



# Proceeds of Crime Act 2002

## 2002 CHAPTER 29

### PART 5

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

### CHAPTER 2

#### CIVIL RECOVERY IN THE HIGH COURT OR COURT OF SESSION

#### *Exemptions etc.*

#### **281 Victims of theft, etc.**

- (1) In proceedings for a recovery order, a person who claims that any property alleged to be recoverable property, or any part of the property, belongs to him may apply for a declaration under this section.
- (2) If the applicant appears to the court to meet the following condition, the court may make a declaration to that effect.
- (3) The condition is that—
  - (a) the person was deprived of the property he claims, or of property which it represents, by unlawful conduct,
  - (b) the property he was deprived of was not recoverable property immediately before he was deprived of it, and
  - (c) the property he claims belongs to him.
- (4) Property to which a declaration under this section applies is not recoverable property.

**Changes to legislation:** *Proceeds of Crime Act 2002, Cross Heading: Exemptions etc. is up to date with all changes known to be in force on or before 13 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) View outstanding changes*

### Commencement Information

- II** S. 281 in force at 24.2.2003 by [S.I. 2003/120](#), [art. 2](#), [Sch.](#) (with [arts. 3, 4](#)) (as amended (20.2.2003) by [S.I. 2003/333](#), [art. 14](#))

## 282 Other exemptions

- (1) Proceedings for a recovery order may not be taken against any person in circumstances of a prescribed description; and the circumstances may relate to the person himself or to the property or to any other matter.

In this subsection, prescribed means prescribed by an order made by the Secretary of State after consultation with the Scottish Ministers [<sup>F1</sup>or, in relation to Northern Ireland, prescribed by an order made by the Department of Justice].

- (2) Proceedings for a recovery order may not be taken in respect of cash found at any place in the United Kingdom unless the proceedings are also taken in respect of property other than cash which is property of the same person.
- (3) Proceedings for a recovery order may not be taken against the [<sup>F2</sup>Financial Conduct Authority or the Prudential Regulation Authority] in respect of any recoverable property held by [<sup>F3</sup>it].
- (4) Proceedings for a recovery order may not be taken in respect of any property which is subject to any of the following charges—
- (a) a collateral security charge, within the meaning of the Financial Markets and Insolvency (Settlement Finality) Regulations 1999 (S.I. 1999/2979),
  - (b) a market charge, within the meaning of Part 7 of the Companies Act 1989 (c. 40),
  - (c) a money market charge, within the meaning of the Financial Markets and Insolvency (Money Market) Regulations 1995 (S.I. 1995/2049),
  - (d) a system charge, within the meaning of the Financial Markets and Insolvency Regulations 1996 (S.I. 1996/1469) or the Financial Markets and Insolvency Regulations (Northern Ireland) 1996 (S.R. 1996/252).
- (5) Proceedings for a recovery order may not be taken against any person in respect of any recoverable property which he holds by reason of his acting, or having acted, as an insolvency practitioner.

Acting as an insolvency practitioner has the same meaning as in section 433.

### Textual Amendments

- F1** Words in s. 282(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. 55](#) (with [arts. 28-31](#))
- F2** Words in s. 282(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 18 para. 94\(2\)\(a\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)
- F3** Word in s. 282(3) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\)](#), [s. 122\(3\)](#), [Sch. 18 para. 94\(2\)\(b\)](#) (with [Sch. 20](#)); [S.I. 2013/423](#), [art. 3](#), [Sch.](#)

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**I2** S. 282 in force at 24.2.2003 by [S.I. 2003/120](#), art. 2, [Sch.](#) (with arts. 3, 4) (as amended (20.2.2003) by [S.I. 2003/333](#), art. 14)

**Changes to legislation:**

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**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 13(5)(a)(iia) inserted by [2015 c. 30 Sch. 5 para. 15\(3\)\(d\)](#)
- s. 323(1)(hc) inserted by [2023 c. 20 Sch. para. 45\(2\)](#)
- s. 323(4)(ec) inserted by [2023 c. 20 Sch. para. 45\(3\)](#)
- s. 323(5)(ec) inserted by [2023 c. 20 Sch. para. 45\(4\)](#)