



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 5

#### CIVIL RECOVERY OF THE PROCEEDS ETC. OF UNLAWFUL CONDUCT

### CHAPTER 4

#### GENERAL

#### *Interpretation*

#### **314 Obtaining and disposing of property**

- (1) References to a person disposing of his property include a reference—
  - (a) to his disposing of a part of it, or
  - (b) to his granting an interest in it,(or to both); and references to the property disposed of are to any property obtained on the disposal.
- (2) A person who makes a payment to another is to be treated as making a disposal of his property to the other, whatever form the payment takes.
- (3) Where a person's property passes to another under a will or intestacy or by operation of law, it is to be treated as disposed of by him to the other.
- (4) A person is only to be treated as having obtained his property for value in a case where he gave unexecuted consideration if the consideration has become executed consideration.

#### **315 Northern Ireland courts**

In relation to the practice and procedure of courts in Northern Ireland, expressions used in this Part are to be read in accordance with rules of court.

*Status: Point in time view as at 31/01/2018.*

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## 316 General interpretation

(1) In this Part—

[<sup>F1</sup>“account forfeiture notice” (in Chapter 3B) has the meaning given by section 303Z9(3),]

[<sup>F1</sup>“account freezing order” (in Chapter 3B) account forfeiture notice ” (in Chapter 3B) has the meaning given by section 303Z1(3)(a),]

“associated property” [<sup>F2</sup>(in Chapter 2)] has the meaning given by section 245,

[<sup>F1</sup>“bank” (in Chapter 3B) has the meaning given by section 303Z7,]

[<sup>F1</sup>“building society” (in Chapter 3B) has the meaning given by section 303Z1(6),]

“cash” has the meaning given by section 289(6) or (7),

“constable”, in relation to Northern Ireland, means a police officer within the meaning of the Police (Northern Ireland) Act 2000 (c. 32),

“country” includes territory,

“the court” (except in sections 253(2) and (3) and 262(2) and (3) and [<sup>F3</sup>Chapter 3][<sup>F3</sup>Chapters 3, 3A and 3B] ) means the High Court or (in relation to proceedings in Scotland) the Court of Session,

“dealing” with property includes disposing of it, taking possession of it or removing it from the United Kingdom,

[<sup>F4</sup>“the Department of Justice” means the Department of Justice in Northern Ireland;]

[<sup>F5</sup>“electronic money institution” (in Chapter 3B) has the meaning given by section 303Z1(6),]

“enforcement authority”—

(a) [<sup>F6</sup>in relation to England and Wales, means [<sup>F7</sup>the Financial Conduct Authority,][<sup>F8</sup>Her Majesty's Revenue and Customs,][<sup>F9</sup>the National Crime Agency], the Director of Public Prosecutions <sup>F10</sup>... or the Director of the Serious Fraud Office,]

(b) in relation to Scotland, means the Scottish Ministers,

(c) [<sup>F11</sup>in relation to Northern Ireland, means [<sup>F12</sup>the Financial Conduct Authority,][<sup>F13</sup>Her Majesty's Revenue and Customs,][<sup>F9</sup>the National Crime Agency], the Director of the Serious Fraud Office or the Director of Public Prosecutions for Northern Ireland,]

[<sup>F1</sup>“enforcement officer” (in Chapter 3B) has the meaning given by section 303Z1(6),]

“excepted joint owner” has the meaning given by section 270(4),

“interest”, in relation to land—

(a) in the case of land in England and Wales or Northern Ireland, means any legal estate and any equitable interest or power,

(b) in the case of land in Scotland, means any estate, interest, servitude or other heritable right in or over land, including a heritable security,

“interest”, in relation to property other than land, includes any right (including a right to possession of the property),

“interim administration order” has the meaning given by section 256(2),

“interim receiving order” has the meaning given by section 246(2),

[<sup>F1</sup>“listed asset” (in Chapter 3A) has the meaning given by section 303B,]

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“the minimum amount” (in Chapter 3) has the meaning given by section 303,

[“the minimum amount” (in Chapter 3B) has the meaning given by section 303Z8]

[<sup>F1</sup>“the minimum value” (in Chapter 3A) has the meaning given by section 303Y,

“part”, in relation to property, includes a portion,

[<sup>F5</sup>“payment institution” (in Chapter 3B) has the meaning given by section 303Z1(6),]

[<sup>F14</sup>“PPO receiver” has the meaning given by section 255G(2);]

“premises” has the same meaning as in the Police and Criminal Evidence Act 1984 (c. 60),

[<sup>F15</sup>“prohibitory property order” has the meaning given by section 255A(2);

“property freezing order” has the meaning given by section 245A(2);]

“property obtained through unlawful conduct” has the meaning given by section 242,

“recoverable property” is to be read in accordance with sections 304 to 310,

“recovery order” means an order made under section 266,

[<sup>F1</sup>“relevant court” has the meaning given by section 303Z1(6),]

[<sup>F5</sup>“relevant financial institution” (in Chapter 3B) has the meaning given by section 303Z1,]

[<sup>F1</sup>“relevant officer” (in Chapter 3A) has the meaning given by section 303C(9),]

“respondent” means—

(a) where proceedings are brought by the enforcement authority by virtue of Chapter 2, the person against whom the proceedings are brought,

(b) where no such proceedings have been brought but the enforcement authority has applied for [<sup>F16</sup>a property freezing order, an interim receiving order, a prohibitory property order or an] interim administration order, the person against whom he intends to bring such proceedings,

[<sup>F1</sup>“senior officer” (in Chapter 3B) has the meaning given by section 303Z2(4),]

“share”, in relation to an excepted joint owner, has the meaning given by section 270(4),

“unlawful conduct” has the meaning given by section 241,

“value” means market value.

- (2) The following provisions apply for the purposes of this Part.
- (3) For the purpose of deciding whether or not property was recoverable at any time (including times before commencement), it is to be assumed that this Part was in force at that and any other relevant time.
- (4) Property is all property wherever situated and includes—
  - (a) money,
  - (b) all forms of property, real or personal, heritable or moveable,
  - (c) things in action and other intangible or incorporeal property.

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- (5) Any reference to a person's property (whether expressed as a reference to the property he holds or otherwise) is to be read as follows.
- (6) In relation to land, it is a reference to any interest which he holds in the land.
- (7) In relation to property other than land, it is a reference—
- (a) to the property (if it belongs to him), or
  - (b) to any other interest which he holds in the property.
- (8) References to the satisfaction of the enforcement authority's right to recover property obtained through unlawful conduct are to be read in accordance with section 279.
- [ In relation to an order in England and Wales or Northern Ireland which is a  
<sup>F17</sup>(8A) recovery order, a property freezing order, an interim receiving order or an order under section 276, references to the enforcement authority are, unless the context otherwise requires, references to the enforcement authority which is seeking, or (as the case may be) has obtained, the order.]
- [ An enforcement authority in relation to [<sup>F19</sup>a part of the United Kingdom] may take  
<sup>F18</sup>(8B) proceedings there for an order under Chapter 2 of this Part in respect of any property or person, whether or not the property or person is (or is domiciled, resident or present) in that part of the United Kingdom.]
- (9) Proceedings against any person for an offence are concluded when—
- (a) the person is convicted or acquitted,
  - (b) the prosecution is discontinued or, in Scotland, the trial diet is deserted simpliciter, or
  - (c) the jury is discharged without a finding [<sup>F20</sup>otherwise than in circumstances where the proceedings are continued without a jury].
- [ References (in Chapter 3B) to an account being operated by or for a person are to be  
<sup>F21</sup>(10) read in accordance with section 303Z1(3)(b).]]

#### Textual Amendments

- F1** Words in s. 316(1) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 36\(2\)\(c\)](#); S.I. 2018/78, reg. 5(3)(a)(i)(ii)
- F2** Words in s. 316(1) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 36\(2\)\(a\)](#); S.I. 2018/78, reg. 5(3)(a)(i)(ii)
- F3** Words in s. 316(1) substituted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), s. 58(5)(6), [Sch. 5 para. 36\(2\)\(b\)](#); S.I. 2018/78, reg. 5(3)(a)(i)(ii)
- F4** Words in s. 316(1) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), [Sch. 14 para. 65](#) (with arts. 28-31)
- F5** Words in s. 316(1) inserted (retrospective to 27.4.2017 except as it extends to N.I.) by [Financial Services Act 2021 \(c. 22\)](#), s. 33(2)(3), [Sch. 12 para. 21](#) (with s. 33(4))
- F6** Words in s. 316(1) substituted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 91\(2\)\(a\)](#); S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)
- F7** Words in s. 316(1) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by [Criminal Finances Act 2017 \(c. 22\)](#), [ss. 20\(2\)\(a\)](#), 58(1)(6); S.I. 2018/78, reg. 3(f)

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- F8** Words in s. 316(1) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by **Criminal Finances Act 2017** (c. 22), **ss. 19(2)(a)**, 58(1)(6); S.I. 2018/78, reg. 3(f)
- F9** Words in s. 316(1) substituted (7.10.2013) by **Crime and Courts Act 2013** (c. 22), s. 61(2), **Sch. 8 para. 121**; S.I. 2013/1682, art. 3(v)
- F10** Words in s. 316(1) omitted (27.3.2014) by virtue of **The Public Bodies (Merger of the Director of Public Prosecutions and the Director of Revenue and Customs Prosecutions) Order 2014** (S.I. 2014/834), art. 1(1), **Sch. 2 para. 25**
- F11** Words in s. 316(1) inserted (1.4.2008) by **Serious Crime Act 2007** (c. 27), s. 94(1), **Sch. 8 para. 91(2)(b)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)
- F12** Words in s. 316(1) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by **Criminal Finances Act 2017** (c. 22), **ss. 20(2)(b)**, 58(1)(6); S.I. 2018/78, reg. 3(f)
- F13** Words in s. 316(1) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. in so far as not already in force) by **Criminal Finances Act 2017** (c. 22), **ss. 19(2)(b)**, 58(1)(6); S.I. 2018/78, reg. 3(f)
- F14** Words in s. 316(1) inserted (1.6.2015) by **Serious Crime Act 2015** (c. 9), s. 88(1), **Sch. 4 para. 54**; S.I. 2015/820, reg. 3(q)(iv)
- F15** Words in s. 316(1) inserted (1.1.2006) by **Serious Organised Crime and Police Act 2005** (c. 15), s. 178(8), **Sch. 6 para. 22(2)**; S.I. 2005/3136, art. 3(c)
- F16** Words in s. 316(1) substituted (1.1.2006) by **Serious Organised Crime and Police Act 2005** (c. 15), s. 178(8), **Sch. 6 para. 22(3)**; S.I. 2005/3136, art. 3(c)
- F17** S. 316(8A) inserted (1.4.2008) by **Serious Crime Act 2007** (c. 27), s. 94(1), **Sch. 8 para. 91(3)**; S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)
- F18** S. 316(8B) inserted (E.W.S.) (retrospectively) by **Crime and Courts Act 2013** (c. 22), **ss. 48(5)(7)**, 61(11)(c) (with s. 48(8), Sch. 25); this insertion extended to N.I. (20.3.2015) by **The Crime and Courts Act 2013 (National Crime Agency and Proceeds of Crime) (Northern Ireland) Order 2015** (S.I. 2015/798), arts. 1(2), **7(a)**
- F19** Words in s. 316(8B) substituted (retrospective to 20.3.2015) by **The Crime and Courts Act 2013 (National Crime Agency and Proceeds of Crime) (Northern Ireland) Order 2015** (S.I. 2015/798), arts. 1(2), **8(7)**
- F20** Words in s. 316(9)(c) inserted (24.7.2006 for E.W., 8.1.2007 in so far as not already in force) by **Criminal Justice Act 2003** (c. 44), s. 336(3)(4), **Sch. 36 para. 78**; S.I. 2006/1835, art. 2(h), S.I. 2006/3422, art. 2(1)(c)
- F21** S. 316(10) inserted (27.4.2017 for specified purposes, 31.1.2018 for E.W.S. for specified purposes, 16.4.2018 for E.W.S. in so far as not already in force) by **Criminal Finances Act 2017** (c. 22), s. 58(5)(6), **Sch. 5 para. 36(3)**; S.I. 2018/78, reg. 5(3)(a)(i)(ii)

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

- C1** S. 316(8B): power to modify conferred (25.4.2013) by **Crime and Courts Act 2013** (c. 22), s. 61(11)(f), **Sch. 25 para. 4(2)(f)**

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