



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 4

#### CONFISCATION: NORTHERN IRELAND

##### *Application of sums*

#### **202 Enforcement receivers**

- (1) This section applies to sums which are in the hands of a receiver appointed under section 198 if they are—
  - (a) the proceeds of the realisation of property under section 199;
  - (b) sums (other than those mentioned in paragraph (a)) in which the defendant holds an interest.
- (2) The sums must be applied as follows—
  - (a) first, they must be applied in payment of such expenses incurred by a person acting as an insolvency practitioner as are payable under this subsection by virtue of section 432;
  - (b) second, they must be applied in making any payments directed by the Crown Court;
  - (c) third, they must be applied on the defendant's behalf towards satisfaction of the confiscation order.
- (3) If the amount payable under the confiscation order has been fully paid and any sums remain in the receiver's hands he must distribute them—
  - (a) among such persons who held (or hold) interests in the property concerned as the Crown Court directs, and
  - (b) in such proportions as it directs.
- (4) Before making a direction under subsection (3) the court must give persons who held (or hold) interests in the property concerned a reasonable opportunity to make representations to it.

*Status: Point in time view as at 01/03/2016.*

*Changes to legislation: Proceeds of Crime Act 2002, Cross Heading: Application of sums is up to date with all changes known to be in force on or before 02 July 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)*

- (5) For the purposes of subsections (3) and (4) the property concerned is—
  - (a) the property represented by the proceeds mentioned in subsection (1)(a);
  - (b) the sums mentioned in subsection (1)(b).
- (6) The receiver applies sums as mentioned in subsection (2)(c) by paying them to the appropriate chief clerk on account of the amount payable under the order.
- (7) The appropriate chief clerk is the chief clerk of the court at the place where the confiscation order was made.

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

**C1** Pt. 4 applied by S.I. 1989/1341 (N.I. 12), arts. 57(5B), 59(8B) (as substituted (24.3.2003) by Proceeds of Crime Act 2002 (c. 29), Supreme Court s. 458(1), Sch. 11 para. 19(2)(3); S.I. 2003/333, art. 2, Sch.)

**Commencement Information**

**II** S. 202 in force at 24.3.2003 by S.I. 2003/333, art. 2, Sch.

**203 Sums received by chief clerk**

- (1) This section applies if a chief clerk receives sums on account of the amount payable under a confiscation order (whether the sums are received under section 202 or otherwise).
- (2) The chief clerk's receipt of the sums reduces the amount payable under the order, but he must apply the sums received as follows.
- (3) First he must apply them in payment of such expenses incurred by a person acting as an insolvency practitioner as—
  - (a) are payable under this subsection by virtue of section 432, but
  - (b) are not already paid under section 202(2)(a) [<sup>F1</sup>or 215D(2)(a)].
- (4) If the chief clerk received the sums under section 202 [<sup>F2</sup>or 215D] he must next apply them—
  - (a) first, in payment of the remuneration and expenses of a receiver appointed under section 196, to the extent that they have not been met by virtue of the exercise by that receiver of a power conferred under section 197(2)(d);
  - (b) second, in payment of the remuneration and expenses of [<sup>F3</sup>any receiver] appointed under section 198.
  - [<sup>F4</sup>(c) third, in payment to an appropriate officer of any amount to which the officer is entitled by virtue of section 215B.]
- (5) If a direction was made under section 163(6) for an amount of compensation to be paid out of sums recovered under the confiscation order, the chief clerk must next apply the sums in payment of that amount.
- (6) If any amount remains after the chief clerk makes any payments required by the preceding provisions of this section, the amount must be treated for the purposes of section 20 of the Administration of Justice Act (Northern Ireland) 1954 (c. 9 (N.I.)) (application of fines) as if it were a fine.
- [<sup>F5</sup>(7) Subsection (4) does not apply in relation to the remuneration of a receiver if the receiver is a person falling within subsection (8).

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- (8) The following fall within this subsection—
- (a) a constable,
  - (b) a member of staff of the Northern Ireland Policing Board,
  - (c) an accredited financial investigator,
  - (d) a member of staff of the Public Prosecution Service for Northern Ireland,
  - (e) a member of staff of the Serious Fraud Office,
  - (f) a member of staff of a Northern Ireland department,
  - (g) a member of staff of the Commissioners for Her Majesty's Revenue and Customs,
  - [<sup>F6</sup>(h) a National Crime Agency officer.]
- (9) It is immaterial for the purposes of subsection (7) whether a person falls within subsection (8) by virtue of a permanent or temporary appointment or a secondment from elsewhere.
- (10) The reference in subsection (8) to an accredited financial investigator is a reference to an accredited financial investigator who falls within a description specified in an order made for the purposes of that subsection by the Secretary of State under section 453.]

#### Textual Amendments

- F1** Words in s. 203(3)(b) inserted (1.3.2016) by Policing and Crime Act 2009 (c. 26), ss. 60(4), 116(1); S.I. 2016/147, art. 3(c)
- F2** Words in s. 203(4) inserted (1.3.2016) by Policing and Crime Act 2009 (c. 26), ss. 60(5)(a), 116(1); S.I. 2016/147, art. 3(c)
- F3** Words in s. 203(4)(b) substituted (1.3.2016) by Policing and Crime Act 2009 (c. 26), ss. 60(5)(b), 116(1); S.I. 2016/147, art. 3(c)
- F4** S. 203(4)(c) inserted (1.3.2016) by Policing and Crime Act 2009 (c. 26), ss. 60(5)(c), 116(1); S.I. 2016/147, art. 3(c)
- F5** S. 203(7)-(10) substituted for s. 203(7) (25.1.2010) by Policing and Crime Act 2009 (c. 26), ss. 51(3), 116(1); S.I. 2009/3096, art. 3(f)
- F6** S. 203(8)(h) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), Sch. 8 para. 119; S.I. 2013/1682, art. 3(v)

#### Commencement Information

- I2** S. 203 in force at 24.3.2003 by S.I. 2003/333, art. 2, Sch.

## 204 Director's receivers

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<sup>F7</sup>**205 Sums received by Director**

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#### Textual Amendments

- F7** S. 205 repealed (1.4.2008) by Serious Crime Act 2007 (c. 27), s. 94(1), Sch. 8 para. 58, Sch. 14; S.I. 2008/755, art. 2(1)(a)(d) (with arts. 3-14)

**Status:**

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**Changes to legislation:**

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