



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 2

#### CONFISCATION: ENGLAND AND WALES

##### *Management receivers*

#### 48 Appointment

- (1) Subsection (2) applies if—
  - (a) the Crown Court makes a restraint order, and
  - (b) the applicant for the restraint order applies to the court to proceed under subsection (2) (whether as part of the application for the restraint order or at any time afterwards).
- (2) The Crown Court may by order appoint a receiver in respect of any realisable property to which the restraint order applies.

#### **Modifications etc. (not altering text)**

- C1** Pt. 2 applied by Terrorism Act 2000 (c. 11), Sch. 8 paras. 8(5A), **34(3A)** (as substituted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 39(2)(5)**; S.S.I. 2003/210, art. 2(1)(b)(2), **sch.** (with art. 7); S.I. 2003/333, art. 2, **Sch.**)
- C2** Pt. 2 applied by Police and Criminal Evidence Act 1984 (c. 60), **ss. 56(5B), 58(8B)** (as substituted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), s. 458(1), **Sch. 11 para. 14(2)(3)**; S.I. 2003/333, art. 2, **Sch.**)

#### **Commencement Information**

- I1** S. 48 in force at 24.3.2003 by S.I. 2003/333, art. 2, **Sch.**

*Status: Point in time view as at 06/04/2008.*

*Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Management receivers is up to date with all changes known to be in force on or before 20 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## 49 Powers

- (1) If the court appoints a receiver under section 48 it may act under this section on the application of the person who applied for the restraint order.
- (2) The court may by order confer on the receiver the following powers in relation to any realisable property to which the restraint order applies—
  - (a) power to take possession of the property;
  - (b) power to manage or otherwise deal with the property;
  - (c) power to start, carry on or defend any legal proceedings in respect of the property;
  - (d) power to realise so much of the property as is necessary to meet the receiver’s remuneration and expenses.
- (3) The court may by order confer on the receiver power to enter any premises in England and Wales and to do any of the following—
  - (a) search for or inspect anything authorised by the court;
  - (b) make or obtain a copy, photograph or other record of anything so authorised;
  - (c) remove anything which the receiver is required or authorised to take possession of in pursuance of an order of the court.
- (4) The court may by order authorise the receiver to do any of the following for the purpose of the exercise of his functions—
  - (a) hold property;
  - (b) enter into contracts;
  - (c) sue and be sued;
  - (d) employ agents;
  - (e) execute powers of attorney, deeds or other instruments;
  - (f) take any other steps the court thinks appropriate.
- (5) The court may order any person who has possession of realisable property to which the restraint order applies to give possession of it to the receiver.
- (6) The court—
  - (a) may order a person holding an interest in realisable property to which the restraint order applies to make to the receiver such payment as the court specifies in respect of a beneficial interest held by the defendant or the recipient of a tainted gift;
  - (b) may (on the payment being made) by order transfer, grant or extinguish any interest in the property.
- (7) Subsections (2), (5) and (6) do not apply to property for the time being subject to a charge under any of these provisions—
  - (a) section 9 of the Drug Trafficking Offences Act 1986 (c. 32);
  - (b) section 78 of the Criminal Justice Act 1988 (c. 33);
  - (c) Article 14 of the Criminal Justice (Confiscation) (Northern Ireland) Order 1990 (S.I. 1990/2588 (N.I. 17));
  - (d) section 27 of the Drug Trafficking Act 1994 (c. 37);
  - (e) Article 32 of the Proceeds of Crime (Northern Ireland) Order 1996 (S.I. 1996/1299 (N.I. 9)).
- (8) The court must not—

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- (a) confer the power mentioned in subsection (2)(b) or (d) in respect of property, or
  - (b) exercise the power conferred on it by subsection (6) in respect of property, unless it gives persons holding interests in the property a reasonable opportunity to make representations to it.
- [<sup>F1</sup>(8A) Subsection (8), so far as relating to the power mentioned in subsection (2)(b), does not apply to property which—
- (a) is perishable; or
  - (b) ought to be disposed of before its value diminishes.]
- (9) The court may order that a power conferred by an order under this section is subject to such conditions and exceptions as it specifies.
- (10) Managing or otherwise dealing with property includes—
- (a) selling the property or any part of it or interest in it;
  - (b) carrying on or arranging for another person to carry on any trade or business the assets of which are or are part of the property;
  - (c) incurring capital expenditure in respect of the property.

#### **Textual Amendments**

**F1** S. 49(8A) inserted (6.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), **ss. 82(1), 94(1)**; [S.I. 2008/755](#), art. 17(1)(h) (with art. 17(3))

#### **Modifications etc. (not altering text)**

**C3** S. 49(6) excluded (24.2.2003) by [Proceeds of Crime Act 2002 \(Enforcement in different parts of the United Kingdom\) Order 2002 \(S.I. 2002/3133\)](#), arts. 1, **12(3)**

#### **Commencement Information**

**I2** S. 49 in force at 24.3.2003 by [S.I. 2003/333](#), art. 2, **Sch.**

**Status:**

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**Changes to legislation:**

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