudence that supports the operation of such systems and which provides good guidance for developing non-conviction based systems.

It is clear from this body of jurisprudence that such systems must be proportionate, must be open to challenge before the courts and, most importantly, provide the necessary safeguards and protections, to ensure that they are compatible with our constitutional requirements and those of the European Convention on Human Rights.

²³ *Darby .v. Weldon* No.2 [1989] All E.R. 1002/1011

²⁴ *United States .v. Ursury* (1996)518 U.S. 267, *Martineau v. Canada* (Minister of National Revenue), [2004] 3 S.C.R. 737, *Cecil Walsh .v. The Director of the Assets Recovery Agency* [2005] N.I.C.A.Dasa Foundation .v. Liechtenstein , Eur.Ct.H.R., Application no. 696/05 (July 10 2007), *Phillips .v. United Kingdom*, Eur.Ct.H.R. No. 41087/98 (5 July 2001), *Saunders .v. United Kingdom*, [1996] 23 EHRR 313

Appendix

Non-conviction based model - Ireland

In general terms, Ireland operates two systems aimed at the forfeiture of criminal assets - a criminal forfeiture system and a non-conviction based system. The former acts in personam against a convicted person while the latter acts in rem on the property that constitutes the proceeds of crime.

The legislative framework underpinning the non-conviction based model is primarily contained in two statutes, the Criminal Assets Bureau Act 1996 and the Proceeds of Crime Act 1996. The Criminal Assets Bureau Act 1996 created a statutory body ('the Bureau') whose primary aim is to target the proceeds of crime. The objectives of the Bureau are –

- the identification of the assets of persons which derive, or are suspected to derive, directly or indirectly from criminal conduct;
- the taking of appropriate action under the law to deprive or to deny those persons of such assets or the benefit of such assets, and
- the pursuit of any necessary investigation or other preparatory work in relation to relevant proceedings.

The Bureau is founded on the multi-agency concept, drawing together law enforcement officers, tax officials, social welfare officials as well as other specialist officers including legal officers, forensic analysts and financial analysts. In operating the non-conviction based system for asset forfeiture, the Bureau utilises the provisions contained in the Proceeds of Crime Act 1996.

In summary, the key remedies available to the Bureau through the provisions of the Proceeds of Crime Act are -

- an interim order – a court order which prohibits dealing with property and which may be obtained if the Court is satisfied, on the civil standard of proof, that such property is the proceeds of criminal conduct and has a value of not less than €13,000. Subject to any intervening proceedings, the order may stay in place for 21 days.

- an interlocutory order – a court order which, in effect, freezes the property until further notice, unless the court is satisfied that all or part of the property is not the proceeds of criminal conduct. An interlocutory order may be sought within 21 days of the granting of an interim order, although there is nothing to preclude the order being sought in circumstances where no interim order is in place. Subject to any intervening proceedings, the order may stay in place for 7 years.
- a variation order – a court order either discharging or, where appropriate, varying the interlocutory order on foot of an application made by the respondent or other person claiming ownership of the property. In general terms, a variation order may be made in circumstances where it is shown to the satisfaction of the Court that the property does not constitute, or was not acquired through, the proceeds of crime and or where the Court is satisfied that the order causes any injustice.
- a disposal order – a court order transferring assets, which have been the subject of an interlocutory order for at least seven years to the Minister for Finance for the benefit of the Central Fund.
- a consent disposal order – a court order similar to that of a disposal order but which is made with the consent of all parties in circumstances where the interlocutory has been in existence for less than seven years.
- a receiver may be appointed by the Court either to preserve the value of or dispose of property which is the subject of an interim order or an interlocutory order.
- a court order may also be made directing a respondent to furnish details of earnings over the previous six years and to outline his or her assets.

Key Safeguards

The Irish non-conviction based system includes a number of important safeguards, either expressly provided for in the Proceeds of Crime Act or through accompanying administrative measures, for example -

- Where an interim or interlocutory order is in place it is open to any person to seek to vary or set aside such an order if that person can satisfy the court that they have a legitimate right to the property and/or the said property is not the proceeds of criminal conduct.

- The Court is empowered to vary an interim or interlocutory order for the purpose of releasing property for any necessary legal, business and living expenses.
- The Court is empowered to make an order compensating any respondent should any order be shown to have been unjust.
- An administrative legal aid scheme has been established which ensures that all respondents have access to legal aid.
- The Act includes notice provisions requiring that notice be given to the respondent, and to any other person who the Court directs, of any application made for an interlocutory order. The Act also requires that the Court before deciding whether to make a disposal order, shall give any person claiming ownership of the property concerned an opportunity to be heard by the Court and to show why the order should not be made.
- The Act provides that the Court shall not make a disposal order if it is satisfied that there would be a risk of injustice.
- In circumstances where the Court has directed that a statement of earnings or assets be made, that statement cannot be used in any criminal trial so as to guard against a breach of a respondent's right against self incrimination in a criminal matter.
- While hearsay evidence is admissible under the Act it is for the Court to determine the weight to be given to the evidence.

Key concepts and features

In general terms the overall key concepts and features of the Irish non-conviction based model are -

- As it is non-conviction based it targets property believed to be the proceeds of crime rather than the person.
- It applies civil law rather than criminal law concepts. Therefore with regard to matters of evidence it is the civil law standard that applies i.e. 'on the balance of probabilities' rather than the criminal standard i.e. 'beyond reasonable doubt'.
- It includes a number of important safeguards such as notice provisions, the opportunity for a respondent to seek to vary an order, the opportunity for any persons claiming ownership to be heard, provision for legal aid, provision for compensation etc
- The statutory agency is multi-agency using the multidisciplinary concept and is empowered to share confidential information. The agency has also effected nationwide

coverage through the training of local law enforcement and tax officials in the identification of criminal assets.

- The statutory agency charged with the pursuit of the proceeds of crime is funded by the State's central fund rather than the proceeds it confiscates and is not therefore open to the charge that its actions are selective or profit driven.
- A receiver may be appointed by the Court either to preserve the value of, or dispose of, property which is the subject of an interim order or an interlocutory order. The legislation provides that a receiver may be appointed by the Court to take possession of the frozen/restrained property and, in accordance with the Court's directions, to manage, keep possession or dispose of or otherwise deal with the property. In practice it is the Bureau Legal Officer who is appointed receiver.