



Proceeds of Crime Act 2002

2002 CHAPTER 29

PART 3

CONFISCATION: SCOTLAND

Interpretation

144 Tainted gifts and their recipients

- (1) Subsections (2) and (3) apply if—
 - (a) no court has made a decision as to whether the accused has a criminal lifestyle, or
 - (b) a court has decided that the accused has a criminal lifestyle.
- (2) A gift is tainted if it was made by the accused at any time after the relevant day.
- (3) A gift is also tainted if it was made by the accused at any time and was of property—
 - (a) which was obtained by the accused as a result of or in connection with his general criminal conduct, or
 - (b) which (in whole or part and whether directly or indirectly) represented in the accused's hands property obtained by him as a result of or in connection with his general criminal conduct.
- (4) Subsection (5) applies if a court has decided that an accused does not have a criminal lifestyle.
- (5) A gift is tainted if it was made by the accused at any time after—
 - (a) the date on which the offence concerned was committed, or
 - (b) if his particular criminal conduct consists of two or more offences and they were committed on different dates, the earliest of those dates.
- (6) For the purposes of subsection (5) an offence which is a continuing offence is committed on the first occasion when it is committed.
- (7) A gift may be a tainted gift whether it was made before or after the passing of this Act.

Status: Point in time view as at 21/02/2009.

Changes to legislation: Proceeds of Crime Act 2002, Section 144 is up to date with all changes known to be in force on or before 16 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)

- (8) The relevant day is the first day of the period of six years ending with—
- (a) the day when proceedings for the offence concerned were instituted against the accused, or
 - (b) if there are two or more offences and proceedings for them were instituted on different days, the earliest of those days.
- (9) If the accused transfers property to another person (whether directly or indirectly) for a consideration whose value is significantly less than the value of the property at the time of the transfer, he is to be treated as making a gift.
- (10) If subsection (9) applies the property given is to be treated as such share in the property transferred as is represented by the fraction—
- (a) whose numerator is the difference between the two values mentioned in subsection (9), and
 - (b) whose denominator is the value of the property at the time of the transfer.
- (11) References to a recipient of a tainted gift are to a person to whom the accused has (whether directly or indirectly) made the gift.

Modifications etc. (not altering text)

- C1** Pt. 3 applied by Terrorism Act 2000 (c. 11), Sch. 8 paras. 17(4A), 34(3A) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 39\(4\)\(5\)](#); S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7); S.I. 2003/333, art. 2, Sch.
- C2** Pt. 3 applied by 2000 c. 11, Sch. 8 para. 34(3A) (as substituted (24.3.2003) by [Proceeds of Crime Act 2002 \(c. 29\)](#), s. 458(1), [Sch. 11 para. 39\(5\)](#); S.S.I. 2003/210, art. 2(1)(b)(2), sch. (with art. 7))

Commencement Information

- I1** S. 144 in force at 24.3.2003 by [S.S.I. 2003/210](#), [art. 2\(1\)\(a\)](#)

Status:

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