



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

Miscellaneous

283 Compensation

- (1) If, in the case of any property to which [^{F1}a property freezing order, an interim receiving order, a prohibitory property order or an] interim administration order has at any time applied, the court does not in the course of the proceedings decide that the property is recoverable property or associated property, the person whose property it is may make an application to the court for compensation.
- (2) Subsection (1) does not apply if the court—
 - (a) has made a declaration in respect of the property by virtue of section 281, or
 - (b) makes an order under section 276.
- (3) If the court has made a decision by reason of which no recovery order could be made in respect of the property, the application for compensation must be made within the period of three months beginning—
 - (a) in relation to a decision of the High Court in England and Wales, with the date of the decision or, if any application is made for leave to appeal, with the date on which the application is withdrawn or refused or (if the application is granted) on which any proceedings on appeal are finally concluded,
 - (b) in relation to a decision of the Court of Session or of the High Court in Northern Ireland, with the date of the decision or, if there is an appeal against

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the decision, with the date on which any proceedings on appeal are finally concluded.

- (4) If, in England and Wales or Northern Ireland, the proceedings in respect of the property have been discontinued, the application for compensation must be made within the period of three months beginning with the discontinuance.
- (5) If the court is satisfied that the applicant has suffered loss as a result of the [^{F2}order mentioned in subsection (1)], it may require the enforcement authority to pay compensation to him.
- (6) If, but for section 269(2), any right mentioned there would have operated in favour of, or become exercisable by, any person, he may make an application to the court for compensation.
- (7) The application for compensation under subsection (6) must be made within the period of three months beginning with the vesting referred to in section 269(2).
- (8) If the court is satisfied that, in consequence of the operation of section 269, the right in question cannot subsequently operate in favour of the applicant or (as the case may be) become exercisable by him, it may require the enforcement authority to pay compensation to him.
- (9) The amount of compensation to be paid under this section is the amount the court thinks reasonable, having regard to the loss suffered and any other relevant circumstances.
- [^{F3}(10) In the case of an enforcement authority in relation to England and Wales or Northern Ireland—
 - (a) the reference in subsection (5) to the enforcement authority is a reference to the enforcement authority which obtained the property freezing order or interim receiving order concerned, and
 - (b) the reference in subsection (8) to the enforcement authority is a reference to the enforcement authority which obtained the recovery order concerned.]

Textual Amendments

- F1** Words in s. 283(1) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 6 para. 19\(a\)](#); S.I. 2005/3136, art. 3(c)
- F2** Words in s. 283(5) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), [Sch. 6 para. 19\(b\)](#); S.I. 2005/3136, art. 3(c)
- F3** S. 283(10) inserted (1.4.2008) by [Serious Crime Act 2007 \(c. 27\)](#), s. 94(1), [Sch. 8 para. 89](#); S.I. 2008/755, art. 2(1)(a) (with arts. 3-14)

Commencement Information

- I1** S. 283 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)

284 Payment of interim administrator or trustee (Scotland)

- [^{F4}(1)] Any fees or expenses incurred by an interim administrator, or a trustee for civil recovery appointed by the Court of Session, in the exercise of his functions are to be reimbursed by the Scottish Ministers as soon as is practicable after they have been incurred.

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[^{F5}(2) The Scottish Ministers may apply a sum received by them under section 280(2) in making payment of such fees or expenses.

(3) Subsection (2) does not apply in relation to the fees of a trustee for civil recovery if the trustee is a member of their staff.]

Textual Amendments

F4 S. 284(1): s. 284 renumbered as s. 284(1) (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 99(3)(a)**, 178(7)(a); S.I. 2005/1521, art. 2(1)(b)

F5 S. 284(2)(3) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), **ss. 99(3)(b)**, 178(7)(a); S.I. 2005/1521, art. 2(1)(b)

Commencement Information

I2 S. 284 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)

285 Effect on diligence of recovery order (Scotland)

(1) An arrestment or [^{F6}attachment] of any recoverable property executed on or after the appointment of the trustee for civil recovery is ineffectual in a question with the trustee.

(2) Any recoverable property so arrested or [^{F7}attached.] , or (if the property has been sold) the proceeds of sale, must be handed over to the trustee for civil recovery.

(3) A pinding of the ground in respect of recoverable property on or after such an appointment is ineffectual in a question with the trustee for civil recovery except for the interest mentioned in subsection (4).

(4) That interest is—

- (a) interest on the debt of a secured creditor for the current half yearly term, and
- (b) arrears of interest on that debt for one year immediately before the commencement of that term.

(5) On and after such appointment no other person may raise or insist in an adjudication against recoverable property or be confirmed as an executor-creditor on that property.

(6) An inhibition on recoverable property shall cease to have effect in relation to any heritable property comprised in the recoverable property on such appointment.

(7) [^{F8}The provisions of this section apply in relation to—

- (a) an action of maills and duties, and
- (b) an action for sequestration of rent,

as they apply in relation to an arrestment or [^{F9}attachment] .]

Textual Amendments

F6 Words in s. 285(1) substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), **ss. 61, 64(2)**, **Sch. 3 Pt. 1** {para. 29(1)(a)} (with s. 59)

F7 Words in s. 285(2) substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), **ss. 61, 64(2)**, **Sch. 3 Pt. 1** {para. 29(1)(b)} (with s. 59)

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- F8** S. 285(7) repealed (S.) (1.4.2008 for specified purposes) by [Bankruptcy and Diligence etc. \(Scotland\) Act 2007 \(asp 3\)](#), s. 227(3), **sch. 6 Pt. 1** (with s. 223); S.S.I. 2008/115, art. 3(2)(3), sch. 2 (with arts. 4-691015)
- F9** Words in s. 285(7)(b) substituted (30.12.2002) by [Debt Arrangement and Attachment \(Scotland\) Act 2002 \(asp 17\)](#), ss. 61, 64(2), **Sch. 3 Pt. 1** {para 29(1)(a)} (with s. 59)

Commencement Information

- I3** S. 285 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)

^{F10}286 Scope of powers (Scotland)

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Textual Amendments

- F10** S. 286 omitted (retrospectively) by virtue of [Crime and Courts Act 2013 \(c. 22\)](#), **ss. 48(4)(7), 61(11)(c)** (with s. 48(8), Sch. 25)

[^{F11}286A Legal expenses excluded from freezing: required conditions

- (1) The Lord Chancellor may by regulations specify the required conditions for the purposes of section 245C(5) or 252(4).
- (2) A required condition may (in particular)—
 - (a) restrict who may receive sums released in pursuance of the exclusion (by, for example, requiring released sums to be paid to professional legal advisers), or
 - (b) be made for the purpose of controlling the amount of any sum released in pursuance of the exclusion in respect of an item of expenditure.
- (3) A required condition made for the purpose mentioned in subsection (2)(b) may (for example)—
 - (a) provide for sums to be released only with the agreement of the enforcement authority;
 - (b) provide for a sum to be released in respect of an item of expenditure only if the court has assessed the amount allowed by regulations under section 286B in respect of that item and the sum is released for payment of the assessed amount;
 - (c) provide for a sum to be released in respect of an item of expenditure only if—
 - (i) the enforcement authority agrees to its release, or
 - (ii) the court has assessed the amount allowed by regulations under section 286B in respect of that item and the sum is released for payment of the assessed amount.
- (4) Before making regulations under this section, the Lord Chancellor must consult such persons as he considers appropriate.

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Textual Amendments

F11 Ss. 286A, 286B inserted (1.8.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 6 para. 20](#); [S.I. 2005/2026, art. 2\(b\)](#)

286B Legal expenses: regulations for purposes of section 266(8B) or 286A(3)

- (1) The Lord Chancellor may by regulations—
 - (a) make provision for the purposes of section 266(8B);
 - (b) make provision for the purposes of required conditions that make provision of the kind mentioned in section 286A(3)(b) or (c).
- (2) Regulations under this section may (in particular)—
 - (a) limit the amount of remuneration allowable to representatives for a unit of time worked;
 - (b) limit the total amount of remuneration allowable to representatives for work done in connection with proceedings or a step in proceedings;
 - (c) limit the amount allowable in respect of an item of expense incurred by a representative or incurred, otherwise than in respect of the remuneration of a representative, by a party to proceedings.
- (3) Before making regulations under this section, the Lord Chancellor must consult such persons as he considers appropriate.]

Textual Amendments

F11 Ss. 286A, 286B inserted (1.8.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), s. 178\(8\), Sch. 6 para. 20](#); [S.I. 2005/2026, art. 2\(b\)](#)

287 Financial threshold

- (1) At any time when an order specifying an amount for the purposes of this section has effect, the enforcement authority may not start proceedings for a recovery order unless the authority reasonably believes that the aggregate value of the recoverable property which the authority wishes to be subject to a recovery order is not less than the specified amount.
- (2) The power to make an order under subsection (1) is exercisable by the Secretary of State after consultation with the Scottish Ministers [^{F12}or, in relation to Northern Ireland, exercisable by the Department of Justice] .
- (3) If the authority applies for [^{F13}a property freezing order, an interim receiving order, a prohibitory property order or an] interim administration order before starting the proceedings, subsection (1) applies to the application instead of to the start of the proceedings.
- (4) This section does not affect the continuation of proceedings for a recovery order which have been properly started or the making or continuing effect of [^{F14}a property freezing order, an interim receiving order, a prohibitory property order or an] interim administration order which has been properly applied for.

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Textual Amendments

- F12** Words in s. 287(2) 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. 56** (with arts. 28-31)
- F13** Words in s. 287(3) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 6 para. 21**; S.I. 2005/3136, art. 3(c)
- F14** Words in s. 287(4) substituted (1.1.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), s. 178(8), **Sch. 6 para. 21**; S.I. 2005/3136, art. 3(c)

Commencement Information

- I4** S. 287 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)

288 Limitation

(1) After section 27 of the Limitation Act 1980 (c. 58) there is inserted—

“27A Actions for recovery of property obtained through unlawful conduct etc.

- (1) None of the time limits given in the preceding provisions of this Act applies to any proceedings under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002 (civil recovery of proceeds of unlawful conduct).
- (2) Proceedings under that Chapter for a recovery order in respect of any recoverable property shall not be brought after the expiration of the period of twelve years from the date on which the Director’s cause of action accrued.
- (3) Proceedings under that Chapter are brought when—
 - (a) a claim form is issued, or
 - (b) an application is made for an interim receiving order,
 whichever is the earlier.
- (4) The Director’s cause of action accrues in respect of any recoverable property—
 - (a) in the case of proceedings for a recovery order in respect of property obtained through unlawful conduct, when the property is so obtained,
 - (b) in the case of proceedings for a recovery order in respect of any other recoverable property, when the property obtained through unlawful conduct which it represents is so obtained.
- (5) If—
 - (a) a person would (but for the preceding provisions of this Act) have a cause of action in respect of the conversion of a chattel, and
 - (b) proceedings are started under that Chapter for a recovery order in respect of the chattel,
 section 3(2) of this Act does not prevent his asserting on an application under section 281 of that Act that the property belongs to him, or the court making a declaration in his favour under that section.

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- (6) If the court makes such a declaration, his title to the chattel is to be treated as not having been extinguished by section 3(2) of this Act.
 - (7) Expressions used in this section and Part 5 of that Act have the same meaning in this section as in that Part.”
- (2) After section 19A of the Prescription and Limitation (Scotland) Act 1973 (c. 52) there is inserted—

“19B Actions for recovery of property obtained through unlawful conduct etc.

- (1) None of the time limits given in the preceding provisions of this Act applies to any proceedings under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002 (civil recovery of proceeds of unlawful conduct).
 - (2) Proceedings under that Chapter for a recovery order in respect of any recoverable property shall not be commenced after the expiration of the period of twelve years from the date on which the Scottish Ministers’ right of action accrued.
 - (3) Proceedings under that Chapter are commenced when—
 - (a) the proceedings are served, or
 - (b) an application is made for an interim administration order,whichever is the earlier.
 - (4) The Scottish Ministers’ right of action accrues in respect of any recoverable property—
 - (a) in the case of proceedings for a recovery order in respect of property obtained through unlawful conduct, when the property is so obtained,
 - (b) in the case of proceedings for a recovery order in respect of any other recoverable property, when the property obtained through unlawful conduct which it represents is so obtained.
 - (5) Expressions used in this section and Part 5 of that Act have the same meaning in this section as in that Part.”
- (3) After Article 72 of the Limitation (Northern Ireland) Order 1989 (SI 1989/1339 (N.I. 11)) there is inserted—

“72A Actions for recovery of property obtained through unlawful conduct etc.

- (1) None of the time limits fixed by Parts II and III applies to any proceedings under Chapter 2 of Part 5 of the Proceeds of Crime Act 2002 (civil recovery of proceeds of unlawful conduct).
- (2) Proceedings under that Chapter for a recovery order in respect of any recoverable property shall not be brought after the expiration of the period of twelve years from the date on which the Director’s cause of action accrued.
- (3) Proceedings under that Chapter are brought when—
 - (a) a claim form is issued, or
 - (b) an application is made for an interim receiving order,

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whichever is the earlier.

- (4) The Director’s cause of action accrues in respect of any recoverable property—
- (a) in the case of proceedings for a recovery order in respect of property obtained through unlawful conduct, when the property is so obtained,
 - (b) in the case of proceedings for a recovery order in respect of any other recoverable property, when the property obtained through unlawful conduct which it represents is so obtained.
- (5) If—
- (a) a person would (but for a time limit fixed by this Order) have a cause of action in respect of the conversion of a chattel, and
 - (b) proceedings are started under that Chapter for a recovery order in respect of the chattel,
- Article 17(2) does not prevent his asserting on an application under section 281 of that Act that the property belongs to him, or the court making a declaration in his favour under that section.
- (6) If the court makes such a declaration, his title to the chattel is to be treated as not having been extinguished by Article 17(2).
- (7) Expressions used in this Article and Part 5 of that Act have the same meaning in this Article as in that Part.”

Commencement Information

I5 S. 288 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)

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