



# Proceeds of Crime (Scotland) Act 1995

## 1995 CHAPTER 43

### PART IV

#### RECIPROCAL ARRANGEMENTS FOR ENFORCEMENT OF ORDERS

#### 35 Recognition and enforcement of orders made in England and Wales.

F1 .....

##### Textual Amendments

F1 S. 35 repealed (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456-458(1), Sch. 11 para. 28(2) (e), [Sch. 12](#); S.I. 2003/333, [art. 2](#), Sch. (with transitional provisions in arts. 3-13) (as amended by S.I. 2003/531)

#### 36 Provisions supplementary to section 35.

F2 .....

##### Textual Amendments

F2 S. 36 repealed (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456-458(1), Sch. 11 para. 28(2) (e), [Sch. 12](#); S.I. 2003/333, [art. 2](#), Sch. (with transitional provisions in arts. 3-13) (as amended by S.I. 2003/531)

#### 37 Inhibition of Scottish property affected by order registered under section 35.

F3 .....

*Status: Point in time view as at 28/11/2016.*

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**Textual Amendments**

**F3** S. 37 repealed (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456-458(1), Sch. 11 para. 28(2) (e), [Sch. 12](#); S.I. 2003/333, [art. 2](#), Sch. (with transitional provisions in [arts. 3-13](#)) (as amended by S.I. 2003/531)

**38 Arrestment of Scottish property affected by order registered under section 35.**

**F4** .....

**Textual Amendments**

**F4** S. 38 repealed (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456-458(1)(3), Sch. 11 para. 28(2)(e), [Sch. 12](#); S.I. 2003/333, [art. 2](#), Sch. (with transitional provisions in [arts. 3-13](#)) (as amended by S.I. 2003/531)

**39 Enforcement of Northern Ireland orders.**

**F5** .....

**Textual Amendments**

**F5** S. 39 repealed (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456-458(1), Sch. 11 para. 28(2) (e), [Sch. 12](#); S.I. 2003/333, [art. 2](#), Sch. (with transitional provisions in [arts. 3-13](#)) (as amended by S.I. 2003/531)

**40 Enforcement of orders made outside United Kingdom.**

(1) Her Majesty may by Order in Council—

(a) **F6** .....

(b) make—

(i) such provision as to evidence or proof of any matter for the purposes of this section and section 41 of this Act; and

(ii) such incidental, consequential and transitional provision,

as appears to Her Majesty to be expedient.

(2) **F7** .....

(3) An Order in Council under this section may make different provision for different cases or classes of case.

(4) **F8** .....

(5) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

**Textual Amendments**

**F6** S. 40(1)(a) repealed (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456-458(1), Sch. 11 para. 28(2)(f), [Sch. 12](#); S.S.I. 2003/210, [art. 2](#), Sch. (subject to [arts. 3-7](#))

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- F7** S. 40(2) repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456-458(1), Sch. 11 para. 28(2)(f), **Sch. 12**; S.S.I. 2003/210, **art. 2**, Sch. (subject to arts. 3-7)
- F8** S. 40(4) repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456-458(1), Sch. 11 para. 28(2)(f), **Sch. 12**; S.S.I. 2003/210, **art. 2**, Sch. (subject to arts. 3-7)

#### **41 Registration of external confiscation orders.**

- (1) On an application made by or on behalf of the Government of a designated country, the Court of Session may register an external confiscation order made there if—
- (a) it is satisfied that at the time of registration the order is in force and not subject to appeal;
  - (b) it is satisfied, where the person against whom the order is made did not appear in the proceedings, that he received notice of the proceedings in sufficient time to enable him to defend them; and
  - (c) it is of the opinion that enforcing the order in Scotland would not be contrary to the interests of justice.
- (2) In subsection (1) above “appeal” includes—
- (a) any proceedings by way of discharging or setting aside a judgment; and
  - (b) an application for a new trial or a stay of execution.
- (3) The Court of Session shall cancel the registration of an external confiscation order if it appears to the court that the order has been satisfied by payment of the amount due under it or by the person against whom it was made serving imprisonment in default of payment or by any other means.

#### **42 Enforcement of Scottish orders in England and Wales.**

- (1) Her Majesty may by Order in Council make such provision as Her Majesty considers expedient for the purpose—
- (a) <sup>F9</sup> .....
  - (b) <sup>F10</sup> .....
  - (c) of enabling the enforcement in England and Wales of restraint orders, suspended forfeiture orders and forfeiture orders under any enactment other than the [<sup>F11</sup>Terrorism Act 2000] .
- (2) Without prejudice to the generality of the power conferred by subsection (1) above, an Order in Council under this section may—
- (a) provide that, subject to any specific conditions, such description of orders made under or for the purposes of [<sup>F12</sup>Part]II or III of this Act so far as it relates to realisable property shall have effect in the law of England and Wales;
  - (b) provide that, subject to any specified conditions, the functions of a person appointed under Schedule 1 to this Act shall have effect in the law of England and Wales;
  - (c) make provision—
    - (i) for the registration in the High Court of such descriptions of orders made under or for the purposes of [<sup>F13</sup>Part] II or III of this Act so far as it relates to realisable property as may be specified; and
    - (ii) for the High Court to have, in relation to the enforcement of orders made under or for the purposes of [<sup>F14</sup>Part] Part II or III of this Act

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so far as it so relates which are so registered, such powers as may be specified; and

- (d) make provision as to the proof in England and Wales of orders made under or for the purposes of [F15Part] II or III of this Act so far as it so relates.
- (3) In subsection (2) above “specified” means specified in an Order in Council under this section.
- (4) An Order in Council under this section may amend or apply, with or without modifications, any enactment.
- (5) An Order in Council under this section may contain such incidental, consequential and transitional provisions as Her Majesty considers expedient.
- (6) An Order in Council under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### **Textual Amendments**

- F9** S. 42(1)(a) repealed (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456-458(1), [Sch. 11 para. 28\(2\)\(g\)](#), [Sch. 12](#); S.I. 2003/333, [art. 2](#), [Sch.](#) (with transitional provisions in [arts. 3-13](#)) (as amended by S.I. 2003/531)
- F10** S. 42(1)(b) repealed (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456-458(1), [Sch. 11 para. 28\(2\)\(g\)](#), [Sch. 12](#); S.I. 2003/333, [art. 2](#), [Sch.](#) (with transitional provisions in [arts. 3-13](#)) (as amended by S.I. 2003/531)
- F11** Words in s. 42(1)(c) substituted (19.2.2001) by [2000 c. 11](#), s. 125, [Sch. 15 para. 11](#); S.I. 2001/421, [art. 2](#)
- F12** Words in s. 42(2)(a) substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456, 458(1), [Sch. 11 para. 28\(6\)](#); S.S.I. 2003/210, [art. 2](#), [Sch.](#) (subject to [arts. 3-7](#))
- F13** Words in s. 42(2)(c)(i) substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456, 458(1), [Sch. 11 para. 28\(6\)](#); S.S.I. 2003/210, [art. 2](#), [Sch.](#) (subject to [arts. 3-7](#))
- F14** Words in s. 42(2)(c)(ii) substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456, 458(1), [Sch. 11 para. 28\(6\)](#); S.S.I. 2003/210, [art. 2](#), [Sch.](#) (subject to [arts. 3-7](#))
- F15** Words in s. 42(2)(d) substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), ss. 456, 458(1), [Sch. 11 para. 28\(6\)](#); S.S.I. 2003/210, [art. 2](#), [Sch.](#) (subject to [arts. 3-7](#))

### **43 Order in Council as regards taking of action in designated country.**

- (1) Her Majesty may by Order in Council make such provision in connection with the taking of action in a designated country in consequence of the making of a restraint order<sup>F16</sup>. . . or suspended forfeiture order under this Act or a forfeiture order under any other enactment as appears to Her Majesty to be expedient.
- (2)<sup>F17</sup> . . . . .
- (3) An Order in Council under this section may amend or apply, with or without modifications, any enactment.
- (4) Subsections (1)(b), (3) and (5) of section 40 of this Act shall apply in respect of Orders in Council under this section as they apply in respect of Orders in Council under that section.

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#### **Textual Amendments**

- F16** Words in s. 43(1) repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456-458(1), Sch. 11 para. 28(2)(h), **Sch. 12**; S.S.I. 2003/210, **art. 2**, Sch. (subject to arts. 3-7)
- F17** S. 43(2) repealed (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), ss. 456-458(1), Sch. 11 para. 28(2)(h), **Sch. 12**; S.S.I. 2003/210, **art. 2**, Sch. (subject to arts. 3-7)

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